

Submitting Expansion Amendment Requests

Division of Charter School Administration

January 15, 2013

www.tea.state.tx.us/charters.aspx

Presenters: Nina Gonzalez and Arnoldo Alaniz

Webinar Agenda

- Proper navigation of the Texas Education Agency webpage and using the A-Z index as a resource for locating information
- Discussion of the 19 Texas Administrative Code § 100.1033 pertaining to changing the original charter contract
- Discussion of the eligibility criteria for expansion
- Discussion of each expansion amendment form
- Discussion of the commonly made mistakes when submitting expansion amendment request forms and supporting documentation

Texas Administrative Code §100.1033

www.tea.state.tx.us/charters.aspx

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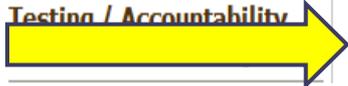
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Texas Education Agency - Administrative Rules

The rules adopted by the State Board of Education (SBOE) and the Commissioner of Education are part of a larger body of state agency rules known as the Texas Administrative Code (TAC). These rules are collected and published by the Office of the Secretary of State. SBOE and commissioner's rules are codified under Title 19, Part II, of the TAC. Title 19 is Education, and Part II is the Texas Education Agency. The SBOE and the Commissioner of Education may adopt new rules or amendments to existing rules.

[Texas Administrative Code - Currently in Effect](#) (last updated 10-21-11) (Chapter 109, Subchapter AA; Chapter 113, Subchapters A-C; and Chapter 118, Subchapter A)

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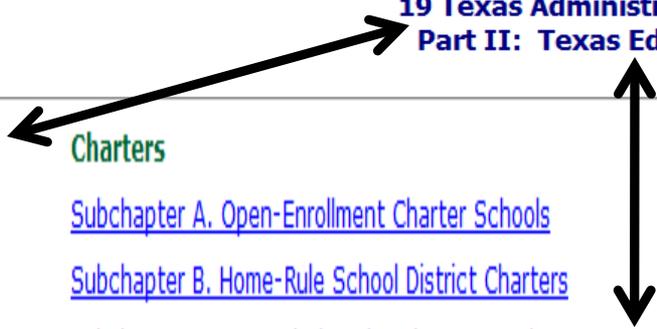
[Chapter 100](#)

Charters

[Subchapter A. Open-Enrollment Charter Schools](#)

[Subchapter B. Home-Rule School District Charters](#)

[Subchapter AA. Commissioner's Rules Concerning Open-Enrollment Charter Schools](#)



Texas Administrative Code (TAC), Title 19, Part II

Chapter 100. Charters

[Link to Subchapters from Subchapter Titles](#) - [Link to Sections from Icons](#)
[Links to PDF Versions of the files are available at the end of the page](#)



[Subchapter AA. Commissioner's Rules Concerning Open-Enrollment Charter Schools. Division 2. Commissioner Action and Intervention](#)

- §100.1021. Adverse Action on an Open-Enrollment Charter.
- §100.1022. Standards for Adverse Action on an Open-Enrollment Charter.
- §100.1023. Intervention Based on Charter Violations.
- §100.1025. Intervention Based on Health, Safety, or Welfare of Students.
- §100.1027. Accountability Ratings and Sanctions.
- §100.1029. Agency Audits, Monitoring, and Investigations.
- §100.1031. Charter Renewal.
- §100.1033. Charter Amendment. 
- §100.1035. Compliance Records on Nepotism, Conflicts of Interest, and Restrictions on Serving.
- §100.1037. Notification of Charter Application.

19 Texas Administrative Code §100.1033

(a) **Amendments in writing.**

Subject to the requirements of this section, the terms of an open-enrollment charter may be revised with the consent of the charter holder by written amendment approved by the commissioner of education in writing.

