

By: Crownover

H.B. No. 3319

A BILL TO BE ENTITLED

AN ACT

relating to establishment, operation, and funding of charter schools.

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

SECTION 1. Section 12.101, Education Code, is amended 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, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. In a state fiscal year, the [The] State Board of Education may not grant a total of more than 10 [215] charters for an open-enrollment charter school, plus the number of charters equal to any number of charters for an open-enrollment charter school revoked, surrendered, or not renewed in accordance with Section 12.116.

(b-1) Notwithstanding Section 12.101(b), the State Board of Education may grant a charter for an open enrollment charter school to an applicant for a charter that is an entity as defined under Section 12.101(a)(3) and has operated one or more charter schools in another state or is an entity that has operated one or more charter schools established under Subchapter C, D, or E, and, as determined by the commissioner in accordance with commissioner

1 rule, has performed well under federal accountability and other
2 appropriate academic and financial criteria. A charter granted
3 under this subsection (b-1) is in addition to and does not reduce
4 the number of open enrollment charters granted in a fiscal year
5 under Section 12.101(b).

6 (b-2) The State Board of Education may not grant more than
7 one charter for an open-enrollment charter school to any charter
8 holder. The State Board of Education may consolidate charters for
9 an open-enrollment charter school held by multiple charter holders
10 into a single charter held by a single charter holder with the
11 written consent to the terms of consolidation by each charter
12 holder affected by the consolidation.

13 (b-3) The initial term of a charter granted under this
14 section is five years.

15 SECTION 2. Section 12.102, Education Code, is amended to
16 read as follows:

17 Sec. 12.102. AUTHORITY UNDER CHARTER. An open-enrollment
18 charter school:

19 (1) shall provide instruction to students at one or
20 more elementary or secondary grade levels as provided by the
21 charter;

22 (2) is governed under the governing structure
23 described by the charter;

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

1 ~~12.111~~]; and

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

3 SECTION 3. Section 12.104(b), Education Code, is amended to
4 read as follows:

5 (b) An open-enrollment charter school is subject to:

6 (1) a provision of this title establishing a criminal
7 offense; and

8 (2) a prohibition, restriction, or requirement, as
9 applicable, imposed by this title or a rule adopted under this
10 title, relating to:

11 (A) the Public Education Information Management
12 System (PEIMS) to the extent necessary to monitor compliance with
13 this subchapter as determined by the commissioner;

14 (B) criminal history records under Subchapter C,
15 Chapter 22;

16 (C) reading instruments and accelerated reading
17 instruction programs under Section 28.006;

18 (D) accelerated instruction under Section
19 28.0211;

20 (E) high school graduation requirements under
21 Section 28.025;

22 (F) special education programs under Subchapter
23 A, Chapter 29;

24 (G) bilingual education under Subchapter B,
25 Chapter 29;

26 (H) prekindergarten programs under Subchapter E,
27 Chapter 29;

- 1 (I) extracurricular activities under Section
2 33.081;
- 3 (J) discipline management practices or behavior
4 management techniques under Section 37.0021;
- 5 (K) health and safety under Chapter 38;
- 6 (L) public school accountability under
7 Subchapters B, C, D, E, F, G, and J, Chapter 39;
- 8 (M) the requirement under Section 21.006 to
9 report an educator's misconduct; and
- 10 (N) intensive programs of instruction under
11 Section 28.0213.

12 SECTION 4. Section 12.111(a), Education Code, is amended to
13 read as follows:

14 (a) Each charter granted under this subchapter must:

15 (1) describe the educational program to be offered,
16 which must include the required curriculum as provided by Section
17 28.002;

18 (2) [~~specify the period for which the charter or any~~
19 ~~charter renewal is valid,~~

20 [~~3~~] provide that continuation or renewal of the
21 charter is contingent on the status of the charter as determined
22 under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39
23 [~~acceptable student performance on assessment instruments adopted~~
24 ~~under Subchapter B, Chapter 39, and on compliance with any~~
25 ~~accountability provision specified by the charter, by a deadline or~~
26 ~~at intervals specified by the charter]~~

