ATTACHMENT II
Text of Proposed Amendments to 19 TAC

Chapter 100. Charters

Subchapter A. Open-Enrollment Charter Schools

§100.1. Application and Selection Procedures and Criteria.

(a) Prior to each selection cycle, the State Board of Education (SBOE) shall adopt an application form for submission by applicants seeking a charter to operate an open-enrollment charter school. The application form shall address the content requirements specified in Texas Education Code (TEC), §12.111, and contain the following:

(1) the timeline for selection;

(2) required applicant conferences and training prerequisites;

(3) scoring criteria and procedures for use by the review panel selected [~~appointed~~] under subsection (d) of this section;

(4) selection criteria, including the minimum score necessary for an application to be eligible for selection; and

(5) the earliest date an open-enrollment charter school selected in the cycle may open.

(b) The Texas Education Agency (TEA) shall review applications submitted under this section. If an application does not contain all required information and documentation and/or meet the standards in TEC, §12.101, and §100.1015 of this title (relating to Applicants for an Open-Enrollment Charter, Public Senior College or University Charter, or Public Junior College Charter) , the TEA shall return the application without further processing. [~~Further, the TEA shall return the application without further processing if it finds substantive deviations from state and federal requirements affecting the operation of open-enrollment charter schools or the applicant's eligibility to be granted a charter.~~] The TEA shall establish procedures and schedules [~~to be approved by the SBOE~~] for returning applications without further processing [~~under this subsection, including a process for review by the SBOE committee responsible for charter schools~~] . Failure of the TEA to identify any deficiency [~~or substantive deviation~~] , or notify an applicant thereof, does not constitute a waiver of the requirement and does not bind the SBOE.

(c) Upon written notice to the TEA, an applicant may withdraw an application.

(d) Applications that meet the standards established under TEC, §12.101, and §100.1015 of this title [~~Eligible applications~~] shall be reviewed and scored by an external application [~~appointed~~] review panel selected by the commissioner of education from a pool of qualified candidates identified through a request for qualification (RFQ) process . [~~Two-thirds of the panel members shall be appointed by the SBOE. One-third of the panel members shall be appointed by the commissioner of education.~~] The panel shall review and score applications in accordance with the procedures and criteria established in the application form. Review panel members shall not discuss applications with or accept meals, entertainment, gifts, or gratuities in any form from any person or organization with an interest in the results of the selection process for open-enrollment charters. Members of the review panel shall disclose to the TEA immediately upon discovery of any past or present relationship with an open-enrollment charter applicant, including any current or prospective employee, agent, officer, or director of the sponsoring entity, an affiliated entity, or other party with an interest in the selection of the application.

(e) Applications that are not scored at or above the minimum score established in the application form are not eligible for SBOE selection during that cycle. The SBOE may at its sole discretion decline to grant an open-enrollment charter to an applicant whose application was scored at or above the minimum score. No recommendation, ranking, or other type of endorsement by a member or members of the review panel is binding on the SBOE [~~, except as provided in this section~~] .

(f) The SBOE or its designee(s) shall interview applicants whose applications received the minimum score established in the application form. The SBOE may specify individuals required to attend the interview and may require the submission of additional information and documentation prior or subsequent to an interview.

(g) The SBOE may consider criteria that include, but are not limited to, the following when determining whether to grant an open-enrollment charter:

(1) indications that the charter school will improve student performance;

(2) innovation evident in the program(s) proposed for the charter school;

(3) impact statements from any school district whose enrollment is likely to be affected by the proposed charter school, including information relating to any financial difficulty that a loss in enrollment may have on a district;

(4) evidence of parental and community support for the proposed charter school;

(5) the qualifications, backgrounds, and histories of individuals and entities who will be involved in the management and educational leadership of the proposed charter school;

(6) the history of the sponsoring entity of the proposed charter school, as defined in the application form;

(7) indications that the governance structure proposed for the charter school is conducive to sound fiscal and administrative practices; and

(8) indications that the proposed charter school would expand the variety of charter schools in operation with respect to the following:

(A) representation in urban, suburban, and rural communities;

(B) instructional settings;

(C) types of eligible entities;

(D) types of innovative programs;

(E) student populations and programs; and

(F) geographic regions.

(h) An applicant for an open-enrollment charter shall not communicate with a member of an external application review panel [~~appointed by the SBOE~~] concerning a charter school application beginning on the date the panel member is notified of appointment to serve on a specific review cycle and ending when the SBOE takes final action awarding charters under that application. On finding a material violation of the no-contact period, the SBOE shall reject the application or applications affected.