Charter Amendment

- Any charter amendment is a change to the existing contract for charter.
- The voluntary amendment of an existing contract for charter **is not a matter of right or entitlement.**

Substantive Amendments

(c) **Substantive amendment.**

A substantive amendment is any change to the terms of an open-enrollment charter that relates to the following subjects:

Grade levels	Educational plan	School name
Maximum enrollment	Admission policy	Charter holder name
Geographic boundaries	Corporate bylaws	Charter holder governance
Approved sites	Articles of incorporation	Management company

Substantive Amendments

TEC §100.1033(c)

(1) **Charter amendment request.**

Before implementing a substantive amendment, the charter holder shall file with the TEA division responsible for charter schools a request, clearly labeled "charter amendment request," setting forth the text and page reference, or a photocopy, of the current open-enrollment charter language to be changed, and the text proposed as the new open-enrollment charter language.

The request must be made in or **attached to a written resolution adopted by the governing body** of the charter holder and signed by the members voting in favor of it.

Substantive Amendments

(2) **Relevant information considered.**

As directed by the commissioner, a charter holder requesting a substantive amendment shall submit current information required by relevant portions of the last application form approved by the State Board of Education, as well as any other information requested by the commissioner.

The commissioner considers any relevant information concerning the charter holder.

Substantive Amendments

(3) **Best interest of students.**

The commissioner may approve a substantive amendment only if the charter holder meets all applicable requirements, and only if the commissioner **determines that the amendment is in the best interest of the students enrolled in the charter school and the best interest of the students of Texas.**

The commissioner may consider the performance of all charters operated by the same charter holder in the decision to finally grant or deny a substantive amendment.

Substantive Amendments

(4) **Conditional approval.**

The commissioner **may grant the amendment without condition, or may require compliance with such conditions** and/or requirements as may be in the best interest of the students enrolled in the charter school.

An amendment receiving conditional approval shall not be effective until a written resolution accepting all conditions and/or requirements, adopted by the governing body of the charter holder and signed by the members voting in favor, is filed with the TEA division responsible for charter schools.

Substantive Amendments

(5) **Expansion amendment.**

An expansion amendment is a substantive amendment that permits a charter school to:

- extend the **grade levels** it serves;
- add the **site** of an instructional facility;
- change its **geographic boundaries**; or
- increase its maximum allowable **enrollment.**

Criteria For Expansion Eligibility

(A) The commissioner may approve an expansion amendment only if:

(i) **the expansion will be effective no earlier than the start of the fourth full school year** at the affected charter school. This restriction does not apply if the affected charter school has as its most recent rating Acceptable or higher and is operated by a charter holder that operates other charter campuses and all of that charter holder's most recent campus ratings are Acceptable or higher under the relevant accountability manual;

(ii) the amendment request is **received no later than the first day of February** preceding the school year in which the expansion will be effective;

Expansion Eligibility Criteria *(continued)*

- (iii) **the most recent rating for each campus operated under the charter is Acceptable or higher** under the relevant accountability manual;
- (iv) the charter holder has provided **evidence that each school district affected by the expansion was sent a notice of the expansion amendment** and was given an opportunity to submit a statement regarding the impact of the amendment on the district;
- (v) the commissioner determines that the amendment **is in the best interest of the students of Texas**; and
- (vi) the charter holder **meets all other requirements applicable to expansion amendment requests and substantive amendments.**

Expansion Eligibility Criteria *(continued)*

(B) The commissioner shall specify the earliest effective date for implementation of the expansion. In addition, the commissioner may require compliance with such conditions and/or requirements as may be in the best interest of the students of Texas.

(C) The commissioner may approve an expansion amendment request seeking to increase maximum allowable enrollment only if:

Expansion Eligibility Criteria *(continued)*

(i) within the calendar year preceding the request, the charter holder has not requested another expansion amendment seeking to increase maximum allowable enrollment;

(ii) before voting to request the enrollment increase, **the charter holder governing body has considered a business plan** comprised of the following components:

Business Plan Components

(Maximum Enrollment Increase)

- (I) a statement discussing the need for an increase in the maximum enrollment;**
- (II) a statement discussing the current and projected financial condition of the charter holder and charter school;**
- (III) an unaudited statement of financial position for the current fiscal year;**
- (IV) an unaudited statement of financial activities for the current fiscal year;**
- (V) an unaudited statement of cash flows for the current fiscal year;**

Business Plan Components

(Maximum Enrollment Increase - *continued*)