27 (3) [~~4~~] establish the level of student performance

1 ~~that is considered acceptable for purposes of Subdivision (3),~~

2 ~~[(5)]~~ specify any basis, in addition to a basis
3 specified by this subchapter or Subchapter E, Chapter 39, on which
4 the charter may be placed on probation or revoked [~~or on which~~
5 ~~renewal of the charter may be denied~~];

6 (4) ~~[(6)]~~ prohibit discrimination in admission policy
7 on the basis of sex, national origin, ethnicity, religion,
8 disability, academic, artistic, or athletic ability, or the
9 district the child would otherwise attend in accordance with this
10 code, although the charter may:

11 (A) provide for the exclusion of a student who
12 has a documented history of a criminal offense, a juvenile court
13 adjudication, or discipline problems under Subchapter A, Chapter
14 37; and

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

18 (5) ~~[(7)]~~ specify the grade levels to be offered;

19 (6) ~~[(8)]~~ describe the governing structure of the
20 program, including:

21 (A) the officer positions designated;

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

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

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

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

3 (F) whether the terms are to be staggered;

4 (7) [~~(9)~~] specify the powers or duties of the
5 governing body of the school that the governing body may delegate to
6 an officer;

7 (8) [~~(10)~~] specify the manner in which the school will
8 distribute to parents information related to the qualifications of
9 each professional employee of the program, including any
10 professional or educational degree held by each employee, a
11 statement of any certification under Subchapter B, Chapter 21, held
12 by each employee, and any relevant experience of each employee;

13 (9) [~~(11)~~] describe the process by which the person
14 providing the program will adopt an annual budget;

15 (10) [~~(12)~~] describe the manner in which an annual
16 audit of the financial and programmatic operations of the program
17 is to be conducted, including the manner in which the person
18 providing the program will provide information necessary for the
19 school district in which the program is located to participate, as
20 required by this code or by commissioner [~~State Board of Education~~]
21 rule, in the Public Education Information Management System
22 (PEIMS);

23 (11) [~~(13)~~] describe the facilities to be used;

24 (12) [~~(14)~~] describe the geographical area served by
25 the program; and

26 (13) [~~(15)~~] specify any type of enrollment criteria to
27 be used.

1 SECTION 5. Subchapter D, Chapter 12, Education Code, is
2 amended by adding Section 12.1141 to read as follows:

3 Sec. 12.1141. DENIAL OF RENEWAL OF CHARTER ON EXPIRATION OF
4 INITIAL TERM; AUTOMATIC RENEWAL. (a) At the end of the initial term
5 of a charter of an open-enrollment charter school, the charter
6 automatically renews without action by the commissioner, except
7 that the commissioner shall, except as provided by Subsection (b),
8 deny renewal of the charter if:

9 (1) a campus operating under the charter has been
10 assigned an unacceptable performance rating under Subchapter C,
11 Chapter 39, for three of the five preceding school years and such a
12 campus has not been closed; or

13 (2) the charter holder has been assigned a financial
14 accountability performance rating under Subchapter D, Chapter 39,
15 indicating financial performance lower than satisfactory for three
16 of the five preceding school years.

17 (b) Before the commissioner may, at the end of the initial
18 term, deny the renewal of the charter of an open-enrollment charter
19 school that is registered under the agency's alternative education
20 accountability procedures for accountability evaluation purposes
21 under Chapter 39, the commissioner must consider, as an alternative
22 to the criterion specified under Subsection (a)(1), academic
23 criteria established under commissioner rule that are appropriate
24 to measure the specific goals of that school, such as providing
25 dropout recovery or providing education within a residential
26 treatment facility.

27 (c) Not later than the 365th day before the last day of the

1 initial term of a charter for an open-enrollment charter school,
2 the commissioner shall provide written notice to the charter
3 holder, in accordance with commissioner rule, of the basis on which
4 a charter renewal may be denied under Subsection (a) or (b), as
5 applicable.

6 (d) Before the commissioner may, at the end of the initial
7 term, deny the renewal of the charter of an open-enrollment charter
8 school, the commissioner must provide the opportunity for a hearing
9 to the charter holder and the parents and guardians of students of
10 the school. A hearing under this subsection must be held at the
11 facility at which the school is operated. Chapter 2001, Government
12 Code, does not apply to a hearing under this subsection.