[~~(i) The SBOE may consider minimum enrollment criteria.~~]

[~~(1) Each application for an open-enrollment charter shall state a minimum student enrollment of no fewer than 50 students. The SBOE may grant a lower minimum student enrollment only on majority recommendation of members voting from the committee with jurisdiction over charters.~~]

[~~(2) The SBOE may grant a lower minimum student enrollment in accordance with paragraph (1) of this subsection upon finding that either the nature of the charter warrants a minimum enrollment lower than 50 students.~~]

(i) [~~(j)~~] The SBOE may grant an open-enrollment charter subject to additional conditions [~~not contained in the application~~] and shall [~~may~~] require fulfillment of such conditions before the charter school is issued a contract [~~permitted to operate~~] . Such conditions must be fulfilled by the awardee, as determined by the commissioner, no later than six months after the date of the award by the SBOE, or the authorization for charter is null and void with no additional action required by the SBOE. The commissioner may establish

timelines for submission by the awardee of any documentation to be considered by the commissioner in determining whether a condition has been met.

(j) [~~(k)~~] An open-enrollment charter shall be in the form and substance of a written contract signed by the chair of the SBOE , the chair of the charter holder, and the chief operating officer of the school, but is not a contract for goods or services within the meaning of Texas Government Code, Chapter 2260. The chief operating officer of the school shall mean the chief executive officer of the open-enrollment [~~open-enrollment~~] charter holder under TEC, §12.1012.

§100.101. Annual Report on Open-Enrollment Charter Governance.

(a) No later than November 1 of each year, each open-enrollment charter holder shall file under §100.1013 of this title (relating to Filing of Documents), the following information on a charter school governance reporting form approved by the State Board of Education:

(1) identifying information for and compensation of each officer and member of the governing body of the open-enrollment charter holder;

(2) identifying information for and compensation of each officer of the charter school;

(3) identifying information for and compensation of each member of the governing body of the charter school, if the charter holder has established a governing body for the charter school; and

(4) identifying information for and compensation of all [~~about~~] family members , within the third degree of consanguinity or affinity, of each board member and each school officer [~~serving together on boards or as administrators~~] .

(b) The identifying information required for an individual under subsection (a) of this section may include facsimile numbers and electronic mail addresses and shall include:

(1) the title of each position held or function performed by the individual;

(2) the specific powers and duties that the governing body of the charter holder or charter school have delegated to the individual, as described by the powers and duties listed in the charter;

(3) the legal name of the individual;

(4) any aliases or names formerly used by the individual, including maiden name;

(5) a mailing address for the individual, if an officer; and the street address of the individual's primary residence, if a governing body member; and

(6) telephone numbers for the individual.

(c) The compensation information required for an individual under subsection (a) of this section shall include all compensation, remuneration, and benefits received by the individual in any capacity from the charter holder or the charter school, or from any contractor or management company doing business with the charter holder or charter school. The compensation reported shall include without limitation:

(1) all salary, bonuses, benefits, or other compensation received pursuant to an employment relationship;

(2) all compensation received for goods or services under contract, agreement, informal arrangement, or otherwise;

(3) all payment of or reimbursement for personal expenses;

(4) all credit extended to the individual by the charter holder or charter school;

(5) the fair market value of all personal use of property paid for by the charter holder or charter school;

(6) the fair market value of all in-kind transfers of property;

(7) all compensation for goods or services provided to the charter holder through transactions unrelated to the charter school; and

(8) all other forms of compensation or remuneration received by the individual from the charter holder or charter school.

(d) No later than November 1 of each year, each open-enrollment charter holder shall file under §100.1013 of this title [~~(relating to Filing of Documents)~~] :

(1) a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws; or

(2) if a copy of its articles of incorporation and bylaws or comparable documents is already on file under this subsection, a copy of any amendments or changes thereto.

§100.105. Application to Public Senior College or University Charters and Public Junior College Charters.

The following provisions of the rules in this subchapter apply as indicated in this section to a public senior college or university charter school or a public junior college charter school as though the public senior college or university charter school or the public junior college charter school were granted a charter under Texas Education Code [~~(TEC)~~] , Chapter 12, Subchapter D (Open-Enrollment Charter School).

(1) Section 100.1(a) of this title (relating to Application and Selection Procedures and Criteria) applies, except that the State Board of Education (SBOE) may adopt a separate application form for applicants seeking a charter to operate a public senior college or university charter school or a public junior college charter school, which need not be similar to the application form adopted under that subsection for other charter applicants. The SBOE may adopt or amend this separate application form without regard to the selection cycle referenced in that subsection.

(2) Section 100.1(c), (g)(1)-(5) and (8), (i), and (j) of this title [~~(g)(1)-(4), (g)(8), (j), and (k)~~] apply.

(3) Except as provided in this section, this subchapter does not apply to a public senior college or university charter school or a public junior college charter school.