(VI) a pro forma budget that includes the costs of operating the charter school, including the implementation of the expansion amendment;

(VII) a statement or schedule that identifies the assumptions used to calculate the charter school's estimated Foundation School Program revenues;

(VIII) a statement discussing the use of debt instruments to finance part or all of the charter school's incremental costs;

(IX) a statement discussing the incremental cost of acquiring additional facilities, furniture, and equipment to accommodate the anticipated increase in student enrollment; and

(X) a statement discussing the incremental cost of additional on-site personnel and identifying the additional number of full-time equivalents that will be employed;

Expansion Eligibility Criteria *(continued)*

(iii) the **board resolution** required by paragraph (1) of this subsection includes a statement that the charter holder board has considered the business plan required by clause (ii) of this subparagraph and has determined by majority vote of the board that the enrollment growth proposed in the business plan is prudent;

Expansion Eligibility Criteria *(continued)*

(iv) the charter holder submits, for the most recent three years of operation, copies of the **compliance information** on file as required in §100.1035 of this title (relating to Compliance Records on Nepotism, Conflicts of Interest, and Restrictions on Serving) to include documents such as affidavits identifying a board member's substantial interest in a business entity or in real property, documentation of a board member's abstention from voting in the case of potential conflicts of interest, and affidavits or other documents identifying other family members within the third degree of affinity or consanguinity who serve as board members and/or employees; and

Expansion Eligibility Criteria *(continued)*

(v) **on request**, the charter holder files the business plan required by clause (ii) of this subparagraph with the TEA division responsible for charters schools within ten business days.

Relevant Information Considered

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Reporting

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School
Administration

PEIMS
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Reporting

Child
Nutrition

NCLB
and
IDEA Programs

Student
Assessment

Governance
and
Waivers

General
Inquiries

Program Monitoring
and Interventions

Other Information, As Appropriate

Texas Education Code §39.084

Posting of Adopted Budget

- (a) On final approval of the budget by the board of trustees, the school district shall post on the district's Internet website a copy of the budget adopted by the board of trustees. The district's Internet website must prominently display the electronic link to the adopted budget.

- (b) The district shall maintain the adopted budget on the district's Internet website until the third anniversary of the date the budget was adopted.

Texas Education Code §39.084

§39.084 is found in Subchapter D of Chapter 39 Public School System Accountability and made applicable to open-enrollment charter in Texas Education Code §12.104(b)(2)(L) which states that public school accountability under Subchapters B, C, D, E, and J, Chapter 39 applies to charters.

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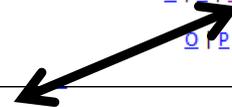
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State Board of Education State Initiatives

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Charter Schools

To further promote local initiative, the 1995 revision of the Texas Education Code established a new type of public school, known as a charter school. Charter schools are subject to fewer state laws than other public schools with the idea of ensuring fiscal and academic accountability without undue regulation of instructional methods or pedagogical innovation. Like school districts, charter schools are monitored and accredited under the statewide testing and accountability system.

According to the Texas Education Code, the purposes of charter schools are to:

1. improve student learning;
2. increase the choice of learning opportunities within the public school system;
3. create professional opportunities that will attract new teachers to the public school system;
4. establish a new form of accountability for public schools; and
5. encourage different and innovative learning methods.

The links below provide information and resources for charter school personnel, parents, and students, as well as potential charter applicants and the general public.

- [Charter Amendments](#)
- Charter Applications
 - [Subchapter C - Campus or Campus Program Charter](#)
 - [Subchapter D - Open-Enrollment Charter](#)
 - [Subchapter E - College or University Charter](#)
 - [Renewal Application](#)
- [Frequently Asked Questions \(FAQs\)](#)
- [Funding](#)
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Charter Schools - Charter Amendments

"A substantive amendment is any change to the terms of an open-enrollment charter that relates to the following subjects: grade levels, maximum enrollment, geographic boundaries, approved sites, school name, charter holder name, charter holder governance, articles of incorporation, corporate bylaws, management company, admission policy, or the educational program of the school." (§100.1033(c) Substantive Amendment, 19 TAC Chapter 100)

Substantive amendments include:

