

By: Frank

H.B. No. 3281

A BILL TO BE ENTITLED

AN ACT

relating to public school accountability.

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

SECTION 1. Section 12.1141, Education Code, is amended by amending Subsections (d) and (k) and adding Subsections (l) and (m) to read as follows:

(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; or

~~(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

1 been closed.

2 (k) For purposes of determination of renewal under
3 Subsection (b)(1) or (3) or (d)(1) or (3) [~~(4)~~], performance during
4 the 2011-2012 school year may not be considered. For purposes of
5 determination of renewal under Subsection (b)(1) or (3) or (d)(1)
6 or (3) [~~(4)~~], the initial three school years for which performance
7 ratings under Subchapter C, Chapter 39, shall be considered are the
8 2009-2010, 2010-2011, and 2012-2013 school years. For purposes of
9 determination of renewal under Subsection (b)(2) or (d)(2), the
10 earliest school year for which financial accountability
11 performance ratings under Subchapter D, Chapter 39, may be
12 considered is the 2010-2011 school year. This subsection expires
13 September 1, 2016.

14 (l) For purposes of determination of renewal under
15 Subsection (d)(1), the charter holder's first assigned performance
16 rating under Subchapter C, Chapter 39, may not be considered. For
17 purposes of determination of renewal under Subsection (d)(2), the
18 charter holder's first assigned performance rating under
19 Subchapter D, Chapter 39, may not be considered.

20 (m) For purposes of determination of renewal under
21 Subsection (d)(1), the charter holder's assigned performance
22 rating under Subchapter C, Chapter 39, may not be considered unless
23 the accountability ratings criteria and targets for assigning the
24 performance rating are adopted in rule and have been in effect as
25 adopted for at least two full school years preceding the date on
26 which the rating was assigned. For purposes of determination of
27 renewal under Subsection (d)(2), the charter holder's assigned

1 performance rating under Subchapter D, Chapter 39, may not be
2 considered unless the financial accountability rating system on
3 which the performance rating is based is adopted in rule and has
4 been in effect as adopted for at least two full school years
5 preceding the date on which the rating was assigned.

6 SECTION 2. Section 12.115, Education Code, is amended by
7 amending Subsections (a), (b), (c), and (c-1) and adding
8 Subsections (c-2) and (c-3) to read as follows:

9 (a) The [~~Except as provided by Subsection (c), the~~]
10 commissioner shall revoke the charter of an open-enrollment charter
11 school or reconstitute the governing body of the charter holder if
12 the commissioner determines that the charter holder:

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

16 (2) failed to satisfy generally accepted accounting
17 standards of fiscal management;

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

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

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

24 (6) is imminently insolvent as determined by the
25 commissioner in accordance with commissioner 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, any previous
2 violation the school has committed, and the accreditation status of
3 the school. The commissioner shall also consider whether:

4 (1) the charter holder has:

5 (A) timely complied with any corrective action
6 plans relating to the violation;

7 (B) no prior or subsequent history of similar
8 violations; and

9 (C) remedied the violation without intervention
10 by the commissioner and has taken proactive measures to prevent
11 reoccurrence; and

12 (2) substantial amounts of time have passed between
13 the occurrences of the violation.

14 (c) The commissioner shall revoke the charter of an
15 open-enrollment charter school or reconstitute the governing body
16 of the charter holder if:

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

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

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

27 (c-1) [~~For purposes of revocation under Subsection (c)(1),~~

1 ~~performance during the 2011-2012 school year may not be~~
2 ~~considered.]~~ For purposes of revocation under Subsection (c)(1),
3 the first [~~initial three~~] school year [~~years~~] for which performance
4 ratings under Subchapter C, Chapter 39, shall be considered is
5 [~~are~~] the [~~2009-2010, 2010-2011, and~~] 2012-2013 school year
6 [~~years~~]. For purposes of revocation under Subsection (c)(2), the
7 first [~~initial three~~] school year [~~years~~] for which financial
8 accountability performance ratings under Subchapter D, Chapter 39,
9 shall be considered is [~~are~~] the 2015-2016 [~~2010-2011, 2011-2012,~~
10 ~~and 2012-2013~~] school year [~~years~~]. This subsection expires
11 September 1, 2018 [~~2016~~].

12 (c-2) For purposes of revocation under Subsection (c)(1), a
13 charter holder's first assigned performance rating under
14 Subchapter C, Chapter 39, may not be considered. For purposes of
15 revocation under Subsection (c)(2), a charter holder's first
16 assigned performance rating under Subchapter D, Chapter 39, may not
17 be considered.

