

By: Patrick, Campbell

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to certain charter schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Sections 11.1542 and 11.1543 to read as follows:

Sec. 11.1542. OPEN-ENROLLMENT CHARTER SCHOOL OFFER FOR DISTRICT FACILITY. (a) The board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease or to any other specific entity.

(b) This section does not require the board of trustees of a school district to accept an offer made by an open-enrollment charter school.

Sec. 11.1543. CHARTER SCHOOL PAYMENT FOR FACILITIES USE OR FOR SERVICES. (a) An independent school district may not require a campus or campus program that has been granted a charter under Subchapter C, Chapter 12, and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

1 (b) An independent school district may not require a campus
2 or campus program described by Subsection (a) or an open-enrollment
3 charter school to pay for any service provided by the district under
4 a contract between the district and the campus, campus program, or
5 open-enrollment charter school an amount that is greater than the
6 amount of the actual costs to the district of providing the service.

7 SECTION 2. Subchapter C, Chapter 12, Education Code, is
8 amended by adding Section 12.0522 to read as follows:

9 Sec. 12.0522. DISTRICT CHARTER AUTHORIZATION. (a)
10 Notwithstanding Section 12.052, in the manner provided by this
11 section, the board of trustees of a school district or the governing
12 body of a home-rule school district may grant a district charter to
13 a campus to the extent authorized under this section.

14 (b) Except as otherwise provided by this subsection or
15 Subsection (c), a district charter may be granted under this
16 section only to one or more campuses serving in total a percentage
17 of the district's student enrollment equal to not more than 15
18 percent of the district's student enrollment for the preceding
19 school year. The percentage limit may not prevent a district from
20 granting a district charter to at least one feeder pattern of
21 schools, including an elementary, middle or junior high, and high
22 school.

23 (c) A district charter may be granted to any campus that has
24 received the lowest performance rating under Subchapter C, Chapter
25 39.

26 (d) Subchapter D applies to a campus granted a district
27 charter under this section as though the campus were granted a

1 charter under Subchapter D, and the campus is considered an
2 open-enrollment charter school.

3 (e) A charter granted under this section is not considered
4 for purposes of the limit on the number of charters for
5 open-enrollment charter schools imposed by Section 12.101.

6 (f) The commissioner may adopt rules as necessary for the
7 administration of this section.

8 SECTION 3. Section 12.055, Education Code, is amended to
9 read as follows:

10 Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR
11 PROGRAM GRANTED CHARTER. (a) A campus or program for which a
12 charter is granted under this subchapter is subject to federal and
13 state laws and rules governing public schools, except that the
14 campus or program is subject to this code and rules adopted under
15 this code only to the extent the applicability to a campus or
16 program for which a charter is granted under this subchapter of a
17 provision of this code or a rule adopted under this code is
18 specifically provided.

19 (b) A school district may contract with another district or
20 an open-enrollment charter school for services at a campus charter.
21 An employee of the district or open-enrollment charter school
22 providing contracted services to a campus charter is eligible for
23 membership in and benefits from the Teacher Retirement System of
24 Texas if the employee would be eligible for membership and benefits
25 if holding the same position at the employing district or
26 open-enrollment charter school.

27 SECTION 4. Subsection (b), Section 12.056, Education Code,

is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter 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) high school graduation under Section 28.025;

(D) special education programs under Subchapter A, Chapter 29;

(E) bilingual education under Subchapter B, Chapter 29;

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38; and

(I) public school accountability under Subchapters B, C, D, E, F, and J, Chapter 39.

SECTION 5. Section 12.057, Education Code, is amended by adding Subsection (b-1) to read as follows:

1 (b-1) An employee of a charter holder, as defined by Section
2 12.1012, who is employed on a campus or in a program granted a
3 charter under this subchapter and who qualifies for membership in
4 the Teacher Retirement System of Texas shall be covered under the
5 system in the same manner and to the same extent as a qualified
6 employee of an independent school district who is employed on a
7 regularly operating campus or in a regularly operating program.

8 SECTION 6. Section 12.059, Education Code, is amended to
9 read as follows:

10 Sec. 12.059. CONTENT. Each charter granted under this
11 subchapter must:

12 (1) describe the educational program to be offered,
13 which may be a general or specialized program;

14 (2) provide that continuation of the charter is
15 contingent on satisfactory student performance under Subchapter B,
16 Chapter 39, satisfactory financial performance under Subchapter D,
17 Chapter 39, and ~~[on]~~ compliance with other applicable
18 accountability provisions under Chapter 39;

19 (3) specify any basis, in addition to a basis
20 specified by this subchapter, on which the charter may be ~~[placed on~~
21 ~~probation or]~~ revoked;

22 (4) prohibit discrimination in admission on the basis
23 of national origin, ethnicity, race, religion, or disability;

24 (5) describe the governing structure of the campus or
25 program;

26 (6) specify any procedure or requirement, in addition
27 to those under Chapter 38, that the campus or program will follow to

1 ensure the health and safety of students and employees; and

2 (7) describe the manner in which an annual audit of
3 financial and programmatic operations of the campus or program is
4 to be conducted, including the manner in which the campus or program
5 will provide information necessary for the school district in which
6 it is located to participate, as required by this code or by
7 commissioner [~~State Board of Education~~] rule, in the Public
8 Education Information Management System (PEIMS).

