

EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 12. CHARTERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 12.001. PURPOSES OF CHAPTER. (a) The purposes of this chapter 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.

(b) This chapter shall be applied in a manner that ensures the fiscal and academic accountability of persons holding charters issued under this chapter. This chapter may not be applied in a manner that unduly regulates the instructional methods or pedagogical innovations of charter schools.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 1, eff. Sept. 1, 2001.

Sec. 12.0011. ALTERNATIVE METHOD OF OPERATION. As an alternative to operating in the manner generally provided by this title, an independent school district, a school campus, or an educational program may choose to operate under a charter in accordance with this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Sec. 12.001 by Acts 2001, 77th Leg., ch. 1504, Sec. 1, eff. Sept. 1, 2001.

Sec. 12.002. CLASSES OF CHARTER. The classes of charter under this chapter are:

(1) a home-rule school district charter as provided by Subchapter B;

(2) a campus or campus program charter as provided by Subchapter C; or

(3) an open-enrollment charter as provided by Subchapter D.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.003. AUTHORITY OF BOARD OF TRUSTEES TO GRANT OTHER CHARTERS. This chapter does not limit the authority of the board of trustees of a school district to grant a charter to a campus or program to operate in accordance with the other provisions of this title and rules adopted under those provisions.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER B. HOME-RULE SCHOOL DISTRICT CHARTER

Sec. 12.011. AUTHORIZATION AND STATUS. (a) In accordance with this subchapter, a school district may adopt a home-rule school district charter under which the district will operate.

(b) The adoption of a home-rule school district charter by a school district does not affect:

(1) the district's boundaries; or

(2) taxes or bonds of the district authorized before the effective date of the charter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.012. APPLICABILITY OF LAWS AND RULES TO HOME-RULE SCHOOL DISTRICT. (a) A home-rule school district is subject to federal and state laws and rules governing school districts, except that a home-rule school district is subject to:

(1) this code only to the extent that the applicability to a home-rule school district of a provision of this code is specifically provided;

(2) a rule adopted under this code by the State Board of Education or the commissioner only if the code provision authorizing the rule specifically applies to a home-rule school

district; and

(3) all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

(b) An employee of a home-rule school district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee employed by an independent school district is covered.

(c) This section does not permit a home-rule school district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia or attention deficit/hyperactivity disorder. Discrimination prohibited by this subsection includes denial of placement in a gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability. This section does not permit a home-rule school district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest-level program necessary to ensure the student's success.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.013. APPLICABILITY OF TITLE. (a) A home-rule school district has the powers and entitlements granted to school districts and school district boards of trustees under this title, including taxing authority.

(b) A home-rule school district is subject to:

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

(2) a provision of this title relating to limitations on liability; 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) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;
- (C) criminal history records under Subchapter C, Chapter 22;
- (D) student admissions under Section 25.001;
- (E) school attendance under Sections 25.085, 25.086, and 25.087;
- (F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;
- (G) elementary class size limits under Section 25.112, in the case of any campus in the district that fails to satisfy any standard under Section 39.054(e);
- (H) high school graduation under Section 28.025;
- (I) special education programs under Subchapter A, Chapter 29;
- (J) bilingual education under Subchapter B, Chapter 29;
- (K) prekindergarten programs under Subchapter E, Chapter 29;
- (L) safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;
- (M) computation and distribution of state aid under Chapters 31, 42, and 43;
- (N) extracurricular activities under Section 33.081;
- (O) health and safety under Chapter 38;
- (P) public school accountability under Subchapters B, C, D, E, and J, Chapter 39;
- (Q) equalized wealth under Chapter 41;
- (R) a bond or other obligation or tax rate under Chapters 42, 43, and 45; and
- (S) purchasing under Chapter 44.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by Acts 2003, 78th Leg., ch. 342, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. [5](#), Sec. 3.03, eff. May 31, 2006.

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 13, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [91](#), Sec. 7.001, eff. September 1, 2011.

Sec. 12.014. APPOINTMENT OF CHARTER COMMISSION. The board of trustees of a school district shall appoint a charter commission to frame a home-rule school district charter if:

(1) the board receives a petition requesting the appointment of a charter commission to frame a home-rule school district charter signed by at least five percent of the registered voters of the district; or

(2) at least two-thirds of the total membership of the board adopt a resolution ordering that a charter commission be appointed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.015. CHARTER COMMISSION. (a) Not later than the 30th day after the date of receipt of a petition or adoption of a resolution under Section 12.014, the board of trustees of the school district shall appoint 15 residents of the district to serve on the commission to frame a charter for the district.

(b) The membership of the charter commission must reflect the racial, ethnic, socioeconomic, and geographic diversity of the district. A majority of the members appointed to the commission must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by the representatives of the professional staff pursuant to Section 11.251(e).

(c) The charter commission must complete a proposed charter not later than the first anniversary of the date of its appointment. After that date, the commission expires and the appointment under Section 12.014 is void.

