

The Texas Education Agency (TEA) proposes an amendment to §100.1211 and new §100.1212, concerning charter school operations. The proposed amendment to §100.1211 would address a charter holder's admission and enrollment policy, maintenance of student records, and submission of the charter school's campus calendar to the TEA. Proposed new §100.1212 would implement state and federal law by including minimum qualifications and certification requirements for charter school personnel as well as criminal history requirements.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The proposed revisions to 19 TAC Chapter 100, Subchapter AA, Division 6, would include an amendment to §100.1211, Students, and new §100.1212, Personnel.

In §100.1211, subsection (a) would be amended to clarify the application of TEC, §12.111(a)(3). The statute mandates that a charter granted under TEC, Chapter 12, Subchapter D, include the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated. The proposed amendment would specify that the student performance expectations must reflect the overall student performance at the school. In addition, the subsection would be amended to correct a statutory citation.

Proposed new subsection (c) would be added, requiring schools to have a non-discriminatory admission and enrollment policy. The new subsection would align with policy requirements set forth in §100.1207, Student Admission.

Proposed new subsection (f) would be added to clarify charter school responsibilities with regard to records maintenance and requests for records.

Proposed new subsection (g) would be added, requiring charter schools to submit their school year calendars to the TEA before the first day of August each year. Charter schools are currently required to submit school year beginning and ending dates to TEA at the end of the school year. Such calendar information is necessary at the beginning of each school year for purposes such as verification of charter contract compliance and amendment.

Subsection (f) would be deleted. Presently it supports TEC, §12.129, which provides that a person employed by an open-enrollment charter school as a principal or a teacher must hold a baccalaureate degree. House Bill (HB) 1469, 85th Texas Legislature, Regular Session, 2017, created an exception in TEC, §12.129: in an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree, as long as certain criteria are met. Language regarding the minimum qualifications, as well as the exception, would be added to proposed new §100.1212.

Proposed new §100.1212 would be added to specify provisions related to charter school personnel.

Proposed new subsections (a) and (b) would set forth the existing baccalaureate degree requirement for principals and teachers and include the exception and criteria in TEC, §12.129, as added by HB 1469.

Proposed new subsections (c) and (d) would specify that charter school personnel must comply with requirements found throughout federal and state law as they relate to certification requirements for special education teachers, bilingual teachers, teachers of English as a second language, and paraprofessionals.

Proposed new subsection (e) would describe requirements for a charter school to obtain criminal history information about its personnel. This requirement is found throughout federal and state law.

**FISCAL IMPACT:** Joe Siedlecki, associate commissioner for improvements, innovations, and charters, has determined that for the first five-year period the proposal is in effect there is no fiscal impact to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal beyond what the authorizing statute requires. TEC, §12.129, requires charter schools employing teachers for noncore vocational courses without a baccalaureate degree to ensure that those teachers obtain 20 hours of training in classroom management. Open-enrollment charter schools affected by proposed new §100.1212 could incur teacher training expenses.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed amendment to 19 TAC §100.1211 would both repeal part of and expand an existing regulation. The amendment would delete reference to minimum qualifications of charter school staff, which would be addressed in proposed new §100.1212, and modify the date by which charter schools must submit their calendar information to TEA.

Proposed new 19 TAC §100.1212 would create a new regulation that would provide an exception to the baccalaureate degree requirement for teachers in open-enrollment charter schools, as set forth in TEC, §12.129. This would increase the number of individuals subject to the rule's applicability.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not limit an existing regulation; would not decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Siedlecki has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring rule language is based on current law and clarifying responsibilities of open-enrollment charter schools with regard to their students. There is no anticipated economic cost to persons who are required to comply with the proposed amendment to §100.1211. There may be a nominal cost to persons who are required to comply with proposed new §100.1212, but not beyond what the authorizing statute requires. TEC, §12.129, requires charter schools employing teachers for noncore vocational courses without a baccalaureate degree to ensure that those teachers obtain 20 hours of training in classroom management.