9 SECTION 7. Section 12.101, Education Code, is amended by
10 amending Subsections (a) and (b) and adding Subsections (b-0),
11 (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), and (b-7) to read as
12 follows:

13 (a) In accordance with this subchapter, the commissioner
14 [~~State Board of Education~~] may grant a charter on the application of
15 an eligible entity for an open-enrollment charter school to operate
16 in a facility of a commercial or nonprofit entity, an eligible
17 entity, or a school district, including a home-rule school
18 district. In this subsection, "eligible entity" means:

19 (1) an institution of higher education as defined
20 under Section 61.003;

21 (2) a private or independent institution of higher
22 education as defined under Section 61.003;

23 (3) an organization that is exempt from taxation under
24 Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section
25 501(c)(3)); or

26 (4) a governmental entity.

27 (b) After thoroughly investigating and evaluating an

1 applicant, the commissioner [~~The State Board of Education~~] may
2 grant a charter for an open-enrollment charter school only to an
3 applicant that meets any financial, governing, educational, and
4 operational standards adopted by the commissioner under this
5 subchapter, that the commissioner determines is capable of carrying
6 out the responsibilities provided by the charter and likely to
7 operate a school of high quality, and that:

8 (1) has not within the preceding 10 years had a charter
9 under this chapter or a similar charter issued under the laws of
10 another state surrendered under a settlement agreement, revoked,
11 denied renewal, or returned; or

12 (2) is not, under rules adopted by the commissioner,
13 considered to be a corporate affiliate of or substantially related
14 to an entity that has within the preceding 10 years had a charter
15 under this chapter or a similar charter issued under the laws of
16 another state surrendered under a settlement agreement, revoked,
17 denied renewal, or returned.

18 (b-0) The commissioner shall notify the State Board of
19 Education of each charter the commissioner proposes to grant under
20 this subchapter. Unless, before the 90th day after the date on
21 which the board receives the notice from the commissioner, a
22 majority of the members of the board present and voting vote against
23 the grant of that charter, the commissioner's proposal to grant the
24 charter takes effect. The board may not deliberate or vote on any
25 grant of a charter that is not proposed by the commissioner.

26 (b-1) In granting charters for open-enrollment charter
27 schools, the commissioner [~~The State Board of Education~~] may not

grant a total of more than:

(1) 215 charters through the fiscal year ending August 31, 2014;

(2) 225 charters beginning September 1, 2014;

(3) 240 charters beginning September 1, 2015;

(4) 255 charters beginning September 1, 2016;

(5) 270 charters beginning September 1, 2017; and

(6) 285 charters beginning September 1, 2018 [~~for an open-enrollment charter school~~].

(b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.

(b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.

(b-4) A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, may establish one or more new open-enrollment charter school campuses under an existing charter held by the charter holder if:

(1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second

highest performance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;

(2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(b-5) The initial term of a charter granted under this section is five years.

(b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery

1 school under Section 12.1141(c).

2 SECTION 8. Subchapter D, Chapter 12, Education Code, is
3 amended by adding Section 12.1011 to read as follows:

4 Sec. 12.1011. CHARTER AUTHORIZATION FOR HIGH-PERFORMING
5 ENTITIES. (a) Notwithstanding Section 12.101(b), the
6 commissioner may grant a charter for an open-enrollment charter
7 school to an applicant that is:

8 (1) an eligible entity under Section 12.101(a)(3) that
9 proposes to operate the charter school program of a charter
10 operator that operates one or more charter schools in another state
11 and with which the eligible entity is affiliated and, as determined
12 by the commissioner in accordance with commissioner rule, has
13 performed at a level of performance comparable to performance under
14 the highest or second highest performance rating category under
15 Subchapter C, Chapter 39; or

16 (2) an entity that has operated one or more charter
17 schools established under this subchapter or Subchapter C or E and,
18 as determined by the commissioner in accordance with commissioner
19 rule, has performed in the highest or second highest performance
20 rating category under Subchapter C, Chapter 39.

21 (b) A charter holder granted a charter for an
22 open-enrollment charter school under Subsection (a) may vest
23 management of corporate affairs in a member entity provided that
24 the member entity may change the members of the governing body of
25 the charter holder before the expiration of a member's term only
26 with the express written approval of the commissioner.

