

ATTACHMENT I

Statutory Citations Relating to the Review of 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, and Subchapter B, Home-Rule School District Charters

Rule Review

Texas Government Code, §2001.039, Agency Review of Existing Rules:

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools

Texas Education Code, §7.102, State Board of Education Powers and Duties (excerpt):

- (c)(9) The board may grant an open-enrollment charter or approve a charter revision as provided by Subchapter D, Chapter 12.

Texas Education Code, §12.101, Authorization:

- (a) In accordance with this subchapter, the State Board of Education may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:
 - (1) an institution of higher education as defined under Section 61.003;
 - (2) a private or independent institution of higher education as defined under Section 61.003;

- (3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
- (4) a governmental entity.
- (b) The State Board of Education may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter. The State Board of Education may not grant a total of more than 215 charters for an open-enrollment charter school.
- (c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.
- (d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

Texas Education Code, §12.1053, Applicability of Laws Relating to Public Purchasing and Contracting:

- (a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the State Board of Education.
- (b) An open-enrollment charter school is considered to be:
 - (1) a governmental entity for purposes of:
 - (A) Subchapter D, Chapter 2252, Government Code; and
 - (B) Subchapter B, Chapter 271, Local Government Code;
 - (2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and
 - (3) a local government for purposes of Sections 2256.009-2256.016, Government Code.
- (c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

Texas Education Code, §12.110, Application:

- (a) The State Board of Education shall adopt:
 - (1) an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school; and
 - (2) criteria to use in selecting a program for which to grant a charter.
- (b) The application form must provide for including the information required under Section 12.111 to be contained in a charter.
- (c) As part of the application procedure, the board may require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children

residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

- (d) The board may approve or deny an application based on criteria it adopts. The criteria the board adopts must include:
 - (1) criteria relating to improving student performance and encouraging innovative programs; and
 - (2) a statement from any school district whose enrollment is likely to be affected by the open-enrollment charter school, including information relating to any financial difficulty that a loss in enrollment may have on the district.

Texas Education Code, §12.111, Content:

- (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 a 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.

Texas Education Code, §12.119, Bylaws; Annual Report, as amended by Senate Bill 1303, 82nd Texas Legislature, 2011:

- (a) A charter holder shall file with the State Board of Education a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the board.
- (b) Each year within the period and in a form prescribed by the State Board of Education, each open-enrollment charter school shall file with the board the following information:
 - (1) the name, address, and telephone number of each officer and member of the governing body of the open-enrollment charter school; and
 - (2) the amount of annual compensation the open-enrollment charter school pays to each officer and member of the governing body.
- (c) On request, the State Board of Education shall provide the information required by this section and Section 12.111(a)(8) [~~12.111(8)~~] to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the information.

Texas Education Code, §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.

Texas Education Code, §12.154, Content:

- (a) Notwithstanding Section 12.110(d), the State Board of Education may grant a charter under this subchapter to a public senior college or university only if the following criteria are satisfied in the public senior college's or university's application, as determined by the State Board of Education:

- (1) the college or university charter school's educational program must include innovative teaching methods;
- (2) the college or university charter school's educational program must be implemented under the direct supervision of a member of the teaching or research faculty of the public senior college or university;
- (3) the faculty member supervising the college or university charter school's educational program must have substantial experience and expertise in education research, teacher education, classroom instruction, or educational administration;
- (4) the college or university charter school's educational program must be designed to meet specific goals described in the charter, including improving student performance, and each aspect of the program must be directed toward the attainment of the goals;
- (5) the attainment of the college or university charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and
- (6) the financial operations of the college or university charter school must be supervised by the business office of the public senior college or university.

- (b) Notwithstanding Section 12.110(d), the State Board of Education may grant a charter under this subchapter to a public junior college only if the following criteria are satisfied in the public junior college's application, as determined by the State Board of Education:

- (1) the junior college charter school's educational program must be implemented under the direct supervision of a member of the faculty of the public junior college;
- (2) the faculty member supervising the junior college charter school's educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration;
- (3) the junior college charter school's educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals;
- (4) the attainment of the junior college charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

- (5) the financial operations of the junior college charter school must be supervised by the business office of the junior college.

19 TAC Chapter 100, Charters, Subchapter B, Home-Rule School District Charters

Texas Education Code, §7.102, State Board of Education Powers and Duties (excerpts):

- (c)(8) The board shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter as required by Subchapter B, Chapter 12, and may place on probation or revoke a home-rule school district charter as provided by that subchapter.
- (c)(9) The board may grant an open-enrollment charter or approve a charter revision as provided by Subchapter D, Chapter 12.

Texas Education Code, §12.028, Procedure for Placement on Probation or Revocation:

- (a) The State Board of Education by rule shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter.
- (b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the district and to parents of district students. A hearing under this subsection must be held in the district.