- [Expansion Amendments](#)
 - [Campus Number Request Form](#)
- [New School Amendments](#)
- [Non-Expansion Amendments](#)

Expansion Amendments

"An expansion amendment is a substantive amendment that permits a charter school to extend the grade levels it serves, add the site of an instructional facility, change its geographic boundaries, or increase its maximum allowable enrollment." (§100.1033(c)(5) Expansion Amendment, 19 TAC Chapter 100)

Expansion Amendment Forms

- [Charter Amendment Request Form - ADDITIONAL GRADE LEVELS EXPANSION](#)
- [Charter Amendment Request Form - ADDITIONAL SITE EXPANSION](#)
- [Charter Amendment Request Form - GEOGRAPHIC BOUNDARY EXPANSION](#)
- [Charter Amendment Request Form - MAXIMUM ENROLLMENT INCREASE](#)

Additional Forms

- [Assurances Regarding Charter Schools Serving Students at Residential Facilities](#)
- [Impact Statement - Form](#)
- [Impact Statement - Sample Letter to District](#)




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Charter Amendment Request Form - ADDITIONAL SITE EXPANSION



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COMPLETE A SEPARATE FORM FOR EACH SITE REQUESTED.

Name of Charter School

County-District Number

Requested effective date: _____ This should be July 1 unless specific circumstances warrant the request of a different date.

Be advised that any approval by the commissioner will be conditional on the receipt of a valid certificate of occupancy, or equivalent certificate, showing that the proposed facility is approved for school use.

Address: _____

Is the proposed site within the currently approved geographic boundary of the charter? ___ Yes ___ No

If no, complete and submit a Charter Amendment Request Form – GEOGRAPHIC BOUNDARY EXPANSION.

Is the proposed site a residential facility (RF)? ___ Yes ___ No

If so, complete and submit the form titled *Assurances Regarding Charter Schools Serving Students at Residential Facilities*.

If the amendment is approved, what is the minimum number of instructional hours per day to be provided students at this site? _____

If the amendment is approved, what grade levels will be served at the new site? _____

If the amendment is approved, is a new campus number requested? ___ Yes ___ No

If yes, will this campus be evaluated under traditional accountability procedures? ___ Yes ___ No

If no, requests for campuses to be evaluated using alternative accountability procedures must respond to #8 on the checklist below.

If no, to which campus number will the new site be assigned? _____

If the amendment is approved and a new campus number is requested, what is the proposed name of the new campus?

If the amendment is approved and a new campus number is requested, should mail be sent to the campus? ___ Yes ___ No

Additional Site Expansion Amendment Checklist

The following must be submitted **in the order listed below** with an additional site expansion amendment request:

- _____ 1. Charter Amendment Request Form – ADDITIONAL SITE EXPANSION
(If multiple amendment requests are being made, include all request forms together.)
- _____ 2. Charter holder board resolution - A written resolution adopted by the governing body of the charter holder and signed by the members voting in favor of amending the charter must be submitted. A quorum of the members must have voted in favor of amending the charter. Include printed names as well as signatures of the board members. The names should match information on the most recent Annual Governance Reporting Forms submitted to TEA. Otherwise, documentation explaining any differences must be included.
(If multiple amendment requests are being made, include all board resolutions together.)
- _____ 3. A list, **in alphabetical order**, of the school districts in the approved geographic boundary that may be impacted should the commissioner approve the amendment request.
- _____ 4. Evidence, **in alphabetical order by district**, that impact statements have been sent to each school district that may be affected by the expansion.
- _____ 5. A valid certificate of occupancy, or equivalent certificate, showing that the proposed facility is approved for school use OR if the specific location is not identified at the time of the amendment request, a signed statement that the certificate of occupancy, or equivalent certificate, will be submitted to the Division of Charter School Administration prior to commencing any operations at that site as required by 19 Texas Administrative Code (TAC) §100.1215.
- _____ 6. Compliance information as required 19 TAC §100.1035 to include the following:
 - Documentation that identifies a board member's substantial interest in a business entity or in real property that relates to any charter business;
 - Documentation of board members' abstentions from voting in cases of potential conflicts of interest;
 - Documents, other than Annual Governance Reporting Forms, identifying family members within the third degree of consanguinity or affinity who serve as board members and/or employees and/or contractors of the charter holder or charter school; and
 - Documentation that board members or employees whose criminal history checks revealed them ineligible to serve were removed from service as is required by Texas Education Code §12.120;