27 (c) The initial term of a charter granted under this section

1 is five years.

2 (d) The commissioner shall adopt rules to modify criteria
3 for granting a charter for an open-enrollment charter school under
4 this section to the extent necessary to address changes in
5 performance rating categories under Subchapter C, Chapter 39.

6 SECTION 9. Subchapter D, Chapter 12, Education Code, is
7 amended by adding Section 12.1013 to read as follows:

8 Sec. 12.1013. CHARTER AUTHORIZER ACCOUNTABILITY. (a) The
9 commissioner shall annually report under Subchapters J and K,
10 Chapter 39, the performance of open-enrollment charter schools by
11 authorizer compared to campus charters and matched traditional
12 campuses based on student achievement indicators adopted under
13 Section 39.053.

14 (b) The format of the report must enable the public to
15 distinguish and compare the performance of each type of public
16 school by classifying the schools as follows:

17 (1) open-enrollment charters granted by the State
18 Board of Education;

19 (2) open-enrollment charters granted by the
20 commissioner;

21 (3) charters granted by school districts; and

22 (4) matched traditional campuses.

23 (c) The report must include the performance of each public
24 school in each class described by Subsection (b) as measured by the
25 student achievement indicators adopted under Section 39.053.

26 (d) The report must also:

27 (1) aggregate and compare the performance of

1 open-enrollment charter schools granted charters by the State Board
2 of Education, open-enrollment charter schools granted charters by
3 the commissioner, campuses and programs granted charters by school
4 districts, and matched traditional campuses; and

5 (2) rate the aggregate performance of elementary,
6 middle or junior high, and high schools within each class described
7 by Subsection (b) as indicated by the composite rating that would be
8 assigned to the class of elementary, middle or junior high, and high
9 schools if the students attending all schools in that class were
10 cumulatively enrolled in one elementary, middle or junior high, or
11 high school.

12 SECTION 10. Section 12.102, Education Code, is amended to
13 read as follows:

14 Sec. 12.102. AUTHORITY UNDER CHARTER. An open-enrollment
15 charter school:

16 (1) shall provide instruction to students at one or
17 more elementary or secondary grade levels as provided by the
18 charter;

19 (2) is governed under the governing structure
20 described by the charter;

21 (3) retains authority to operate under the charter to
22 the extent authorized under Sections 12.1141 and 12.115 and
23 Subchapter E, Chapter 39 [~~contingent on satisfactory student~~
24 ~~performance as provided by the charter in accordance with Section~~
25 ~~12.111~~]; and

26 (4) does not have authority to impose taxes.

27 SECTION 11. Subsection (b), Section 12.104, Education Code,

is amended to read as follows:

(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

1 management techniques under Section 37.0021;

2 (K) health and safety under Chapter 38;

3 (L) public school accountability under
4 Subchapters B, C, D, E, F, G, and J, Chapter 39;

5 (M) the requirement under Section 21.006 to
6 report an educator's misconduct; and

7 (N) intensive programs of instruction under
8 Section 28.0213.

9 SECTION 12. Section 12.1051, Education Code, is amended by
10 amending Subsection (b) and adding Subsection (c) to read as
11 follows:

12 (b) With respect to the operation of an open-enrollment
13 charter school, except as provided by Subsection (c), any
14 requirement in Chapter 551 or 552, Government Code, or another law
15 that concerns open meetings or the availability of information,
16 that applies to a school district, the board of trustees of a school
17 district, or public school students applies to an open-enrollment
18 charter school, the governing body of a charter holder, the
19 governing body of an open-enrollment charter school, or students
20 attending an open-enrollment charter school.

21 (c) Notwithstanding Subchapter F, Chapter 551, Government
22 Code, the commissioner shall provide by rule for meetings by
23 telephone conference call or video conference call where a majority
24 of the quorum of the governing body of a charter holder or charter
25 school is not physically present at one location of the meeting.
26 The rule may apply only to meetings of the governing body of a
27 charter holder or charter school with its central administrative

offices in a state other than this state.

SECTION 13. Subsection (a), Section 12.1053, Education Code, is amended to read as follows:

(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 commissioner [~~State Board of Education~~].

SECTION 14. Subsection (a), Section 12.1057, Education Code, is amended to read as follows:

(a) An employee of an open-enrollment charter school [~~operating under a charter granted by the State Board of Education~~] who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

SECTION 15. Section 12.110, Education Code, is amended by amending Subsections (a), (c), and (d), and adding Subsection (e) to read as follows:

(a) The commissioner [~~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.

(c) As part of the application procedure, the commissioner [~~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 commissioner shall ~~[board may]~~ approve or deny an application based on:

(1) documented evidence collected through the application review process;

(2) merit; and

(3) other criteria as adopted by the commissioner,
which ~~[it adopts. The criteria the board adopts]~~ must include:

(A) criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality;

(B) ~~[(1)]~~ criteria relating to improving student performance and encouraging innovative programs; and

(C) ~~[(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.