(d) A charter commission appointed under this section is considered a governmental body for purposes of Chapters 551 and

552, Government Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.016. CONTENT. Each home-rule school district charter must:

- (1) describe the educational program to be offered;
- (2) provide that continuation of the home-rule school district charter is contingent on:
 - (A) acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39; and
 - (B) compliance with other applicable accountability provisions under Chapter 39;
- (3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked;
- (4) describe the governing structure of the district and campuses;
- (5) specify any procedure or requirement, in addition to those under Chapter 38, that the district will follow to ensure the health and safety of students and employees;
- (6) describe the process by which the district will adopt an annual budget, including a description of the use of program-weight funds;
- (7) describe the manner in which an annual audit of financial and programmatic operations of the district is to be conducted, including the manner in which the district will provide information necessary for the district to participate in the Public Education Information Management System (PEIMS) to the extent required by this subchapter; and
- (8) include any other provision the charter commission considers necessary.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.017. DETERMINATION OF COMPLIANCE WITH VOTING RIGHTS ACT. (a) The charter commission shall submit the proposed charter to the secretary of state. The secretary of state shall determine whether a proposed charter contains a change in the governance of

the school district.

(b) If the secretary of state determines that a proposed charter contains a change in the governance of the school district, the secretary of state shall, not later than the second working day after the date the secretary of state makes that determination, notify the board of trustees of the school district. The board shall submit the proposed change to the United States Department of Justice or the United States District Court for the District of Columbia for preclearance under the Voting Rights Act (42 U.S.C. Section 1973c et seq.).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.018. LEGAL REVIEW. The charter commission shall submit the proposed charter to the commissioner. As soon as practicable, but not later than the 30th day after the date the commissioner receives the proposed charter, the commissioner shall review the proposed charter to ensure that the proposed charter complies with any applicable laws and shall recommend to the charter commission any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter is approved.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.019. CHARTER ELECTION. (a) As soon as practicable after approval of a home-rule school district charter under Section 12.018, the board of trustees of the district shall order an election on the proposed charter.

(b) The proposed charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the board of trustees orders the election.

(c) At least three copies of the proposed charter must be available in the office of each school campus in the district and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the content of the proposed charter shall be

attached to each copy. The summary also shall be made available to school district employees, parents, community members, and members of the media.

(d) The ballot shall be printed to permit voting for or against the proposition "Whether the (name of school district) School District shall be governed under the home-rule school district charter, which is proposed by a charter commission appointed by the board of trustees and under which only certain laws and rules apply to the district."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.020. CHARTER AMENDMENT. (a) The governing body of a home-rule school district on its own motion may submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review.

(b) The governing body shall submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review if a petition submitted to the governing body proposing the charter amendment is signed by at least five percent of the registered voters of the district.

(c) As soon as practicable, but not later than the 30th day after the date on which the requirements for an election under Subsection (a) or (b) are satisfied, the commissioner shall review the proposed amendment to ensure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter amendment is approved.

(d) As soon as practicable after commissioner review under Subsection (c), the governing body of the district shall order an election on the proposed amendment.

(e) An election under this section shall be held on the first uniform election date that occurs at least 45 days after the date the election is ordered.

(f) Notice of the election must include a substantial copy of the proposed charter amendment.

(g) A charter amendment may not contain more than one subject.

(h) The ballot shall be prepared so that a voter may approve or disapprove any one or more charter amendments without having to approve or disapprove all of the charter amendments.

(i) The governing body may not order an election on a proposed charter amendment earlier than the first anniversary of the date of any previous election to amend the charter.

(j) Section 12.017 applies to a proposed charter amendment, except that the governing body shall submit the proposed charter amendment to the secretary of state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.021. ADOPTION OF CHARTER OR CHARTER AMENDMENT. (a) Subject to Section 12.022, a proposed home-rule school district charter or a proposed charter amendment is adopted if approved by a majority of the qualified voters of the district voting at an election held for that purpose.

(b) A charter or charter amendment shall specify an effective date and takes effect according to its terms when the governing body of the school district enters an order declaring that the charter or charter amendment is adopted. The governing body shall enter an order not later than the 10th day after the date the canvass of the election returns is completed.

(c) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the board of trustees or governing body shall notify the commissioner of the outcome of the election.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.022. MINIMUM VOTER TURNOUT REQUIRED. (a) An election on the adoption of a proposed home-rule school district charter has no effect unless at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot.

(b) An election on the adoption of a proposed amendment to a home-rule school district charter has no effect unless at least 20 percent of the registered voters of the district vote in the election in which the adoption of the amendment is on the ballot.

(c) If the required number of voters prescribed by Subsection (a) or (b) do not vote in the election, the board of trustees shall order an election on the issue to be held on the first uniform election date:

(1) that occurs at least 45 days after the date the election is ordered; and

(2) on which one or more elections are to be held, the combination of which covers all of the territory of the school district.

(d) If the required number of voters prescribed by Subsection (a) or (b) do not vote at an election ordered as required by Subsection (c), the board of trustees may continue to order elections on the issue in accordance with Subsection (c) until the required minimum voter turnout is achieved.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.023. CERTIFICATION OF CHARTER OR CHARTER AMENDMENT.

(a) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the president of the board of trustees shall certify to the secretary of state a copy of the charter or amendment showing the approval by the voters of the district.