OR

 - A signed statement attesting that within the last three years there have been no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve.
- _____ 7. A completed form titled *Assurances Regarding Charter Schools Serving Students at Residential Facilities*, if appropriate
- _____ 8. If the charter holder board plans on requesting that the new campus be evaluated using AEA procedures, explain specifically how this campus will qualify for at-risk designation and why this proposed campus should be rated in the AEA system.


 Charter Amendment Request Form - GEOGRAPHIC BOUNDARY EXPANSION
 

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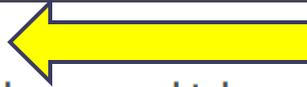
Name of Charter School

County-District Number

Requested effective date: _____ This should be July 1 unless specific circumstances warrant the request of a different date.

School districts (ISDs), **listed in alphabetical order**, to be added to the geographic boundary if the amendment is approved:

Geographic Boundary Expansion Amendment Request Checklist



The following must be submitted **in the order listed below** with a geographic boundary expansion amendment request:

- ___ 1. Charter Amendment Request Form – GEOGRAPHIC BOUNDARY EXPANSION

(If multiple amendment requests are being made, include all request forms together.)

- ___ 2. Charter holder board resolution - A written resolution adopted by the governing body of the charter holder and signed by the members voting in favor of amending the charter must be submitted. A quorum of the members must have voted in favor of amending the charter. Include printed names as well as signatures of the board members. The names should match information on the most recent Annual Governance Reporting Forms submitted to TEA. Otherwise, documentation explaining any differences must be included.

(If multiple amendment requests are being made, include all board resolutions together.)

- ___ 3. Evidence, **in alphabetical order by district**, that impact statements have been sent to each school district that the charter holder board is requesting to add to the charter's geographic boundary

- ___ 4. Compliance information as required 19 Texas Administrative Code §100.1035 to include the following:

- Documentation that identifies a board member's substantial interest in a business entity or in real property that relates to any charter business;
- Documentation of board members' abstentions from voting in cases of potential conflicts of interest;
- Documents, other than Annual Governance Reporting Forms, identifying family members within the third degree of consanguinity or affinity who serve as board members and/or employees and/or contractors of the charter holder or charter school; and
- Documentation that board members or employees whose criminal history checks revealed them ineligible to serve were removed from service as is required by Texas Education Code §12.120;

OR

- A signed statement attesting that within the last three years there have been no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve.



Charter Amendment Request Form - MAXIMUM ENROLLMENT INCREASE



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Name of Charter School

County-District Number

Requested effective date: _____ This should be July 1 unless specific circumstances warrant the request of a different date.

Current maximum enrollment _____ Requested maximum enrollment _____

If the amendment is approved, what sites will be impacted by the increase in enrollment? _____

If the amendment is approved, what is the minimum number of instructional hours per day to be provided students at the sites impacted by the increase in enrollment? _____

Maximum Enrollment Expansion Amendment Request Checklist

The following must be submitted **in the order listed below** with an expansion amendment request for an increase in maximum enrollment:

1. Charter Amendment Request Form – MAXIMUM ENROLLMENT INCREASE

(If multiple amendment requests are being made, include all request forms together.)

2. Charter holder board resolution - A written resolution adopted by the governing body of the charter holder and signed by the members voting in favor of amending the charter must be submitted. A quorum of the members must have voted in favor of amending the charter. Include printed names as well as signatures of the board members. The names should match information on the most recent Annual Governance Reporting Forms submitted to TEA. Otherwise, documentation explaining any differences must be included. The board resolution for a maximum enrollment increase must include a **special board resolution** that includes a statement that the board has considered a business plan containing the following elements:

- a statement discussing the need for an increase in the maximum enrollment;
- a statement discussing the current and projected financial condition of the charter holder and/or the charter school;
- an unaudited statement of financial position for the current fiscal year;
- an unaudited statement of activities for the current fiscal year;
- an unaudited statement of cash flows for the current fiscal year;
- a pro forma budget that includes the costs of operating the charter school, including the implementation of the expansion amendment;
- a statement or schedule that identifies the assumptions used to calculate the charter school's estimated Foundation School Program revenues;
- a statement discussing the use of debt instruments to finance part or all of the charter school's incremental costs;
- a statement discussing the incremental cost of acquiring additional facilities, furniture, and equipment to accommodate the anticipated increase in student enrollment; and
- a statement discussing the incremental cost of additional on site personnel and identifying the additional number of full-time equivalents that will be employed.

The business plan must be submitted to TEA within five business days **if requested**.

(If multiple amendment requests are being made, include all board resolutions together.)

3. A list, in alphabetical order, of the school districts in the approved geographic boundary that may be impacted should the commissioner approve the amendment request
4. Evidence, in alphabetical order by district, that impact statements have been sent to each school district that may be affected by the expansion.
5. Compliance information as required 19 Texas Administrative Code §100.1035 to include the following:
 - Documentation that identifies a board member's substantial interest in a business entity or in real property that relates to any charter business;
 - Documentation board members' abstentions from voting in cases of potential conflicts of interest;
 - Documents, other than Annual Governance Reporting Forms, identifying family members within the third degree of consanguinity or affinity who serve as board members and/or employees and/or contractors of the charter holder or charter school; and
 - Documentation that board members or employees whose criminal history checks revealed them ineligible to serve were removed from service as is required by Texas Education Code §12.120;

OR

 - A signed statement attesting that within the last three years there have been no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve.


 Charter Amendment Request Form - ADDITIONAL GRADE LEVELS EXPANSION
 

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Name of Charter School

County-District Number

Requested effective date: _____ This should be July 1 unless specific circumstances warrant the request of a different date.

Current grade levels served _____

Additional grade levels requested _____

If the amendment is approved, what sites will serve the additional grade levels? _____

Estimate the number of added students to be served in grades subject to or evaluated under the accountability rating system established in 19 TAC §97.1001. _____

Including the number of students to be added at the additional grade levels, estimate the percentage of students **on the campus** that will be evaluated under the accountability rating system. _____%

If the amendment is approved, what is the minimum number of instructional hours per day to be provided students in the additional grade levels? _____

Grade Levels Expansion Amendment Request Checklist

The following must be submitted **in the order listed below** with an amendment request for additional grade levels:

- _____ 1. Charter Amendment Request Form – ADDITIONAL GRADE LEVELS
(If multiple amendment requests are being made, include all request forms together.)
- _____ 2. Charter holder board resolution - A written resolution adopted by the governing body of the charter holder and signed by the members voting in favor of amending the charter must be submitted. A quorum of the members must have voted in favor of amending the charter. Include printed names as well as signatures of the board members. The names should match information on the most recent Annual Governance Reporting Forms submitted to TEA. Otherwise, documentation explaining any differences must be included.
(If multiple amendment requests are being made, include all board resolutions together.)
- _____ 3. A list, **in alphabetical order**, of the school districts in the approved geographic boundary that may be impacted should the commissioner approve the amendment request
- _____ 4. Evidence, **in alphabetical order by district**, that impact statements have been sent to each school district that may be affected by the expansion.
- _____ 5. Compliance information as required 19 Texas Administrative Code §100.1035 to include the following:
 - Documentation that identifies a board member's substantial interest in a business entity or in real property that relates to any charter business;
 - Documentation of board members' abstentions from voting in cases of potential conflicts of interest;
 - Documents, other than Annual Governance Reporting Forms, identifying family members within the third degree of consanguinity or affinity who serve as board members and/or employees and/or contractors of the charter holder or charter school; and
 - Documentation that board members or employees whose criminal history checks revealed them ineligible to serve were removed from service as is required by Texas Education Code §12.120;

OR

 - A signed statement attesting that within the last three years there have been no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve.
- _____ 6. An educational plan for the additional grade levels proposed

**Discussion of common
mistakes when
submitting expansion
amendment requests.**

Contact Us

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