

By: Pacheco

H.B. No. 1853

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the applicability of educator certification
3 requirements and certain educator rights to charter schools.

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

5 SECTION 1. Section 12.056(b), Education Code, is amended to
6 read as follows:

7 (b) A campus or program for which a charter is granted under
8 this subchapter is subject to:

9 (1) a provision of this title establishing a criminal
10 offense; and

11 (2) a prohibition, restriction, or requirement, as
12 applicable, imposed by this title or a rule adopted under this
13 title, relating to:

14 (A) the Public Education Information Management
15 System (PEIMS) to the extent necessary to monitor compliance with
16 this subchapter as determined by the commissioner;

17 (B) criminal history records under Subchapter C,
18 Chapter 22;

19 (C) high school graduation under Section 28.025;

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

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

24 (F) prekindergarten programs under Subchapter E,

1 Chapter 29;

2 (G) extracurricular activities under Section
3 33.081;

4 (H) health and safety under Chapter 38; ~~and~~

5 (I) public school accountability under
6 Subchapters B, C, D, F, and J, Chapter 39, and Chapter 39A; and

7 (J) educator certification under Chapter 21 and
8 educator rights under Sections 21.407, 21.408, and 22.001.

9 SECTION 2. Section 12.104(b), Education Code, as amended by
10 Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts
11 of the 85th Legislature, Regular Session, 2017, is reenacted and
12 amended to read as follows:

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

14 (1) a provision of this title establishing a criminal
15 offense; and

16 (2) a prohibition, restriction, or requirement, as
17 applicable, imposed by this title or a rule adopted under this
18 title, relating to:

19 (A) the Public Education Information Management
20 System (PEIMS) to the extent necessary to monitor compliance with
21 this subchapter as determined by the commissioner;

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

24 (C) reading instruments and accelerated reading
25 instruction programs under Section 28.006;

26 (D) accelerated instruction under Section
27 28.0211;

- 1 (E) high school graduation requirements under
2 Section 28.025;
- 3 (F) special education programs under Subchapter
4 A, Chapter 29;
- 5 (G) bilingual education under Subchapter B,
6 Chapter 29;
- 7 (H) prekindergarten programs under Subchapter E
8 or E-1, Chapter 29;
- 9 (I) extracurricular activities under Section
10 33.081;
- 11 (J) discipline management practices or behavior
12 management techniques under Section 37.0021;
- 13 (K) health and safety under Chapter 38;
- 14 (L) public school accountability under
15 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 16 (M) the requirement under Section 21.006 to
17 report an educator's misconduct;
- 18 (N) intensive programs of instruction under
19 Section 28.0213;
- 20 (O) the right of a school employee to report a
21 crime, as provided by Section 37.148; ~~and~~
- 22 (P) bullying prevention policies and procedures
23 under Section 37.0832;
- 24 (Q) the right of a school under Section 37.0052
25 to place a student who has engaged in certain bullying behavior in a
26 disciplinary alternative education program or to expel the student;
27 ~~and~~

1 (R) the right under Section 37.0151 to report to
2 local law enforcement certain conduct constituting assault or
3 harassment;

4 (S) [~~(P)~~] a parent's right to information
5 regarding the provision of assistance for learning difficulties to
6 the parent's child as provided by Sections 26.004(b)(11) and
7 26.0081(c) and (d); and

8 (T) educator certification under Chapter 21 and
9 educator rights under Sections 21.407, 21.408, and 22.001.

10 SECTION 3. Section 12.111(a), Education Code, is amended to
11 read as follows:

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

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

16 (2) provide that continuation of the charter is
17 contingent on the status of the charter as determined under Section
18 12.1141 or 12.115 or under Chapter 39A;

19 (3) specify the academic, operational, and financial
20 performance expectations by which a school operating under the
21 charter will be evaluated, which must include applicable elements
22 of the performance frameworks adopted under Section 12.1181;

23 (4) specify:

24 (A) any basis, in addition to a basis specified
25 by this subchapter or Chapter 39A, on which the charter may be
26 revoked, renewal of the charter may be denied, or the charter may be
27 allowed to expire; and

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

6 (5) prohibit discrimination in admission policy on the
7 basis of sex, national origin, ethnicity, religion, disability,
8 academic, artistic, or athletic ability, or the district the child
9 would otherwise attend in accordance with this code, although the
10 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 (6) specify the grade levels to be offered;

19 (7) describe the governing structure of the program,
20 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 (8) specify the powers or duties of the governing body
5 of the school that the governing body may delegate to an officer;

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

13 (10) describe the process by which the person
14 providing the program will adopt an annual budget;

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

22 (12) describe the facilities to be used;

23 (13) describe the geographical area served by the
24 program;

25 (14) specify any type of enrollment criteria to be
26 used;

27 (15) provide information, as determined by the

1 commissioner, relating to any management company that will provide
2 management services to a school operating under the charter; and

3 (16) specify that the governing body of an
4 open-enrollment charter school accepts and may not delegate
5 ultimate responsibility for the school, including the school's
6 academic performance and financial and operational viability, and
7 is responsible for overseeing any management company providing
8 management services for the school and for holding the management
9 company accountable for the school's performance.

10 SECTION 4. Section 12.120(a-1), Education Code, is amended
11 to read as follows:

12 (a-1) Notwithstanding Subsection (a), [~~subject to Section~~
13 ~~12.1059,~~] an open-enrollment charter school may employ a person:

14 (1) as a teacher or educational aide if[+]

15 [~~(A)~~] a school district could employ the person
16 as a teacher or educational aide; or

17 [~~(B) a school district could employ the person as~~
18 ~~a teacher or educational aide if the person held the appropriate~~
19 ~~certificate issued under Subchapter B, Chapter 21, and the person~~
20 ~~has never held a certificate issued under Subchapter B, Chapter 21,~~
21 ~~or]~~

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

25 SECTION 5. Section 12.129(a), Education Code, is amended to
26 read as follows:

27 (a) A [~~Except as provided by Subsection (b), a~~] person

1 employed as a principal or a teacher by an open-enrollment charter
2 school must hold the appropriate educator certification under
3 Subchapter B, Chapter 21 [~~a baccalaureate degree~~].

4 SECTION 6. Section 22.0837, Education Code, is amended to
5 read as follows:

6 Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD
7 INFORMATION. The agency by rule shall require a person submitting
8 to a national criminal history record information review under
9 Section [~~22.0832~~] 22.0833[~~7~~] or 22.0836 to pay a fee for the review
10 in an amount not to exceed the amount of any fee imposed on an
11 applicant for certification under Subchapter B, Chapter 21, for a
12 national criminal history record information review under Section
13 22.0831. The agency or the department may require an entity
14 authorized to collect information for a national criminal history
15 record information review to collect the fee required under this
16 section and to remit the funds collected to the agency.

17 SECTION 7. Sections 12.1059, 12.129(b), and 22.0832,
18 Education Code, are repealed.

19 SECTION 8. (a) Notwithstanding Sections 12.056(b),
20 12.104(b), and 12.129(a), Education Code, as amended by this Act, a
21 person employed by a charter school on the effective date of this
22 Act is not required to comply with the changes in law made by this
23 Act until the beginning of the 2021-2022 school year.

24 (b) Except as provided by Subsection (a) of this section,
25 this Act applies beginning with the 2019-2020 school year.

26 SECTION 9. To the extent of any conflict, this Act prevails
27 over another Act of the 86th Legislature, Regular Session, 2019,

1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 10. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2019.