87R1772 JES-F

By:  Pacheco H.B. No. 794

A BILL TO BE ENTITLED

AN ACT

relating to the applicability of educator certification requirements and certain educator rights to charter schools.

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

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

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

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

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

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

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

(C)  high school graduation under Section 28.025;

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

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

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

(G)  extracurricular activities under Section 33.081;

(H)  health and safety under Chapter 38;

(I)  public school accountability under Subchapters B, C, D, F, and J, Chapter 39, and Chapter 39A; [~~and~~]

(J)  the duty to discharge or refuse to hire certain employees or applicants for employment under Section 12.1059; and

(K)  educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001.

SECTION 2.  Section 12.104(b), Education Code, as amended by Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is reenacted and amended to read as follows:

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

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

(2)  the provisions in Chapter 554, Government Code; and

(3)  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 or E-1, 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, F, G, and J, Chapter 39, and Chapter 39A;

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

(N)  intensive programs of instruction under Section 28.0213;

(O)  the right of a school employee to report a crime, as provided by Section 37.148;

(P)  bullying prevention policies and procedures under Section 37.0832;

(Q)  the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student;

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

(S)  a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(T)  establishment of residency under Section 25.001;

(U) [~~(T)~~]  school safety requirements under Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115, 37.207, and 37.2071;

(V) [~~(T)~~]  the early childhood literacy and mathematics proficiency plans under Section 11.185; [~~and~~]

(W) [~~(U)~~]  the college, career, and military readiness plans under Section 11.186; and

(X)  educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001.

SECTION 3.  Section 12.1059, Education Code, is amended to read as follows:

Sec. 12.1059.  REQUIREMENTS FOR EMPLOYMENT OF CERTAIN EMPLOYEES. A person may not be employed by or serve as a teacher, librarian, educational aide, administrator, or school counselor for an open-enrollment charter school unless:

(1)  the person has been approved by the agency following a review of the person's national criminal history record information as provided by Section 22.0831 [~~22.0832~~]; and

(2)  the school has confirmed that the person is not included in the registry under Section 22.092.

SECTION 4.  Section 12.111(a), 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)  provide that continuation of the charter is contingent on the status of the charter as determined under Section 12.1141 or 12.115 or under Chapter 39A;

(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)  specify:

(A)  any basis, in addition to a basis specified by this subchapter or Chapter 39A, on which the charter may be revoked, 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 Chapter 39A, as applicable;

(5)  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)  specify the grade levels to be offered;

(7)  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)  specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9)  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 the appropriate [~~any~~] certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

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

(11)  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 rule, in the Public Education Information Management System (PEIMS);

(12)  describe the facilities to be used;

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

(14)  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 5.  Section 12.120(a-1), Education Code, is amended 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 6.  Section 12.129(a), Education Code, is amended to read as follows:

(a)  A [~~Except as provided by Subsection (b), a~~] person employed as a principal or a teacher by an open-enrollment charter school must hold the appropriate educator certification under Subchapter B, Chapter 21 [~~a baccalaureate degree~~].

SECTION 7.  Section 22.0837, Education Code, is amended to read as follows:

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

SECTION 8.  Section 22.092(c), Education Code, is amended to read as follows:

(c)  The registry maintained under this section must list the following persons as not eligible to be employed by public schools:

(1)  [~~a person determined by the agency under Section 22.0832 as a person who would not be eligible for educator certification under Subchapter B, Chapter 21;~~

[~~(2)~~] a person determined by the agency to be not eligible for employment based on the person's criminal history record information review, as provided by Section 22.0833;

(2) [~~(3)~~]  a person who is not eligible for employment based on criminal history record information received by the agency under Section 21.058(b);

(3) [~~(4)~~]  a person whose certification or permit issued under Subchapter B, Chapter 21, is revoked by the State Board for Educator Certification on a finding that the person engaged in misconduct described by Section 21.006(b)(2)(A) or (A-1); and

(4) [~~(5)~~]  a person who is determined by the commissioner under Section 22.094 to have engaged in misconduct described by Section 22.093(c)(1)(A) or (B).

SECTION 9.  The following provisions of the Education Code are repealed:

(1)  Sections 12.129(b) and 22.0815(c); and

(2)  Section 22.0832.

SECTION 10.  (a) Notwithstanding Sections 12.056(b), 12.104(b), and 12.129(a), Education Code, as amended by this Act, a person employed by a charter school on the effective date of this Act is not required to comply with the changes in law made by this Act until the beginning of the 2023-2024 school year.

(b)  Except as provided by Subsection (a) of this section, this Act applies beginning with the 2021-2022 school year.

SECTION 11.  To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.