

By: Pacheco

H.B. No. 794

A BILL TO BE ENTITLED

AN ACT

1
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;

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

7 (J) the duty to discharge or refuse to hire
8 certain employees or applicants for employment under Section
9 12.1059; and

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

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

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

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

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

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

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

27 (B) criminal history records under Subchapter C,

- 1 Chapter 22;
- 2 (C) reading instruments and accelerated reading
3 instruction programs under Section 28.006;
- 4 (D) accelerated instruction under Section
5 28.0211;
- 6 (E) high school graduation requirements under
7 Section 28.025;
- 8 (F) special education programs under Subchapter
9 A, Chapter 29;
- 10 (G) bilingual education under Subchapter B,
11 Chapter 29;
- 12 (H) prekindergarten programs under Subchapter E
13 or E-1, Chapter 29;
- 14 (I) extracurricular activities under Section
15 33.081;
- 16 (J) discipline management practices or behavior
17 management techniques under Section 37.0021;
- 18 (K) health and safety under Chapter 38;
- 19 (L) public school accountability under
20 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 21 (M) the requirement under Section 21.006 to
22 report an educator's misconduct;
- 23 (N) intensive programs of instruction under
24 Section 28.0213;
- 25 (O) the right of a school employee to report a
26 crime, as provided by Section 37.148;
- 27 (P) bullying prevention policies and procedures

1 under Section 37.0832;

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

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

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

11 (T) establishment of residency under Section
12 25.001*i*;

13 (U) [~~(T)~~] school safety requirements under
14 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
15 37.207, and 37.2071*i*;

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

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

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

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

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

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

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

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

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

9 (1) describe the educational program to be offered,
10 which must include the required curriculum as provided by Section
11 28.002;

12 (2) provide that continuation of the charter is
13 contingent on the status of the charter as determined under Section
14 12.1141 or 12.115 or under Chapter 39A;

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

19 (4) specify:

20 (A) any basis, in addition to a basis specified
21 by this subchapter or Chapter 39A, on which the charter may be
22 revoked, renewal of the charter may be denied, or the charter may be
23 allowed to expire; and

24 (B) the standards for evaluation of a school
25 operating under the charter for purposes of charter renewal, denial
26 of renewal, expiration, revocation, or other intervention in
27 accordance with Section 12.1141 or 12.115 or Chapter 39A, as

1 applicable;

2 (5) prohibit discrimination in admission policy on the
3 basis of sex, national origin, ethnicity, religion, disability,
4 academic, artistic, or athletic ability, or the district the child
5 would otherwise attend in accordance with this code, although the
6 charter may:

7 (A) provide for the exclusion of a student who
8 has a documented history of a criminal offense, a juvenile court
9 adjudication, or discipline problems under Subchapter A, Chapter
10 37; and

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

14 (6) specify the grade levels to be offered;

15 (7) describe the governing structure of the program,
16 including:

17 (A) the officer positions designated;

18 (B) the manner in which officers are selected and
19 removed from office;

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

22 (D) the manner in which vacancies on that
23 governing body are filled;

24 (E) the term for which members of that governing
25 body serve; and

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

27 (8) specify the powers or duties of the governing body

1 of the school that the governing body may delegate to an officer;

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

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

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

18 (12) describe the facilities to be used;

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

21 (14) specify any type of enrollment criteria to be
22 used;

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

26 (16) specify that the governing body of an
27 open-enrollment charter school accepts and may not delegate

1 ultimate responsibility for the school, including the school's
2 academic performance and financial and operational viability, and
3 is responsible for overseeing any management company providing
4 management services for the school and for holding the management
5 company accountable for the school's performance.

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

8 (a-1) Notwithstanding Subsection (a), subject to Section
9 12.1059, an open-enrollment charter school may employ a person:

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

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

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

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

21 SECTION 6. Section 12.129(a), Education Code, is amended to
22 read as follows:

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

27 SECTION 7. Section 22.0837, Education Code, is amended to

1 read as follows:

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

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

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

17 (1) ~~[a person determined by the agency under Section~~
18 ~~22.0832 as a person who would not be eligible for educator~~
19 ~~certification under Subchapter B, Chapter 21,~~

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

23 (2) ~~[(3)]~~ a person who is not eligible for employment
24 based on criminal history record information received by the agency
25 under Section 21.058(b);

26 (3) ~~[(4)]~~ a person whose certification or permit
27 issued under Subchapter B, Chapter 21, is revoked by the State Board

1 for Educator Certification on a finding that the person engaged in
2 misconduct described by Section 21.006(b)(2)(A) or (A-1); and

3 (4) [~~(5)~~] a person who is determined by the
4 commissioner under Section 22.094 to have engaged in misconduct
5 described by Section 22.093(c)(1)(A) or (B).

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

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

9 (2) Section 22.0832.

10 SECTION 10. (a) Notwithstanding Sections 12.056(b),
11 12.104(b), and 12.129(a), Education Code, as amended by this Act, a
12 person employed by a charter school on the effective date of this
13 Act is not required to comply with the changes in law made by this
14 Act until the beginning of the 2023-2024 school year.

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

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

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