(e) The commissioner shall give priority and approval to applications that include a plan to:

(1) increase the educational and performance levels of students in campuses that received unacceptable performance ratings under Section 39.054; and

(2) educate populations of students to be enrolled at the campus.

SECTION 16. Section 12.1101, Education Code, is amended to

read as follows:

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the commissioner [~~State Board of Education~~] of an application for a charter for an open-enrollment charter school under Section 12.110 or of notice of the establishment of a campus as authorized under Section 12.101(b-4):

(1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

SECTION 17. Subsection (a), Section 12.111, Education Code, is amended to read as follows:

(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 the status of the charter as determined under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39 [~~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];~~

(3) specify the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated, which must include applicable elements of the performance frameworks adopted under Section 12.1181
~~[(4) establish the level of student performance that is considered acceptable for purposes of Subdivision (3)];~~

(4) ~~[(5)]~~ specify:

(A) any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be ~~[placed on probation or]~~ revoked, [or on which] renewal of the charter may be denied, or the charter may be allowed to expire;
and

(B) the standards for evaluation of a school operating under the charter for purposes of charter renewal, denial of renewal, expiration, revocation, or other intervention in accordance with Section 12.1141 or 12.115 or Subchapter E, Chapter 39, as applicable;

(5) ~~[(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;

(6) [~~(7)~~] specify the grade levels to be offered;

(7) [~~(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;

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

(9) [~~(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;

(10) [~~(11)~~] describe the process by which the person

1 providing the program will adopt an annual budget;

2 (11) [~~(12)~~] describe the manner in which an annual
3 audit of the financial and programmatic operations of the program
4 is to be conducted, including the manner in which the person
5 providing the program will provide information necessary for the
6 school district in which the program is located to participate, as
7 required by this code or by commissioner [~~State Board of Education~~]
8 rule, in the Public Education Information Management System
9 (PEIMS);

10 (12) [~~(13)~~] describe the facilities to be used;

11 (13) [~~(14)~~] describe the geographical area served by
12 the program;

13 (14) [~~and~~]

14 [~~(15)~~] specify any type of enrollment criteria to be
15 used;

16 (15) provide information, as determined by the
17 commissioner, relating to any management company that will provide
18 management services to a school operating under the charter; and

19 (16) specify that the governing body of an
20 open-enrollment charter school accepts and may not delegate
21 ultimate responsibility for the school, including the school's
22 academic performance and financial and operational viability, and
23 is responsible for overseeing any management company providing
24 management services for the school and for holding the management
25 company accountable for the school's performance.

26 SECTION 18. Section 12.112, Education Code, is amended to
27 read as follows:

1 Sec. 12.112. FORM. A charter for an open-enrollment
2 charter school shall be in the form of a written contract signed by
3 the commissioner [~~chair of the State Board of Education~~] and the
4 chief operating officer of the school.

5 SECTION 19. Subsection (a), Section 12.113, Education Code,
6 is amended to read as follows:

7 (a) Each charter the commissioner [~~State Board of~~
8 ~~Education~~] grants for an open-enrollment charter school must:

9 (1) satisfy this subchapter; and

10 (2) include the information that is required under
11 Section 12.111 consistent with the information provided in the
12 application and any modification the commissioner [~~board~~]
13 requires.

14 SECTION 20. Subchapter D, Chapter 12, Education Code, is
15 amended by adding Section 12.1141 to read as follows:

16 Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL;
17 EXPIRATION. (a) The commissioner shall develop and by rule adopt
18 a procedure for renewal, denial of renewal, or expiration of a
19 charter for an open-enrollment charter school at the end of the term
20 of the charter. The procedure must include consideration of the
21 performance under Chapter 39 of the charter holder and each campus
22 operating under the charter and must include three distinct
23 processes, which must be expedited renewal, discretionary
24 consideration of renewal or denial of renewal, and expiration. To
25 renew a charter at the end of the term, the charter holder must
26 submit a petition for renewal to the commissioner in the time and
27 manner established by commissioner rule.

1 (b) At the end of the term of a charter for an
2 open-enrollment charter school, if a charter holder submits to the
3 commissioner a petition for expedited renewal of the charter, the
4 charter automatically renews unless, not later than the 30th day
5 after the date the charter holder submits the petition, the
6 commissioner provides written notice to the charter holder that
7 expedited renewal of the charter is denied. The commissioner may
8 not deny expedited renewal of a charter if:

9 (1) the charter holder has been assigned the highest
10 or second highest performance rating under Subchapter C, Chapter
11 39, for the three preceding school years;

12 (2) the charter holder has been assigned a financial
13 performance accountability rating under Subchapter D, Chapter 39,
14 indicating financial performance that is satisfactory or better for
15 the three preceding school years; and

16 (3) no campus operating under the charter has been
17 assigned the lowest performance rating under Subchapter C, Chapter
18 39, for the three preceding school years or such a campus has been
19 closed.

