STATUTORY CITATIONS RELATING TO PROPOSED REVISIONS TO 19 TAC CHAPTER 100, CHARTERS, SUBCHAPTER A, OPEN-ENROLLMENT CHARTER SCHOOLS

Texas Education Code, §7.102, State Board of Education Powers and Duties (excerpt):
(c)(9) The board may grant an open-enrollment charter or approve a charter revision as provided by Subchapter D, Chapter 12.

Texas Education Code, §12.101, Authorization:
(a) In accordance with this subchapter, the commissioner may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:
(1) an institution of higher education as defined under Section 61.003;
(2) a private or independent institution of higher education as defined under Section 61.003;
(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
(4) a governmental entity.
(b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.
(b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:
(1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or
(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.
(b-1) In granting charters for open-enrollment charter schools, the commissioner may not grant a total of more than:
(1) 215 charters through the fiscal year ending August 31, 2014;
(2) 225 charters beginning September 1, 2014;
(3) 240 charters beginning September 1, 2015;
(4) 255 charters beginning September 1, 2016;
(5) 270 charters beginning September 1, 2017; and
(6) 285 charters beginning September 1, 2018.

(b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.

(b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.

(b-4) Notwithstanding Section 12.114, approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection, including the absence of commissioner disapproval under Subdivision (3), are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:

(1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;

(2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder of disapproval of a new campus under this section.

(b-5) The initial term of a charter granted under this section is five years.

(b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section 12.1141(c).

(b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:

(1) exclude any loan or line of credit in determining an applicant's available funding; or

(2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.
(c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.

(d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

Texas Education Code, §12.1053, Applicability of Laws Relating to Public Purchasing and Contracting:
(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the commissioner.

(b) An open-enrollment charter school is considered to be:
(1) a governmental entity for purposes of:
   (A) Subchapter D, Chapter 2252, Government Code; and
   (B) Subchapter B, Chapter 271, Local Government Code;
(2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and
(3) a local government for purposes of Sections 2256.009-2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

Texas Education Code, §12.110, Application:
(a) The commissioner shall adopt:
(1) an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school; and
(2) criteria to use in selecting a program for which to grant a charter.

(b) The application form must provide for including the information required under Section 12.111 to be contained in a charter.

(c) As part of the application procedure, the commissioner may require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(d) The commissioner shall approve or deny an application based on:
(1) documented evidence collected through the application review process;
(2) merit; and
(3) other criteria as adopted by the commissioner, which must include:
(A) criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality;

(B) criteria relating to improving student performance and encouraging innovative programs; and

(C) a statement from any school district whose enrollment is likely to be affected by the open-enrollment charter school, including information relating to any financial difficulty that a loss in enrollment may have on the district.

(e) The commissioner shall give priority to applications that propose an open-enrollment charter school campus to be located in the attendance zone of a school district campus assigned an unacceptable performance rating under Section 39.054 for the two preceding school years.

Texas Education Code, §12.111, Content:

(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 Subchapter E, Chapter 39;

(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 Subchapter E, Chapter 39, 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 Subchapter E, Chapter 39, 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 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.

(b) A charter holder of an open-enrollment charter school shall consider including in the school's charter a requirement that the school develop and administer personal graduation plans under Sections 28.0212 and 28.02121.

Texas Education Code, §12.112, Form:

A charter for an open-enrollment charter school shall be in the form of a written contract signed by the commissioner and the chief operating officer of the school.

Texas Education Code, §12.119, Bylaws; Annual Report:

(a) A charter holder shall file with the commissioner a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner.
(b) Each year within the period and in a form prescribed by the commissioner, each open-enrollment charter school shall file with the commissioner the following information:

(1) the name, address, and telephone number of each officer and member of the governing body of the open-enrollment charter school; and

(2) the amount of annual compensation the open-enrollment charter school pays to each officer and member of the governing body.

(c) On request, the commissioner shall provide the information required by this section and Section 12.111(a)(7) to a member of the public. The commissioner may charge a reasonable fee to cover the commissioner's cost in providing the information.

Texas Education Code, §12.152, Authorization:

In accordance with this subchapter and Subchapter D, the commissioner may grant a charter on the application of:

(1) a public senior college or university for an open-enrollment charter school to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located; or

(2) a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

Texas Education Code, §12.154, Content:

(a) Notwithstanding Section 12.110(d), the commissioner may grant a charter under this subchapter to a public senior college or university only if the following criteria are satisfied in the public senior college's or university's application, as determined by the commissioner:

(1) the college or university charter school's educational program must include innovative teaching methods;

(2) the college or university charter school's educational program must be implemented under the direct supervision of a member of the teaching or research faculty of the public senior college or university;

(3) the faculty member supervising the college or university charter school's educational program must have substantial experience and expertise in education research, teacher education, classroom instruction, or educational administration;

(4) the college or university charter school's educational program must be designed to meet specific goals described in the charter, including improving student performance, and each aspect of the program must be directed toward the attainment of the goals;

(5) the attainment of the college or university charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(6) the financial operations of the college or university charter school must be supervised by the business office of the public senior college or university.

(b) Notwithstanding Section 12.110(d), the commissioner may grant a charter under this subchapter to a public junior college only if the following criteria are satisfied in the public junior college's application, as determined by the commissioner:
(1) the junior college charter school's educational program must be implemented under the direct supervision of a member of the faculty of the public junior college;

(2) the faculty member supervising the junior college charter school's educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration;

(3) the junior college charter school's educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals;

(4) the attainment of the junior college charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(5) the financial operations of the junior college charter school must be supervised by the business office of the junior college.