18 (c-3) For purposes of revocation under Subsection (c)(1), a
19 charter holder's assigned performance rating under Subchapter C,
20 Chapter 39, may not be considered unless the accountability ratings
21 criteria and targets for assigning the performance rating are
22 adopted in rule and have been in effect as adopted for at least two
23 full school years preceding the date on which the rating was
24 assigned. For purposes of revocation under Subsection (c)(2), the
25 charter holder's assigned performance rating under Subchapter D,
26 Chapter 39, may not be considered unless the financial
27 accountability rating system on which the performance rating is

1 based is adopted in rule and has been in effect as adopted for at
2 least two full school years preceding the date on which the rating
3 was assigned.

4 SECTION 3. Subchapter D, Chapter 12, Education Code, is
5 amended by adding Section 12.1151 to read as follows:

6 Sec. 12.1151. ALTERNATIVES TO REVOCATION. (a) Before the
7 commissioner revokes the charter of an open-enrollment charter
8 school under Section 12.115(c), the commissioner shall consider an
9 alternative operation of the school proposed by the charter holder
10 as provided by this section.

11 (b) A charter holder whose charter is subject to revocation
12 under Section 12.115(c) may request the commissioner:

13 (1) to assign operation of one or more campuses
14 operated under the charter to a different charter holder who
15 consents to the assignment;

16 (2) to transfer the charter to a different charter
17 holder who consents to the transfer;

18 (3) to consolidate the charter with the charter of a
19 different charter holder who consents to the consolidation; or

20 (4) to take any other reasonable and equitable action
21 as an alternative to charter revocation.

22 (c) A charter holder that is involved as an alternative to
23 the original charter holder as provided by Subsection (b) must not
24 have been assigned:

25 (1) an unacceptable performance rating under
26 Subchapter C, Chapter 39, for the two preceding school years; or

27 (2) a financial accountability performance rating

1 under Subchapter D, Chapter 39, indicating financial performance
2 lower than satisfactory for the two preceding school years.

3 (d) Any action the commissioner takes under this section
4 must be based on the best interest of the students of the
5 open-enrollment charter school for which the commissioner approves
6 an alternative operation under Subsection (a).

7 SECTION 4. Section 12.116, Education Code, is amended by
8 amending Subsections (a) and (c) and adding Subsection (a-1) to
9 read as follows:

10 (a) The commissioner shall adopt an informal procedure to be
11 used for:

12 (1) revoking the charter of an open-enrollment charter
13 school or for reconstituting the governing body of the charter
14 holder as authorized by Section 12.115; and

15 (2) denying the renewal of a charter of an
16 open-enrollment charter school as authorized by Section
17 12.1141(c).

18 (a-1) The procedure adopted under Subsection (a) must allow
19 representatives of the charter holder to meet with the commissioner
20 to discuss the commissioner's decision and must allow the charter
21 holder to submit additional information to the commissioner
22 relating to the commissioner's decision. In a final decision issued
23 by the commissioner, the commissioner shall provide a written
24 response to any information the charter holder submits under this
25 subsection.

26 (c) A decision by the commissioner to revoke a charter is
27 subject to review by the State Office of Administrative Hearings.

1 As part of a review under this subsection, the State Office of
2 Administrative Hearings may, subject to Section 39.151(d), also
3 review a performance rating under Subchapter C, Chapter 39, or a
4 financial accountability performance rating under Subchapter D,
5 Chapter 39. Notwithstanding Chapter 2001, Government Code:

6 (1) the administrative law judge shall uphold a
7 decision by the commissioner to revoke a charter unless the judge
8 finds the decision is arbitrary and capricious or clearly
9 erroneous; and

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

12 SECTION 5. Section 39.151, Education Code, is amended by
13 amending Subsection (b) and adding Subsection (c-1) to read as
14 follows:

15 (b) The rules under Subsection (a) must provide for the
16 commissioner to appoint a committee to make recommendations to the
17 commissioner on a challenge made to an agency decision relating to
18 an academic performance rating or determination or financial
19 accountability rating. The committee shall review the challenge
20 regardless of the issue identified in the challenge by the school
21 district or open-enrollment charter school. The commissioner may
22 not appoint an agency employee as a member of the committee.

23 (c-1) The commissioner may not limit a challenge relating to
24 a data or calculation error or inaccuracy attributable to the
25 school district or open-enrollment charter school, even if the
26 challenge demonstrates the data or calculation error or inaccuracy
27 caused the district or school to have a lower academic or financial

1 accountability rating. If a challenge demonstrates that the data or
2 calculation error or inaccuracy caused the district or school to
3 have a lower academic or financial accountability rating, the
4 commissioner shall assign the district or school the corrected
5 rating or shall indicate that the district or school will not be
6 rated for that school year. The commissioner may not revoke the
7 charter of an open-enrollment charter school or reconstitute the
8 governing body of a charter holder as provided by Section 12.115(c)
9 if the school is not rated as provided by this subsection.

10 SECTION 6. This Act applies beginning with the 2015-2016
11 school year.

12 SECTION 7. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2015.