

BILL ANALYSIS

C.S.S.B. 2
By: Patrick
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding charter schools in Texas. According to the parties, the current cap on the number of open-enrollment charter schools effectively deters educators and groups from starting new charter schools and existing charter schools face outdated laws and policies that prevent their expansion. Some charter schools also struggle to find suitable facilities, while other, ineffective charter schools continue operating despite poor performance. C.S.S.B. 2 seeks to address these concerns by way of a comprehensive overhaul of the law relating to authorizing, governing, and establishing charter schools in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTIONS 6, 7, 11, 16, 17, 18, 23, and 34 of this bill.

It is the committee's opinion that the University Interscholastic League is directed to adopt rules in SECTION 33 of this bill.

ANALYSIS

Open-Enrollment Charter School Offer for District Facility

C.S.S.B. 2 amends the Education Code to require the board of trustees of an independent school district that intends to sell, lease, or allow use of an unused or underused district facility for a purpose other than a district purpose to give each open-enrollment charter school located wholly or partly within the district's boundaries the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board, before offering the facility for sale or lease or to any other specific entity. The bill expressly does not require the district board to accept an offer made by a charter school.

C.S.S.B. 2 prohibits an independent school district from requiring a campus or campus program that has been granted a charter and that is the result of the conversion of an existing district campus to pay rent for or to purchase a facility in order to use it or from requiring such a campus or campus program or an open-enrollment charter school to pay for any district service provided under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the district's actual costs of providing the service.

Campus or Campus Program Charters

C.S.S.B. 2 authorizes a school district to contract with another district or an open-enrollment charter school for services at a campus charter and makes an employee of the district or charter school providing contracted services to a campus charter eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or charter school.

C.S.S.B. 2 makes a campus or program for which a campus or campus program charter is granted subject to public school accountability provisions relating to financial accountability and procedures for challenging an adverse academic or financial accountability rating. The bill requires an employee of a charter holder who is employed on a campus or in a program granted a campus or campus program charter and who qualifies for TRS membership to be covered in the same manner and to the same extent as a qualified school district employee who is employed on a regularly operating campus or in a regularly operating program. The bill requires each campus or campus program charter to provide that the charter's continuation is contingent on satisfactory financial performance in accordance with applicable statutory provisions.

Open-Enrollment Charter Schools

C.S.S.B. 2 requires the State Board of Education (SBOE) to thoroughly investigate and evaluate an applicant before granting a charter for an open-enrollment charter school, includes any educational standards for an open-enrollment charter school adopted by the commissioner of education among the standards such an applicant must meet, and further conditions grant of the charter on the SBOE's determination of the following:

- that the applicant is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality; and
- that the applicant has not within the preceding 10 years had a charter for an open-enrollment charter school or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, or denied renewal or that the applicant is not, under commissioner rules, considered to be a corporate affiliate of or substantially related to an entity that had a charter similarly sanctioned within the same time period.

C.S.S.B. 2 authorizes the commissioner, not later than the 90th day after the date the SBOE takes final action in granting a charter for an open-enrollment charter school, to veto the grant of the charter.

C.S.S.B. 2 gradually increases the existing 215-charter cap on the number of charters for open-enrollment charter schools that may be granted in annual increments as follows:

- 225 charters beginning September 1, 2014;
- 235 charters beginning September 1, 2015;
- 245 charters beginning September 1, 2016;
- 255 charters beginning September 1, 2017; and
- 265 charters beginning September 1, 2018.

Beginning September 1, 2019, the bill sets the total number of charters for open-enrollment charter schools that may be granted at 275 charters. The bill prohibits the SBOE from granting more than one charter for an open-enrollment charter school to any charter holder and authorizes the SBOE to 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.

C.S.S.B. 2 authorizes a charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under the state's standardized testing program to establish one or more new open-enrollment charter school campuses under an existing charter held by the charter holder if certain conditions are met and specifies that commissioner approval of a charter revision is not required for such establishment. The bill sets the initial term of a charter granted for an open-enrollment charter school at five years. The bill requires the commissioner to adopt rules to modify criteria for granting such a charter to the extent necessary

to address changes in performance rating categories or in the financial accountability system with regard to public school system accountability.