20 (c) At the end of the term of a charter for an
21 open-enrollment charter school, if a charter holder submits to the
22 commissioner a petition for renewal of the charter and the charter
23 does not meet the criteria for expedited renewal under Subsection
24 (b) or for expiration under Subsection (d), the commissioner shall
25 use the discretionary consideration process. The commissioner's
26 decision under the discretionary consideration process must take
27 into consideration the results of annual evaluations under the

performance frameworks established under Section 12.1181. The
renewal of the charter of an open-enrollment charter school that is
registered under the agency's alternative education accountability
procedures for evaluation under Chapter 39 shall be considered
under the discretionary consideration process regardless of the
performance ratings under Subchapter C, Chapter 39, of the
open-enrollment charter school or of any campus operating under the
charter, except that if the charter holder has been assigned a
financial accountability performance rating under Subchapter D,
Chapter 39, indicating financial performance that is lower than
satisfactory for any three of the five preceding school years, the
commissioner shall allow the charter to expire under Subsection
(d). In considering the renewal of the charter of an
open-enrollment charter school that is registered under the
agency's alternative education accountability procedures for
evaluation under Chapter 39, such as a dropout recovery school or a
school providing education within a residential treatment
facility, the commissioner shall use academic criteria established
by commissioner rule that are appropriate to measure the specific
goals of the school. The criteria established by the commissioner
shall recognize growth in student achievement as well as
educational attainment. For purposes of this subsection, the
commissioner shall designate as a dropout recovery school an
open-enrollment charter school or a campus of an open-enrollment
charter school:

(1) that serves students in grades 9 through 12 and has
an enrollment of which at least 50 percent of the students are 17

1 years of age or older as of September 1 of the school year as
2 reported for the fall semester Public Education Information
3 Management System (PEIMS) submission; and

4 (2) that meets the eligibility requirements for and is
5 registered under alternative education accountability procedures
6 adopted by the commissioner.

7 (d) At the end of the term of a charter for an
8 open-enrollment charter school, if a charter holder submits to the
9 commissioner a petition for renewal of the charter, the
10 commissioner may not renew the charter and shall allow the charter
11 to expire if:

12 (1) the charter holder has been assigned the lowest
13 performance rating under Subchapter C, Chapter 39, for any three of
14 the five preceding school years;

15 (2) the charter holder has been assigned a financial
16 accountability performance rating under Subchapter D, Chapter 39,
17 indicating financial performance that is lower than satisfactory
18 for any three of the five preceding school years;

19 (3) the charter holder has been assigned any
20 combination of the ratings described by Subdivision (1) or (2) for
21 any three of the five preceding school years; or

22 (4) any campus operating under the charter has been
23 assigned the lowest performance rating under Subchapter C, Chapter
24 39, for the three preceding school years and such a campus has not
25 been closed.

26 (e) Notwithstanding any other law, a determination by the
27 commissioner under Subsection (d) is final and may not be appealed.

1 (f) Not later than the 90th day after the date on which a
2 charter holder submits a petition for renewal of a charter for an
3 open-enrollment charter school at the end of the term of the
4 charter, the commissioner shall provide written notice to the
5 charter holder, in accordance with commissioner rule, of the basis
6 on which the charter qualified for expedited renewal, discretionary
7 consideration, or expiration, and of the commissioner's decision
8 regarding whether to renew the charter, deny renewal of the
9 charter, or allow the charter to expire.

10 (g) Except as provided by Subsection (e), a decision by the
11 commissioner to deny renewal of a charter for an open-enrollment
12 charter school is subject to review by the State Office of
13 Administrative Hearings. Notwithstanding Chapter 2001, Government
14 Code:

15 (1) the administrative law judge shall uphold a
16 decision by the commissioner to deny renewal of a charter for an
17 open-enrollment charter school unless the judge finds the decision
18 is arbitrary and capricious or clearly erroneous; and

19 (2) a decision of the administrative law judge under
20 this subsection is final and may not be appealed.

21 (h) If a charter holder submits a petition for renewal of a
22 charter for an open-enrollment charter school, notwithstanding the
23 expiration date of the charter, the charter term is extended until
24 the commissioner has provided notice to the charter holder of the
25 renewal, denial of renewal, or expiration of the charter.

26 (i) The term of a charter renewed under this section is 10
27 years for each renewal.

1 (j) The commissioner shall adopt rules to modify criteria
2 for renewal, denial of renewal, or expiration of a charter for an
3 open-enrollment charter school under this section to the extent
4 necessary to address changes in performance rating categories or in
5 the financial accountability system under Chapter 39.