13 (e) A charter of an open-enrollment charter school that has
14 been renewed at the end of the initial term of the charter
15 automatically renews at the end of each successive charter term
16 without action by the commissioner, except that the commissioner
17 shall deny renewal of the charter if:

18 (1) the accreditation of the open-enrollment charter
19 school has been revoked; or

20 (2) the accreditation of any campus operating under
21 the charter has been revoked and such a campus has not been closed.

22 (f) The term of a charter renewed under this section is 20
23 years for each renewal.

24 (g) A campus of an open-enrollment charter school rated as
25 academically unacceptable under Subchapter D, Chapter 39, as that
26 subchapter existed January 1, 2009, for the 2008-2009, 2009-2010,
27 or 2010-2011 school year is considered to have been assigned an

1 unacceptable performance rating for that school year under
2 Subsection (a)(1). For purposes of Subsection (a)(2), based on
3 financial accountability reviews, the commissioner shall determine
4 the appropriate financial accountability performance rating to be
5 assigned to a charter holder for the 2008-2009 and 2009-2010 school
6 years. This subsection expires September 1, 2016.

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

9 Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON
10 PROBATION, REVOCATION, OR MODIFICATION OF GOVERNANCE;
11 RECONSTITUTION OF GOVERNING BODY [~~DENIAL OF RENEWAL~~]. (a) The
12 commissioner shall [~~may~~] modify, place on probation, or revoke [~~, or~~
13 ~~deny renewal of~~] the charter of an open-enrollment charter school
14 or reconstitute the governing body of the charter holder or assign
15 operation of a school campus to a different charter holder if the
16 commissioner determines that the charter holder:

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

20 (2) failed to satisfy generally accepted accounting
21 standards of fiscal management;

22 (3) failed to protect the health, safety, or welfare
23 of the students enrolled at the school; or

24 (4) failed to comply with this subchapter or another
25 applicable law or rule.

26 (b) The action the commissioner takes under Subsection (a)
27 shall be based on the best interest of the open-enrollment charter

1 school's students, the severity of the violation, ~~[and]~~ any
2 previous violation the school has committed, and the accreditation
3 status of the open enrollment charter school.

4 SECTION 7. The heading to Section 12.116, Education Code,
5 is amended to read as follows:

6 Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON
7 PROBATION, OR REVOCATION [~~, OR DENIAL OF RENEWAL~~].

8 SECTION 8. Sections 12.116(a) and (c), Education Code, are
9 amended to read as follows:

10 (a) The commissioner shall adopt a procedure to be used for
11 modifying, placing on probation, or revoking [~~, or denying renewal~~
12 ~~of~~] the charter of an open-enrollment charter school.

13 (c) Chapter 2001, Government Code, does not apply to a
14 hearing that is related to a modification, placement on probation,
15 or revocation [~~, or denial of renewal~~] under this subchapter.

16 SECTION 9. Section 12.1161, Education Code, is amended to
17 read as follows:

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

22 (1) continue to operate under this subchapter; or

23 (2) receive state funds under this subchapter.

24 [~~(b) An open-enrollment charter school may continue to~~
25 ~~operate and receive state funds under this subchapter for the~~
26 ~~remainder of a school year if the commissioner denies renewal of the~~
27 ~~school's charter before the completion of that school year.]~~

1 SECTION 10. Section 12.119(c), Education Code, is amended
2 to read as follows:

3 (c) On request, the State Board of Education shall provide
4 the information required by this section and Section 12.111(a)(6)
5 [~~12.111(a)(8)~~] to a member of the public. The board may charge a
6 reasonable fee to cover the board's cost in providing the
7 information.

8 SECTION 11. Subchapter D, Chapter 12, Education Code, is
9 amended by adding Section 12.1211 to read as follows:

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

14 SECTION 12. Section 12.101(b-2), Education Code, as added
15 by this Act, does not affect the status of any charter for an
16 open-enrollment charter school, including any legal rights,
17 duties, and obligations based on a charter, that is among multiple
18 charters granted to a single charter holder before September 1,
19 2013.

20 SECTION 13. This Act takes effect September 1, 2013.