Charter Authorization for High-Performing Entities

C.S.S.B. 2 authorizes the SBOE, subject to the limit on the number of charters for an open-enrollment charter school that may be granted, to grant a charter for an open-enrollment charter school to an applicant that is either a charitable organization exempted from the income tax under the federal Internal Revenue Code of 1986 that proposes to operate the charter school program of a charter operator that operates one or more charter schools in another state and with which the organization is affiliated or an entity that has operated one or more charter schools established under a campus or campus program charter, an open-enrollment charter, or a college or university or junior college charter, provided that such applicant has performed in the highest or second highest performance rating category with regard to public school system accreditation as determined by the commissioner in accordance with commissioner rule or at a comparable level of performance, as applicable. The bill specifies that the commissioner's veto power as established by the bill applies to the grant of such a charter. The bill authorizes a charter holder granted such a charter, to the extent authorized by commissioner rule, to vest management of corporate affairs in a member entity provided that the member entity obtains the commissioner's express written approval of any change of members in the charter holder's governing body before the expiration of a member's term. The bill sets the initial term of such a charter at five years and requires the commissioner to adopt rules to modify criteria for granting such a charter to the extent necessary to address changes in performance rating categories with regard to public school system accreditation.

Report Comparing Public Schools

C.S.S.B. 2 requires the commissioner to report each year on the performance of open-enrollment charter schools compared to the performance of campuses and programs operating under charters granted by school districts and of matched traditional campuses based on commissioner-adopted student achievement indicators. The bill requires the report's format to allow the public to distinguish and compare the performance of each type of public school by establishing a school classification system for that purpose and sets out content requirements for the report.

Authority Under Charter; Applicability

C.S.S.B. 2 revises the conditions under which an open-enrollment charter school retains authority to operate under the charter to reflect changes made by the bill and makes an open-enrollment charter school subject to public school accountability provisions relating to procedures for challenging an adverse academic or financial accountability rating and to statutory provisions relating to parental rights and responsibilities. The bill requires the governing body of a charter holder and the governing body of an open-enrollment charter school, not later than 48 hours before the scheduled start of a meeting of the governing body, to post the meeting agenda on the charter holder's or school's Internet website, as applicable, and requires the commissioner to adopt rules as necessary to administer this requirement. The bill requires the commissioner to provide by rule for meetings by telephone or video conference call where a quorum of the governing body of a charter holder or charter school is not physically present at one meeting location and sets out certain requirements applicable to those rules.

Nepotism; Charter Application; Notice

C.S.S.B. 2 makes a provision relating to school district employment policies that establishes the applicability of Government Code anti-nepotism provisions to a school district superintendent and each member of a district board of trustees applicable to an open-enrollment charter school as though the school's governing body were the district board and to the superintendent or, as applicable, the administrator serving as the school's educational leader and chief executive

officer as though that person were the district superintendent.

C.S.S.B. 2 removes a provision authorizing the SBOE to approve or deny an application based on criteria the SBOE adopts and instead bases approval or denial by the SBOE on documented evidence collected through the application review process, merit, and other criteria as adopted by the SBOE, which must include criteria relating to the applicant's capability to carry out the charter responsibilities and the likelihood that the applicant will operate a school of high quality. The bill requires the SBOE to give priority to applications that propose an open-enrollment charter school campus to be located in the attendance zone of a school district campus assigned an unacceptable performance rating for the two preceding school years. The bill specifies that procedures adopted by commissioner rule for providing notice to specified persons on the SBOE's receipt of a charter application for an open-enrollment charter school applies to the provision of notice to those recipients on the SBOE's receipt of notice of the establishment of a new open-enrollment charter school campus under an existing charter as authorized by the bill.

Charter Contents

C.S.S.B. 2 revises the required contents of each charter for an open-enrollment charter school to reflect certain of the bill's provisions and to require each such charter to provide information, as determined by the commissioner, relating to any management company that will provide management services to a school operating under the charter and to specify that an open-enrollment charter school's governing body accepts and may not delegate ultimate responsibility for the school and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

Notice Concerning Charter Revision; Renewal of Charter; Denial of Renewal; Expiration

C.S.S.B. 2 requires the commissioner, not later than the 60th day after the date that a charter holder submits to the commissioner a completed request for approval for an expansion amendment, as defined by commissioner rule, including a new school amendment, to provide to the charter holder written notice of the amendment's approval or disapproval. The bill requires the commissioner to develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the charter's term. The bill requires the procedure to include consideration of the charter holder's performance with regard to public school system accountability and that of each campus operating under the charter and to include three distinct processes for expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. The bill requires the charter holder to submit a petition for renewal to the commissioner in the time and manner established by commissioner rule, in order to renew a charter at the end of the term.