6 SECTION 21. Section 12.115, Education Code, is amended to
7 read as follows:

8 Sec. 12.115. BASIS FOR CHARTER [~~MODIFICATION, PLACEMENT ON~~
9 ~~PROBATION,~~] REVOCATION[~~,~~] OR MODIFICATION OF GOVERNANCE [~~DENIAL OF~~
10 ~~RENEWAL~~]. (a) Except as provided by Subsection (c), the [The]
11 commissioner shall [~~may modify, place on probation,~~] revoke[~~,~~ or
12 ~~deny renewal of~~] the charter of an open-enrollment charter school
13 or reconstitute the governing body of the charter holder if the
14 commissioner determines that the charter holder:

15 (1) committed a material violation of the charter,
16 including failure to satisfy accountability provisions prescribed
17 by the charter;

18 (2) failed to satisfy generally accepted accounting
19 standards of fiscal management;

20 (3) failed to protect the health, safety, or welfare
21 of the students enrolled at the school; [~~or~~]

22 (4) failed to comply with this subchapter or another
23 applicable law or rule;

24 (5) failed to satisfy the performance framework
25 standards adopted under Section 12.1181; or

26 (6) is imminently insolvent as determined by the
27 commissioner in accordance with commissioner rule.

1 (b) The action the commissioner takes under Subsection (a)
2 shall be based on the best interest of the open-enrollment charter
3 school's students, the severity of the violation, ~~and~~ any
4 previous violation the school has committed, and the accreditation
5 status of the school.

6 (c) Except as provided by Subsection (d), the commissioner
7 shall revoke the charter of an open-enrollment charter school if:

8 (1) the charter holder has been assigned an
9 unacceptable performance rating under Subchapter C, Chapter 39, for
10 the three preceding school years;

11 (2) the charter holder has been assigned a financial
12 accountability performance rating under Subchapter D, Chapter 39,
13 indicating financial performance lower than satisfactory for the
14 three preceding school years; or

15 (3) the charter holder has been assigned any
16 combination of the ratings described by Subdivision (1) or (2) for
17 the three preceding school years.

18 (d) Subsections (c)(1) and (3) do not apply to a charter
19 holder registered under the agency's alternative education
20 accountability procedures for evaluation under Chapter 39.

21 (e) This section does not limit the authority of the
22 attorney general to take any action authorized by law.

23 (f) A charter holder rated as academically unacceptable
24 under Subchapter D, Chapter 39, as that subchapter existed on
25 January 1, 2009, for the 2010-2011 school year is considered to have
26 been assigned an unacceptable performance rating for that school
27 year under Subsection (c)(1). This subsection expires September 1,

1 2015.

2 SECTION 22. Section 12.116, Education Code, is amended to
3 read as follows:

4 Sec. 12.116. PROCEDURE FOR ~~[MODIFICATION, PLACEMENT ON~~
5 ~~PROBATION,]~~ REVOCATION~~[,]~~ OR MODIFICATION OF GOVERNANCE ~~[DENIAL OF~~
6 ~~RENEWAL]~~. (a) The commissioner shall adopt an informal ~~[a]~~
7 procedure to be used for ~~[modifying, placing on probation,]~~
8 revoking~~[, or denying renewal of]~~ the charter of an open-enrollment
9 charter school or for reconstituting the governing body of the
10 charter holder as authorized by Section 12.115.

11 (b) ~~[The procedure adopted under Subsection (a) must~~
12 ~~provide an opportunity for a hearing to the charter holder and to~~
13 ~~parents and guardians of students in the school. A hearing under~~
14 ~~this subsection must be held at the facility at which the program is~~
15 ~~operated.~~

16 ~~[(c)]~~ Chapter 2001, Government Code, does not apply to a
17 procedure ~~[hearing]~~ that is related to a ~~[modification, placement~~
18 ~~on probation,]~~ revocation~~[,]~~ or modification of governance ~~[denial~~
19 ~~of renewal]~~ under this subchapter.

20 (c) A decision by the commissioner to revoke a charter is
21 subject to review by the State Office of Administrative Hearings.
22 Notwithstanding Chapter 2001, Government Code:

23 (1) the administrative law judge shall uphold a
24 decision by the commissioner to revoke a charter unless the judge
25 finds the decision is arbitrary and capricious or clearly
26 erroneous; and

27 (2) a decision of the administrative law judge under

this subsection is final and may not be appealed.

(d) If the commissioner revokes the charter of an open-enrollment charter school, the commissioner may:

(1) manage the school until alternative arrangements are made for the school's students; and

(2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment.