**DATA AND REPORTING IMPACT:** The proposal would have no new data and reporting impact. Charter schools are currently required to submit school year beginning and ending dates to TEA at the end of the school year. The proposed amendment to §100.1211 would require the school calendar to be submitted to TEA before the first day of August each year.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins April 26, 2019, and ends May 28, 2019. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 26, 2019. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendment and new section are proposed under Texas Education Code (TEC), §12.103, which establishes the general applicability of state and federal laws and rules governing public schools to open-enrollment charter schools; TEC, §12.104, which describes specific provisions in state law applicable to open-enrollment charter schools, including provisions related to criminal history records under TEC, Chapter 22, Subchapter C; TEC, §12.111, which describes the required content of a charter granted under TEC, Chapter 12, Subchapter D; TEC, §12.129, which describes minimum qualifications for principals and teachers in an open-enrollment charter school; TEC, §12.1059, which provides that charter school personnel must be approved by the TEA following a review of the person's national criminal history record information as provided by TEC, §22.0832; TEC, §22.083, which describes responsibilities of school districts, open-enrollment charter schools, and shared services arrangements with regard to any employee's criminal history record information; TEC, §22.0832, which provides that criminal history checks shall be administered to charter school personnel in the same manner the State Board for Educator Certification reviews certified educators; and TEC, §22.0833, which describes responsibilities of school districts, open-enrollment charter schools, and shared services arrangements with regard to national criminal history record information review of noncertified employees.

CROSS REFERENCE TO STATUTE. The amendment and new section implement Texas Education Code, §§12.103, 12.104, 12.111, 12.129, 12.1059, 22.083, 22.0832, and 22.0833.

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#### **§100.1211. Students.**

- (a) Student performance. Notwithstanding any provision in an open-enrollment charter, acceptable student performance under Texas Education Code, ~~§12.111(a)(3)~~ ~~[§12.111(3)]~~, shall at a minimum require overall student performance meeting the standards for an "academically acceptable" rating as defined by §100.1001(26) of this title (relating to Definitions).
- (b) Reporting child abuse or neglect. A charter holder shall adopt and disseminate to all charter school staff and volunteers a policy governing child abuse reports required by Texas Family Code, Chapter 261. The policy shall require that employees, volunteers, or agents of the charter holder and the charter school report child abuse or neglect directly to an appropriate entity listed in Texas Family Code, Chapter 261.
- (c) Admission and enrollment. A charter holder for an open-enrollment charter school shall have an admission and enrollment policy as outlined in §100.1207 of this title (relating to Student Admission), including prohibiting discrimination on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend under state law.
- (d) ~~(e)~~ Notice of expulsion or withdrawal. A charter ~~school~~ holder shall notify the school district in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.
- (e) ~~(d)~~ Data reporting. A charter holder and its charter school shall report timely and accurate information required by the commissioner of education to the Texas Education Agency (TEA), except as expressly waived by the commissioner.
- (f) Student records. Student records shall be secure and maintained physically within the state of Texas at all times. Charter school personnel shall respond to requests for records in a timely and appropriate manner. Requests for records through the Texas Records Exchange (TREx) shall be processed according to TREx protocols.
- (g) ~~(e)~~ Scholastic year. A charter holder shall adopt a school year for the charter school, with fixed beginning and ending dates. The charter school shall submit a copy of the charter school's campus calendars to the TEA division responsible for charter school administration prior to the first day of August of each year.
- ~~(f)~~ Minimum qualifications. A person employed as a principal or a teacher by an open-enrollment charter school must hold a baccalaureate degree. To the extent that federal law applies, a person employed as a principal or teacher by a charter school must meet requirements of federal law. If federal law defers to state standards, then the standard set out in Texas Education Code, §12.129, applies.

**§100.1212. Personnel.**

- (a) Minimum qualifications. Except as provided by subsection (b) of this section, all persons employed as a principal or teacher by an open-enrollment charter school must hold a baccalaureate degree.
- (b) Exception. In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has:
  - (1) demonstrated subject matter expertise related to the subject taught, such as professional work experience; formal training and education; holding a relevant active professional industry license, certification, or registration; or any combination of work experience, training and education, and industry license, certification, or registration; and
  - (2) received at least 20 hours of classroom management training, as determined by the governing body of the open-enrollment charter school. Documentation of the training is to be maintained locally and provided to the Texas Education Agency within 10 business days upon request.
- (c) Certification. Special education teachers, bilingual teachers, and teachers of English as a second language must be certified in the fields in which they are assigned to teach as required by state and/or federal law.
- (d) Paraprofessionals. All persons employed as paraprofessionals must be certified as required to meet state and/or federal law.
- (e) Criminal history. A charter school shall obtain from the Department of Public Safety (DPS), prior to the hiring of personnel and at least every third year thereafter, all criminal history record information maintained by the DPS that the charter school is authorized to obtain.