C.S.S.B. 2 establishes that a charter for an open-enrollment charter school automatically renews at the end of its term if the charter holder submits to the commissioner a petition for expedited renewal unless the commissioner provides written notice to the charter holder, not later than the 30th day after the date the charter holder submits the petition, that expedited renewal is denied. The bill prohibits the commissioner from denying expedited renewal if the following conditions are met for each of the preceding three years: the charter holder has been assigned the highest or second highest performance rating with regard to public school system accreditation or, except as otherwise provided, an acceptable performance rating under the Texas Education Agency's (TEA) alternative education accountability procedures for evaluation; the charter holder has been assigned a financial performance accountability rating indicating financial performance that is satisfactory or better; and no campus operating under the charter has been assigned the lowest performance rating with regard to public school system accreditation or such a campus has been closed. The bill requires the charter holder to have been assigned the highest or second highest performance rating under TEA's alternative education accountability procedures for evaluation if, under those procedures, the commissioner provides for assigning performance ratings

reflecting different levels of acceptable performance.

C.S.S.B. 2 requires the commissioner to use the discretionary consideration process at the end of the term of a charter for an open-enrollment charter school if a charter holder submits to the commissioner a petition for renewal and the charter does not meet the criteria for expedited renewal or for expiration. The bill requires the commissioner's decision under that process to take into consideration the results of annual evaluations under the performance frameworks established by the bill.

C.S.S.B. 2 requires the commissioner, in considering the renewal of the charter of an open-enrollment charter school that is registered under TEA's alternative education accountability procedures for evaluation, such as a dropout recovery school or a school operating within a residential treatment facility, to use academic criteria established by commissioner rule that are appropriate to measure that school's specific goals and that recognize growth in student achievement as well as educational attainment. The bill sets out the specific conditions under which the commissioner is required to designate an open-enrollment charter school or a campus of an open-enrollment charter school as a dropout recovery school for purposes relating to use of the discretionary consideration process.

C.S.S.B. 2 prohibits the commissioner from renewing a charter for an open-enrollment charter school at the end of its term, if a charter holder submits to the commissioner a petition for the charter's renewal, and requires the commissioner to allow the charter to expire if the charter holder has been assigned the lowest accreditation performance rating, a financial accountability performance rating indicating financial performance that is lower than satisfactory, or any combination of those two ratings for any three of the five preceding school years or if any campus operating under the charter has been assigned the lowest accreditation performance rating for the three preceding school years and has not been closed. The bill establishes that such a determination by the commissioner is final and not subject to appeal.

C.S.S.B. 2 requires the commissioner, not later than the 90th day after the date on which a charter holder submits a petition for renewal of a charter for an open-enrollment charter school, to provide written notice to the charter holder, in accordance with commissioner rule, of the basis on which the charter qualified for expedited renewal, discretionary consideration, or expiration and of the commissioner's decision regarding whether to renew the charter, deny renewal of the charter, or allow the charter to expire. The bill makes a decision by the commissioner to deny renewal, other than a decision to deny renewal on the basis of poor accreditation or financial accountability performance ratings as set out in the bill, subject to review by the State Office of Administrative Hearings (SOAH). The bill requires the administrative law judge to uphold a decision by the commissioner to deny renewal unless the judge finds the decision arbitrary and capricious or clearly erroneous and establishes that a decision of the administrative law judge is final and not subject to appeal.

C.S.S.B. 2 extends the term of a charter for an open-enrollment charter school, notwithstanding the charter's expiration date, on the charter holder's submission of a petition for its renewal until the commissioner has provided notice to the charter holder of the renewal, denial of renewal, or expiration of the charter. The bill sets the term of a charter renewed under these provisions at 10 years for each renewal and requires the commissioner to adopt rules to modify criteria for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school to the extent necessary to address changes in performance rating categories or in the financial accountability system with regard to public school system accountability.

Basis For Charter Revocation or Modification of Governance

C.S.S.B. 2 removes provisions relating to the basis on which the charter of an open-enrollment charter school may be modified, placed on probation, or denied renewal and instead requires the commissioner either to revoke such a charter or to reconstitute the charter holder's governing

body on those same bases and adds to the bases for revocation or reconstitution a determination by the commissioner that the charter holder failed to satisfy the performance framework standards established by the bill or is imminently insolvent as determined by the commissioner in accordance with commissioner rule. The bill requires the commissioner's action in such a case to be based on, among other factors, the open-enrollment charter school's accreditation status.

C.S.S.B. 2 requires the commissioner to revoke the charter of an open-enrollment charter school if the charter holder has been assigned an unacceptable accreditation performance rating, a financial accountability performance rating indicating financial performance lower than satisfactory, or any combination of those two ratings for the three preceding school years. The bill establishes that these provisions do not limit the authority of the attorney general to take any action authorized by law.