SECTION 23. Subsection (a), Section 12.1161, Education Code, is amended to read as follows:

(a) If ~~[Except as provided by Subsection (b), if]~~ the commissioner revokes or denies the renewal of a charter of an open-enrollment charter school~~[,]~~ or ~~[if]~~ an open-enrollment charter school surrenders its charter, the school may not:

(1) continue to operate under this subchapter; or

(2) receive state funds under this subchapter.

SECTION 24. Subsection (c), Section 12.1163, Education Code, is amended to read as follows:

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit ~~[under Section 12.1163]~~ during any fiscal year, including any financial and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

SECTION 25. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

1 (a) The commissioner must notify the Teacher Retirement
2 System of Texas in writing of the revocation, denial of renewal,
3 expiration, or surrender of a charter under this subchapter not
4 later than the 10th business day after the date of the event.

5 SECTION 26. Subchapter D, Chapter 12, Education Code, is
6 amended by adding Section 12.1181 to read as follows:

7 Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS.

8 (a) The commissioner shall develop and by rule adopt performance
9 frameworks that establish standards by which to measure the
10 performance of an open-enrollment charter school. The commissioner
11 shall develop and by rule adopt separate, specific performance
12 frameworks by which to measure the performance of an
13 open-enrollment charter school that is registered under the
14 agency's alternative education accountability procedures for
15 evaluation under Chapter 39. The performance frameworks shall be
16 based on national best practices that charter school authorizers
17 use in developing and applying standards for charter school
18 performance. In developing the performance frameworks, the
19 commissioner shall solicit advice from charter holders, the members
20 of the governing bodies of open-enrollment charter schools, and
21 other interested persons.

22 (b) The performance frameworks may include a variety of
23 standards. In evaluating an open-enrollment charter school, the
24 commissioner shall measure school performance against an
25 established set of quality standards developed and adopted by the
26 commissioner.

27 (c) Each year, the commissioner shall evaluate the

1 performance of each open-enrollment charter school based on the
2 applicable performance frameworks adopted under Subsection (a).

3 SECTION 27. Section 12.119, Education Code, is amended to
4 read as follows:

5 Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) A charter holder
6 shall file with the commissioner [~~State Board of Education~~] a copy
7 of its articles of incorporation and bylaws, or comparable
8 documents if the charter holder does not have articles of
9 incorporation or bylaws, within the period and in the manner
10 prescribed by the commissioner [~~board~~].

11 (b) Each year within the period and in a form prescribed by
12 the commissioner [~~State Board of Education~~], each open-enrollment
13 charter school shall file with the commissioner [~~board~~] the
14 following information:

15 (1) the name, address, and telephone number of each
16 officer and member of the governing body of the open-enrollment
17 charter school; and

18 (2) the amount of annual compensation the
19 open-enrollment charter school pays to each officer and member of
20 the governing body.

21 (c) On request, the commissioner [~~State Board of Education~~]
22 shall provide the information required by this section and Section
23 12.111(a)(7) [~~12.111(a)(8)~~] to a member of the public. The
24 commissioner [~~board~~] may charge a reasonable fee to cover the
25 commissioner's [~~board's~~] cost in providing the information.

26 SECTION 28. Subchapter D, Chapter 12, Education Code, is
27 amended by adding Section 12.1211 to read as follows:

1 Sec. 12.1211. NAMES OF MEMBERS OF GOVERNING BODY LISTED ON
2 WEBSITE. An open-enrollment charter school shall list the names of
3 the members of the governing body on the home page of the school's
4 Internet website.

5 SECTION 29. Subsection (a), Section 12.122, Education Code,
6 is amended to read as follows:

7 (a) Notwithstanding the applicable provisions of the
8 Business Organizations Code [~~Texas Non-Profit Corporation Act~~
9 ~~(Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~] or
10 other law, on request of the commissioner, the attorney general may
11 bring suit against a member of the governing body of an
12 open-enrollment charter school for breach of a fiduciary duty by
13 the member, including misapplication of public funds.

14 SECTION 30. Subsection (a), Section 12.128, Education Code,
15 is amended to read as follows:

16 (a) Property purchased or leased with funds received by a
17 charter holder under Section 12.106 after September 1, 2001:

18 (1) is considered to be public property for all
19 purposes under state law;

20 (2) is property of this state held in trust by the
21 charter holder for the benefit of the students of the
22 open-enrollment charter school; and

23 (3) may be used only for a purpose for which a school
24 district may use school district property.

25 SECTION 31. Subchapter D, Chapter 12, Education Code, is
26 amended by adding Section 12.1231 to read as follows:

27 Sec. 12.1231. TRAINING FOR AGENCY EMPLOYEES. Not later

1 than October 1, 2013, each agency employee assigned responsibility
 2 related to granting charters for open-enrollment charter schools or
 3 providing oversight or monitoring of charter holders or
 4 open-enrollment charter schools must participate in training on
 5 charter school authorization, oversight, and monitoring provided
 6 by a nationally recognized organization of charter school
 7 authorizers identified by the commissioner. This section expires
 8 January 1, 2014.

