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, Subchapter D, Open-Enrollment Charter School (excerpts).

§12.1012, Definitions.

In this subchapter:

(1) "Charter holder" means the entity to which a charter is granted under this subchapter.

(2) "Governing body of a charter holder" means the board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of an open-enrollment charter school" means the board of directors, board of trustees, or other governing body of an open-enrollment charter school. The term includes the governing body of a charter holder if that body acts as the governing body of the open-enrollment charter school.

(4) "Management company" means a person, other than a charter holder, who provides management services for an open-enrollment charter school.

(5) "Management services" means services related to the management or operation of an open-enrollment charter school, including:

(A) planning, operating, supervising, and evaluating the school's educational programs, services, and facilities;

(B) making recommendations to the governing body of the school relating to the selection of school personnel;

(C) managing the school's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the school a proposed budget;

(E) recommending policies to be adopted by the governing body of the school, developing appropriate procedures to implement policies adopted by the governing body of the school, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the school based on the indicators adopted under Section 39.051 or by the governing body of the school.

(6) "Officer of an open-enrollment charter school" means:

(A) the principal, director, or other chief operating officer of an open-enrollment charter school;

(B) an assistant principal or assistant director of an open-enrollment charter school; or

(C) a person charged with managing the finances of an open-enrollment charter school.

§12.106, <u>State Funding</u>.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 as if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue ("LR") for purposes of Section 42.302. In determining funding for an open-enrollment charter school, adjustments under Sections 42.102, 42.103, 42.104, and 42.105 and the district enrichment tax rate ("DTR") under Section 42.302 are based on the average adjustment and average district enrichment tax rate for the state.

(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.

§12.111, <u>Content</u>.

(a) Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) specify the period for which the charter or any charter renewal is valid;

(3) provide that continuation or renewal of the charter is contingent on acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter;

(4) establish the level of student performance that is considered acceptable for purposes of Subdivision (3);

(5) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which renewal of the charter may be denied;

(6) prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or the district the child would otherwise attend in accordance with this code, although the charter may:

(A) provide for the exclusion of a student who has the documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

(B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

(7) specify the grade levels to be offered;

(8) describe the governing structure of the program, including:

(A) the officer positions designated;

(B) the manner in which officers are selected and removed from office;

(C) the manner in which members of the governing body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(9) specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(10) specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(11) describe the process by which the person providing the program will adopt an annual budget;

(12) describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS);

(13) describe the facilities to be used;

(14) describe the geographical area served by the program; and

(15) specify any type of enrollment criteria to be used.

(b) A charter holder of an open-enrollment charter school shall consider including in the school's charter a requirement that the school develop and administer personal graduation plans under Section 28.0212.

§12.116, <u>Procedure for Modification, Placement on Probation, Revocation, or Denial of Renewal</u>.

(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, <u>Additional Sanctions</u>.

(a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.131(a), to the extent the commissioner determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.076(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.

(b) The commissioner may temporarily withhold funding, suspend the authority of an open-enrollment charter school to operate, or take any other reasonable action the commissioner determines necessary to protect the health, safety, or welfare of students enrolled at the school based on evidence that conditions at the school present a danger to the health, safety, or welfare of the students.

(c) After the commissioner acts under Subsection (b), the open-enrollment charter school may not receive funding and may not resume operating until a determination is made that:

(1) despite initial evidence, the conditions at the school do not present a danger of material harm to the health, safety, or welfare of students; or

(2) the conditions at the school that presented a danger of material harm to the health, safety, or welfare of students have been corrected.

(d) Not later than the third business day after the date the commissioner acts under Subsection (b), the commissioner shall provide the charter holder an opportunity for a hearing.

(e) Immediately after a hearing under Subsection (d), the commissioner must cease the action under Subsection (b) or initiate action under Section 12.116.

(f) The commissioner shall adopt rules implementing this section. Chapter 2001, Government Code, does not apply to a hearing under this section.