C.S.S.B. 2 adds a temporary provision, set to expire September 1, 2015, to establish that a charter holder rated as academically unacceptable under certain accreditation status provisions as they existed on January 1, 2009, for the 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year for purposes of charter revocation.

Procedure for Revocation or Modification of Governance; Notice to TRS

C.S.S.B. 2 removes provisions relating to the procedure for modifying, placing on probation, or denying renewal of the charter of an open-enrollment charter school and instead requires the commissioner to adopt an informal procedure to be used for revoking such a charter or for reconstituting the charter holder's governing body. The bill removes a requirement for the previous procedure to provide a hearing opportunity to the charter holder; exempts the informal procedure, rather than such hearing, from the Administrative Procedure Act; and makes a charter revocation decision by the commissioner subject to review by SOAH. The bill requires the administrative law judge to uphold a decision by the commissioner to revoke a charter unless the judge finds the decision arbitrary and capricious or clearly erroneous and establishes that a decision of the administrative law judge is final and not subject to appeal.

C.S.S.B. 2 authorizes the commissioner, if the commissioner revokes the charter of an open-enrollment charter school, to manage the school until alternative arrangements are made for the school's students and to 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.

C.S.S.B. 2 requires the commissioner to notify TRS in writing of the expiration of a charter of an open-enrollment charter school not later than the 10th business day after the date of the event.

Performance Frameworks; Annual Evaluations; Restrictions on Certain Service

C.S.S.B. 2 requires the commissioner to develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school and separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under TEA's alternative education accountability procedures for evaluation. The bill requires the performance frameworks to be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance and requires the commissioner, in developing the performance frameworks, to solicit advice from specified entities or persons.

C.S.S.B. 2 requires the performance frameworks to include student attrition rate as a standard, authorizes the frameworks to include a variety of other standards, and requires the commissioner, in evaluating an open-enrollment charter school, to measure school performance against an established set of quality standards developed and adopted by the commissioner. The bill

requires the commissioner to evaluate the performance of each open-enrollment charter school each year based on the applicable performance frameworks. The bill prohibits a school's performance on a performance framework from being considered for purposes of a charter renewal or revocation.

C.S.S.B. 2 authorizes an open-enrollment charter school, subject to TEA approval following a review of a person's criminal history record information, to employ the person as a teacher or educational aide if a school district could employ the person as a teacher or educational aide or could employ the person as a teacher or educational aide if the person held the appropriate teaching certificate and the person has never held a teaching certificate or to employ the person in a position other than teacher or educational aide if a school district could employ the person in that position.

Names of Members of Governing Body Listed on Website; State Property

C.S.S.B. 2 requires an open-enrollment charter school to list the names of the members of the governing body on the home page of the school's Internet website. The bill specifies that property purchased or leased with certain state funds received by a charter holder after September 1, 2001, and held in trust by the charter holder for the benefit of the students of the open-enrollment charter school is property of the state.

Training for TEA Employees; Posting of CEO Salary; Pledge of Allegiance

C.S.S.B. 2 adds a temporary provision, set to expire January 1, 2014, to require each TEA employee assigned responsibility related to granting charters for open-enrollment charter schools or providing oversight or monitoring of charter holders or open-enrollment charter schools, not later than October 1, 2013, to participate in training on charter school authorization, oversight, and monitoring provided by a nationally recognized organization of charter school authorizers identified by the commissioner. The bill requires an open-enrollment charter school to post on the school's Internet website the salary of the school's superintendent or, as applicable, of the administrator serving as educational leader and chief executive officer.

C.S.S.B. 2 makes statutory provisions requiring the board of trustees of each school district to provide for the daily recitation of the pledges of allegiance to the U.S. flag and the Texas flag and the observance of one minute of silence in public schools applicable to the governing body of each open-enrollment charter school.

Participation in UIL Contests by Specialty High School

C.S.S.B. 2 requires the University Interscholastic League (UIL), in order to ensure fair competition, to adopt rules governing participation in UIL contests by students attending a specialty high school, defined by the bill as the high school of an open-enrollment charter school that enrolls students without regard to the attendance zones of the school district in which the high school is located and that is determined by the UIL to specialize in a division of UIL contests. The bill requires the adopted UIL rules to require that, for any division of UIL contests that a specialty high school emphasizes, the school will be assigned to the conference with the largest student enrollment, but authorizes the rules to provide for reasonable exceptions from that requirement based on travel, availability of participant schools, or other criteria. The bill adds a temporary provision, set to expire August 31, 2014, to require the UIL rules to apply beginning with the 2013-2014 school year.