9 SECTION 32. Sections 12.152 and 12.154, Education Code, are
 10 amended to read as follows:

11 Sec. 12.152. AUTHORIZATION. ~~[(a)]~~ In accordance with this
 12 subchapter and Subchapter D, the commissioner ~~[State Board of~~
 13 ~~Education]~~ may grant a charter on the application of:

14 (1) a public senior college or university for an
 15 open-enrollment charter school to operate on the campus of the
 16 public senior college or university or in the same county in which
 17 the campus of the public senior college or university is located; or

18 (2) a public junior college for an open-enrollment
 19 charter school to operate on the campus of the public junior college
 20 or in the same county in which the campus of the public junior
 21 college is located.

22 Sec. 12.154. CONTENT. (a) Notwithstanding Section
 23 12.110(d), the commissioner ~~[State Board of Education]~~ may grant a
 24 charter under this subchapter to a public senior college or
 25 university only if the following criteria are satisfied in the
 26 public senior college's or university's application, as determined
 27 by the commissioner ~~[State Board of Education]~~:

1 (1) the college or university charter school's
2 educational program must include innovative teaching methods;

3 (2) the college or university charter school's
4 educational program must be implemented under the direct
5 supervision of a member of the teaching or research faculty of the
6 public senior college or university;

7 (3) the faculty member supervising the college or
8 university charter school's educational program must have
9 substantial experience and expertise in education research,
10 teacher education, classroom instruction, or educational
11 administration;

12 (4) the college or university charter school's
13 educational program must be designed to meet specific goals
14 described in the charter, including improving student performance,
15 and each aspect of the program must be directed toward the
16 attainment of the goals;

17 (5) the attainment of the college or university
18 charter school's educational program goals must be measured using
19 specific, objective standards set forth in the charter, including
20 assessment methods and a time frame; and

21 (6) the financial operations of the college or
22 university charter school must be supervised by the business office
23 of the public senior college or university.

24 (b) Notwithstanding Section 12.110(d), the commissioner
25 [~~State Board of Education~~] may grant a charter under this
26 subchapter to a public junior college only if the following
27 criteria are satisfied in the public junior college's application,

as determined by the commissioner [~~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.

SECTION 33. Subsection (b), Section 12.156, Education Code, is amended to read as follows:

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101 [~~12.101(b)~~].

SECTION 34. Section 39.152, Education Code, is amended to read as follows:

1 Sec. 39.152. REVIEW BY STATE OFFICE OF ADMINISTRATIVE
2 HEARINGS: SANCTIONS. (a) A school district or open-enrollment
3 charter school that intends to challenge a decision by the
4 commissioner under this chapter to close the district or a district
5 campus or the charter school or to pursue alternative management of
6 a district campus or the charter school must appeal the decision
7 under this section [~~the procedures provided for a contested case~~
8 ~~under Chapter 2001, Government Code~~].

9 (b) A challenge to a decision under this section is under
10 the substantial evidence rule as provided by Subchapter G, Chapter
11 2001, Government Code. The commissioner shall adopt procedural
12 rules for a challenge under this section.

13 (c) Notwithstanding other law:

14 (1) the State Office of Administrative Hearings shall
15 conduct [~~provide~~] an expedited review of a challenge under this
16 section;

17 (2) the administrative law judge shall issue a final
18 order not later than the 30th day after the date on which the
19 hearing is finally closed; [~~and~~]

20 (3) the decision of the administrative law judge is
21 final and may not be appealed; and

22 (4) the decision of the administrative law judge may
23 set an effective date for an action under this section.

24 SECTION 35. Subsection (a), Section 221.0071, Human
25 Resources Code, is amended to read as follows:

26 (a) Notwithstanding any other law and in addition to the
27 number of charters allowed under Subchapter D, Chapter 12,

1 Education Code, the commissioner of education [~~State Board of~~
2 ~~Education~~] may grant a charter on the application of a detention,
3 correctional, or residential facility established only for
4 juvenile offenders under Section 51.12, 51.125, or 51.126, Family
5 Code.

6 SECTION 36. Subsection (d), Section 221.056, Human
7 Resources Code, is amended to read as follows:

8 (d) Notwithstanding any other law and in addition to the
9 number of charters allowed under Subchapter D, Chapter 12,
10 Education Code, the commissioner of education [~~State Board of~~
11 ~~Education~~] shall grant a charter on the application of a
12 residential treatment facility established under this section for a
13 school chartered for the purposes of this section.

14 SECTION 37. The following provisions of the Education Code
15 are repealed:

16 (1) Subsection (b), Section 12.113; and

17 (2) Subsection (b), Section 12.1161.

18 SECTION 38. This Act takes effect September 1, 2013.