Review of Challenge by State Office of Administrative Hearings

C.S.S.B. 2 requires the commissioner to adopt procedural rules for a challenge made by a school district or open-enrollment charter school with regard to a decision by the commissioner either to close the district or a district campus or the charter school or to pursue alternative management

of a district campus or the charter school. The bill requires SOAH to conduct, rather than provide, an expedited review of such a challenge and authorizes the decision of the administrative law judge to set an effective date for an action with regard to the challenge.

Repealed Laws

C.S.S.B. 2 repeals provisions relating to an open-enrollment charter school's exemption from the applicability of certain nepotism laws under certain circumstances and to an open-enrollment charter school's authority to continue operating and receiving state funds for a remainder of a school year if the commissioner denies renewal of the school's charter before the completion of that school year.

C.S.S.B. 2 repeals Sections 12.1055(b) and 12.1161(b), Education Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 2 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended.

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

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

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

(c) A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

No equivalent provision.

Chapter 39.

(d) Subchapter D applies to a campus granted a district charter under this section as though the campus were granted a charter under Subchapter D, and the campus is considered an open-enrollment charter school.

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

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

SECTION 3. Section 12.055, Education Code, is amended.

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

SECTION 5. Section 12.057, Education Code, is amended.

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

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

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

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

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

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

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

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.

SECTION 5. Section 12.059, Education Code, is amended to read as follows:

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

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

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

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

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

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

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to

conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by commissioner ~~[State Board of Education]~~ rule, in the Public Education Information Management System (PEIMS).

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

(a) In accordance with this subchapter, the commissioner ~~[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) After thoroughly investigating and evaluating an applicant, the commissioner ~~[The State Board of Education]~~ may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:

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

(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar

be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS).

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

(b) After thoroughly investigating and evaluating an applicant, the ~~[The]~~ State Board of Education may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the board determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:

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

(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a

charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.

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

(b-1) In granting charters for open-enrollment charter 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,

similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, or denied renewal.

(b-0) Notwithstanding any other provision of this subchapter, not later than the 90th day after the date the State Board of Education takes final action in granting a charter for an open-enrollment charter school, the commissioner may veto the grant of the charter.

(b-1) In granting charters for open-enrollment charter schools, the ~~[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) 235 charters beginning September 1, 2015;

(4) 245 charters beginning September 1, 2016;

(5) 255 charters beginning September 1, 2017; and

(6) 265 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 275 charters.

(b-3) The State Board of Education may not grant more than one charter for an open-enrollment charter school to any charter holder. The board 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) Notwithstanding Section 12.114, approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus under this subsection. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under

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 school under Section 12.1141(c).

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

Sec. 12.1011. CHARTER AUTHORIZATION FOR HIGH-PERFORMING ENTITIES. (a) Notwithstanding Section 12.101(b), the

Subchapter B, Chapter 39, may establish one or more new 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 of disapproval of 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.

SECTION 7. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1011 to read as follows:

Sec. 12.1011. CHARTER AUTHORIZATION FOR HIGH-PERFORMING ENTITIES. (a) Notwithstanding Section 12.101(b), **subject**

commissioner may grant a charter for an open-enrollment charter school to an applicant that is:

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

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

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

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

(d) 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 under Subchapter C, Chapter 39.

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

Sec. 12.1013. CHARTER AUTHORIZER ACCOUNTABILITY.

to the limit on the number of charters for an open-enrollment charter school that may be granted under Section 12.101(b-1), the State Board of Education may grant a charter for an open-enrollment charter school to an applicant that is:

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

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

(b) Section 12.101(b-0) applies to the grant of a charter under this section.

(c) To the extent authorized by commissioner rule, a charter holder granted a charter for an open-enrollment charter school under this section may vest management of corporate affairs in a member entity provided that the member entity may change the members of the governing body of the charter holder before the expiration of a member's term only with the express written approval of the commissioner.

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

(e) 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 under Subchapter C, Chapter 39.

SECTION 8. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1013 to read as follows:

Sec. 12.1013. REPORT COMPARING PUBLIC SCHOOLS. (a) In this section, "matched traditional campus" means a

(a) The commissioner shall annually report under Subchapters J and K, Chapter 39, the performance of open-enrollment charter schools by authorizer compared to campus charters and matched traditional campuses based on student achievement indicators adopted under Section 39.053.

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

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

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

(3) charters granted by school districts; and

(4) matched traditional campuses.

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

(d) The report must also:

(1) aggregate and compare the performance of open-enrollment charter schools granted charters by the State Board of Education, open-enrollment charter schools granted charters by the commissioner, campuses and programs granted charters by school districts, and matched traditional campuses; and

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

SECTION 10. Section 12.102, Education Code, is amended.

SECTION 11. Subsection (b), Section 12.104, Education Code, is amended to read as follows:

school district campus that has a student demographic composition similar to an open-enrollment charter school with which the district campus is being compared.

(b) The commissioner shall annually report under Subchapters J and K, Chapter 39, the performance of open-enrollment charter schools compared to the performance of campuses and programs operating under charters granted by school districts and of matched traditional campuses, based on student achievement indicators adopted under Section 39.053.

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

(1) open-enrollment charter schools;

(2) campuses or programs operating under charters granted by school districts; and

(3) matched traditional campuses.

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

(e) The report must also:

(1) aggregate and compare the performance of open-enrollment charter schools, campuses and programs operating under charters granted by school districts, and matched traditional campuses; and

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

SECTION 9. Same as engrossed version.

SECTION 10. 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 management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, 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.

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

(b) With respect to the operation of an open-enrollment charter school, except as provided by Subsection (c), any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a

(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, F, G, 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; and

(O) parental rights and responsibilities under Chapter 26.

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

(b) With respect to the operation of an open-enrollment charter school, except as provided by Subsection (d), any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school

school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

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

district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

(c) The governing body of a charter holder and the governing body of an open-enrollment charter school shall, not later than 48 hours before the time scheduled for the beginning of a meeting of the governing body, post the agenda of the meeting on the Internet website of the charter holder or school, as applicable. The commissioner shall adopt rules as necessary to administer this subsection.

(d) Notwithstanding Subchapter F, Chapter 551, Government Code, the commissioner shall provide by rule for meetings by telephone conference call or video conference call where a quorum of the governing body of a charter holder or charter school is not physically present at a single location of the meeting. The rules concerning a meeting by telephone conference call or video conference call must:

(1) provide for the meeting to be subject to the notice requirements applicable to other meetings;

(2) require each part of the meeting that is required to be open to the public to be audible to the public at a location within the geographical area served by the open-enrollment charter school;

(3) require audio recording of the meeting and for the recording to be made available to the public;

(4) require the location of the meeting that is open to the public to provide two-way communication during the entire meeting; and

(5) require the identification of each party to the conference call to be clearly stated before the party speaks.

No equivalent provision.

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.

No equivalent provision.

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:

No equivalent provision.

SECTION 12. Section 12.1055, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Section 11.1513(f) applies to an open-enrollment charter school as though the governing body of the school were the board of trustees of a school district and to the superintendent or, as applicable, the administrator serving as educational leader and chief executive officer of the school as though that person were the superintendent of a school district.

SECTION 13. Section 12.110, Education Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) The State Board of Education [~~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 board, 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) [(4)] 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;

(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) [(4)] 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 State Board of Education shall give priority to applications that propose an open-enrollment charter school campus to be located in the attendance zone of a school district campus assigned an unacceptable performance rating under Section 39.054 for the two preceding school years.

SECTION 14. 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 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 15. 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;~~

(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 providing the program will adopt an annual budget;

(11) ~~(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 commissioner [State Board of Education] rule, in the Public Education Information Management System (PEIMS);

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

(13) ~~(14)~~ describe the geographical area served by the program;

(14) ~~and~~

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

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

(16) specify that the governing body of an open-enrollment charter school accepts and may not delegate ultimate responsibility for the school, including the school's academic performance and financial and operational

(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 providing the program will adopt an annual budget;

(11) ~~(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);

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

(13) ~~(14)~~ describe the geographical area served by the program;

(14) ~~and~~

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

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

(16) specify that the governing body of an open-enrollment charter school accepts and may not delegate ultimate responsibility for the school, including the school's academic performance and financial and operational

viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

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

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

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

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

- (1) satisfy this subchapter; and
- (2) include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the commissioner [~~board~~] requires.

No equivalent provision.

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

Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL; EXPIRATION.

(a) The commissioner shall develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the term of the charter. The procedure must include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and must include three distinct processes, which

viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

No equivalent provision.

No equivalent provision.

SECTION 16. Section 12.114, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Not later than the 60th day after the date that a charter holder submits to the commissioner a completed request for approval for an expansion amendment, as defined by commissioner rule, including a new school amendment, the commissioner shall provide to the charter holder written notice of approval or disapproval of the amendment.

SECTION 17. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1141 to read as follows:

Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL; EXPIRATION.

(a) The commissioner shall develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the term of the charter. The procedure must include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and must include three

must be expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. To renew a charter at the end of the term, the charter holder must submit a petition for renewal to the commissioner in the time and manner established by commissioner rule.

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

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

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

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

(c) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for

distinct processes, which must be expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. To renew a charter at the end of the term, the charter holder must submit a petition for renewal to the commissioner in the time and manner established by commissioner rule.

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

(1) the charter holder has been assigned:

(A) the highest or second highest performance rating under Subchapter C, Chapter 39, for the three preceding school years; or

(B) except as provided by Subsection (b-1), an acceptable performance rating under the agency's alternative education accountability procedures for evaluation under Chapter 39;

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

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

(b-1) If, under the agency's alternative education accountability procedures for evaluation under Chapter 39, the commissioner provides for assigning performance ratings reflecting different levels of acceptable performance, the charter holder must have been assigned the highest or second highest performance rating under those procedures.

(c) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for

expedited renewal under Subsection (b) or for expiration under Subsection (d), the commissioner shall use the discretionary consideration process. The commissioner's decision under the discretionary consideration process must take 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 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and
- (2) that meets the eligibility requirements for and is registered under alternative education

expedited renewal under Subsection (b) or for expiration under Subsection (d), the commissioner shall use the discretionary consideration process. The commissioner's decision under the discretionary consideration process must take into consideration the results of annual evaluations under the performance frameworks established under Section 12.1181.

In considering under this subsection 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 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and
- (2) that meets the eligibility requirements for and is registered under alternative

accountability procedures adopted by the commissioner.

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

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

(2) 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;

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

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

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

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

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

(1) the administrative law judge shall uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless the judge finds the

education accountability procedures adopted by the commissioner.

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

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

(2) 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;

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

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

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

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

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

(1) the administrative law judge shall uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless the judge

decision is arbitrary and capricious or clearly erroneous; and

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

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

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

(j) The commissioner shall adopt rules to modify criteria for renewal, denial of renewal, or expiration of 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.

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

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

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

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

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

finds the decision is arbitrary and capricious or clearly erroneous; and

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

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

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

(j) The commissioner shall adopt rules to modify criteria for renewal, denial of renewal, or expiration of 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.

SECTION 18. Section 12.115, Education Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(f) A charter holder rated as academically unacceptable under Subchapter D, Chapter 39, as that subchapter existed on January 1, 2009, for the 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year under Subsection (c)(1). This subsection expires September 1, 2015.

SECTION 22. Section 12.116, Education Code, is amended.

SECTION 23. Subsection (a), Section 12.1161, Education Code, is amended.

SECTION 24. Subsection (c), Section 12.1163, Education Code, is amended.

SECTION 25. Subsection (a), Section 12.1164, Education Code, is amended.

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

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

(c) The commissioner shall revoke the charter of an open-enrollment charter school if:

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

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

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

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

(e) A charter holder rated as academically unacceptable under Subchapter D, Chapter 39, as that subchapter existed on January 1, 2009, for the 2010-2011 school year is considered to have been assigned an unacceptable performance rating for that school year under Subsection (c)(1). This subsection expires September 1, 2015.

SECTION 19. Same as engrossed version.

SECTION 20. Same as engrossed version.

SECTION 21. Same as engrossed version.

SECTION 22. Same as engrossed version.

SECTION 23. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1181 to read as follows:

Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS. (a) The commissioner shall develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school. The commissioner shall develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39. The performance frameworks shall be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. In developing the performance frameworks, the commissioner shall solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

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

(c) Each year, the commissioner shall evaluate the performance of each open-enrollment charter school based on the applicable performance frameworks adopted under Subsection (a).

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

Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the commissioner [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

Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS. (a) The commissioner shall develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school. The commissioner shall develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39. The performance frameworks shall be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. In developing the performance frameworks, the commissioner shall solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

(b) The performance frameworks must include student attrition rate as a standard and may include a variety of other standards. In evaluating an open-enrollment charter school, the commissioner shall measure school performance against an established set of quality standards developed and adopted by the commissioner.

(c) Each year, the commissioner shall evaluate the performance of each open-enrollment charter school based on the applicable performance frameworks adopted under Subsection (a). The performance of a school on a performance framework may not be considered for purposes of renewal of a charter under Section 12.1141(d) or revocation of a charter under Section 12.115(c).

SECTION 24. Subsection (c), Section 12.119, Education Code, is amended to read as follows:

commissioner [board].

(b) Each year within the period and in a form prescribed by the commissioner [State Board of Education], each open-enrollment charter school shall file with the commissioner [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 commissioner [State Board of Education] shall provide the information required by this section and Section 12.111(a)(7) [12.111(a)(8)] to a member of the public. The commissioner [board] may charge a reasonable fee to cover the commissioner's [board's] cost in providing the information.

No equivalent provision.

SECTION 28. Subchapter D, Chapter 12, Education Code, is amended.

SECTION 29. Subsection (a), Section 12.122, Education Code, is amended.

SECTION 30. Subsection (a), Section 12.128, Education Code, is amended.

SECTION 31. Subchapter D, Chapter 12, Education Code, is amended.

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

SECTION 25. Section 12.120, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), subject to Section 12.1059, an open-enrollment charter school may employ a person:

(1) as a teacher or educational aide if:

(A) a school district could employ the person as a teacher or educational aide; or

(B) a school district could employ the person as a teacher or educational aide if the person held the appropriate certificate issued under Subchapter B, Chapter 21, and the person has never held a certificate issued under Subchapter B, Chapter 21; or

(2) in a position other than a position described by Subdivision (1) if a school district could employ the person in that position.

SECTION 26. Same as engrossed version.

SECTION 27. Same as engrossed version.

SECTION 28. Same as engrossed version.

SECTION 29. Same as engrossed version.

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

No equivalent provision.

Sec. 12.152. AUTHORIZATION. ~~(a)~~ In accordance with this subchapter and Subchapter D, the commissioner ~~[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.

Sec. 12.154. CONTENT. (a) Notwithstanding Section 12.110(d), the commissioner ~~[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 commissioner ~~[State Board of Education]~~:

No equivalent provision.

- (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 commissioner [~~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 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.

No equivalent provision.

SECTION 33. Subsection (b), Section 12.156, Education Code, is amended.

No equivalent provision.

SECTION 30. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.136 to read as follows:

Sec. 12.136. POSTING OF CHIEF EXECUTIVE OFFICER SALARY. An open-enrollment charter school shall post on the school's Internet website the salary of the school's superintendent or, as applicable, of the administrator serving as educational leader and chief executive officer.

SECTION 31. Same as engrossed version.

SECTION 32. Subsections (b), (c), and (d), Section 25.082, Education Code, are amended to read as follows:

(b) The board of trustees of each school district and the governing board of each open-enrollment charter school shall

require students, once during each school day at each campus [~~school in the district~~], to recite:

(1) the pledge of allegiance to the United States flag in accordance with 4 U.S.C. Section 4[~~, and its subsequent amendments~~]; and

(2) the pledge of allegiance to the state flag in accordance with Subchapter C, Chapter 3100, Government Code.

(c) On written request from a student's parent or guardian, a school district or open-enrollment charter school shall excuse the student from reciting a pledge of allegiance under Subsection (b).

(d) The board of trustees of each school district and the governing board of each open-enrollment charter school shall provide for the observance of one minute of silence at each campus [~~school in the district~~] following the recitation of the pledges of allegiance to the United States and Texas flags under Subsection (b). During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of students during that period shall ensure that each of those students remains silent and does not act in a manner that is likely to interfere with or distract another student.

No equivalent provision.

SECTION 33. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.088 to read as follows:

Sec. 33.088. PARTICIPATION IN LEAGUE CONTESTS BY SPECIALTY HIGH SCHOOL. (a) In this section:

(1) "Division" includes academics, athletics, or music divisions of league contests.

(2) "Specialty high school" means the high school of an open-enrollment charter school that:

(A) enrolls students without regard to the attendance zones of the school district in which the high school is located; and

(B) is determined by the University Interscholastic League to specialize in a division of league contests.

(3) "League" means the University Interscholastic League.

(b) To ensure fair competition, the league

shall adopt rules governing participation in league contests by students attending a specialty high school.

(c) The league rules adopted under Subsection (b) must require that, for any division of league contests that a specialty high school emphasizes, the school will be assigned to the conference with the largest student enrollment, except that the rules may provide for reasonable exceptions from that requirement based on travel, availability of participant schools, or other criteria.

(d) League rules adopted under Subsection (b) must apply beginning with the 2013-2014 school year. This subsection expires August 31, 2014.

SECTION 34. Section 39.152, Education Code, is amended.

SECTION 34. Same as engrossed version.

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

No equivalent provision.

(a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education [~~State Board of Education~~] may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code.

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

No equivalent provision.

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

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

- (1) Subsection (b), **Section 12.113**; and
- (2) Subsection (b), Section 12.1161.

SECTION 35. The following provisions of the Education Code are repealed:

- (1) Subsection (b), **Section 12.1055**; and
- (2) Subsection (b), Section 12.1161.

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

SECTION 36. Same as engrossed version.

83R 29010

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Substitute Document Number: 83R 25703