(b) The secretary of state shall file and record the certification in the secretary of state's office.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.024. EFFECT OF RECORDING CHARTER OR CHARTER AMENDMENT. A recorded charter or charter amendment is a public act. A court shall take judicial notice of a recorded charter or charter amendment and proof is not required of its provisions.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.025. GOVERNANCE. (a) A home-rule school district may adopt and operate under any governing structure.

(b) The district may:

(1) create offices;

(2) determine the time and method for selecting

officers; and

(3) prescribe the qualifications and duties of officers.

(c) The term of any officer of the district is determined under Section 11.059.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.026. CHANGE IN GOVERNING BODY. If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the governing body of the school district, the members of the governing body serving on the date the adoption, amendment, or revocation takes effect continue in office until their successors are chosen and have qualified for office.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.027. BASIS FOR PLACEMENT ON PROBATION OR REVOCATION OF CHARTER. (a) The State Board of Education may place on probation or revoke a home-rule school district charter of a school district if the board determines that the district:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management; or

(3) failed to comply with this subchapter or other applicable federal or state law or rule.

(b) The action the board takes under Subsection (a) shall be based on the best interest of district students, the severity of the violation, and any previous violation the district has committed.

(c) A district whose home-rule school district charter is revoked or rescinded under this subchapter shall operate under the other provisions of Title 1 and this title that apply to school districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.028. PROCEDURE FOR PLACEMENT ON PROBATION OR REVOCATION. (a) The State Board of Education by rule shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the district and to parents of district students. A hearing under this subsection must be held in the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.029. STATUS OF DISTRICT IN CASE OF ANNEXATION OR CONSOLIDATION. (a) If a school district is annexed to another district under Chapter 13, and only one of the districts has a home-rule school district status, the status, as a home-rule or other type of school district, of the receiving district is the status for both districts following annexation.

(b) Except as provided by Subchapter H, Chapter 41, if two or more school districts having different status, one of which is home-rule school district status, consolidate into a single district, the petition under Section 13.003 initiating the consolidation must state the status for the consolidated district. The ballot shall be printed to permit voting for or against the proposition: "Consolidation of (names of school districts) into a single school district governed as (status of school district specified in the petition)."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.030. RESCISSION OF CHARTER. (a) A home-rule school district charter may be rescinded as provided by this section.

(b) The governing body of the district shall order an election on the question of rescinding a home-rule school district charter if:

(1) the governing body receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or

(2) at least two-thirds of the total membership of the governing body adopt a resolution ordering that a rescission election be held.

(c) As soon as practicable after the date of receipt or adoption of a resolution under Subsection (b), the governing body shall order an election.

(d) The proposition to rescind the home-rule school district charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the governing body orders the election.

(e) The ballot shall be printed to permit voting for or against the proposition: "Whether the home-rule school district charter of (name of school district) shall be rescinded so that the school district becomes an independent school district."

(f) A home-rule school district charter is rescinded if the rescission is approved by a majority of the qualified voters of the district voting at an election held for that purpose at which at least 25 percent of the registered voters of the district vote.

(g) The rescission takes effect on a date established by resolution of the governing body but not later than the 90th day after the date of an election held under this section at which rescission of the charter is approved and at which the number of registered voters required under Subsection (f) vote. As soon as practicable after that election, the governing body shall notify the commissioner and the secretary of state of the results of the election and of the effective date of the rescission.

(h) The rescission of a home-rule school district charter under this section does not affect:

(1) the district's boundaries; or

(2) taxes or bonds of the district authorized before the effective date of the rescission.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER C. CAMPUS OR CAMPUS PROGRAM CHARTER

Sec. 12.051. DEFINITIONS. In this subchapter:

(1) "Parent" means the parent who is indicated on the student registration form at that school campus.

(2) "Board" and "board of trustees" mean the board of trustees of a school district or the governing body of a home-rule school district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.052. AUTHORIZATION. (a) In accordance with this subchapter, the board of trustees of a school district or the governing body of a home-rule school district may grant a charter to parents and teachers for a campus or a program on a campus if the board is presented with a petition signed by:

(1) the parents of a majority of the students at that school campus; and

(2) a majority of the classroom teachers at that school campus.

(b) For purposes of Subsection (a)(1), the signature of only one parent of a student is required.

(c) The board of trustees may not arbitrarily deny a charter under this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.0521. ALTERNATIVE AUTHORIZATION. (a) Notwithstanding Section 12.052, in accordance with this subchapter and in the manner provided by this section, the board of trustees of a school district or the governing body of a home-rule school district may grant a charter for:

(1) a new district campus; or

(2) a program that is operated:

(A) by an entity that has entered into a contract with the district under Section 11.157 to provide educational services to the district through the campus or program; and

(B) at a facility located in the boundaries of the district.

(b) A student's parent or guardian may choose to enroll the student at a campus or in a program under this section. A school district may not assign a student to a campus or program under this section unless the student's parent or guardian has voluntarily enrolled the student at the campus or in the program. A student's parent or guardian may, at any time, remove the student from a campus or program under this section and enroll the student at the campus to which the student would ordinarily be assigned.

(c) A school district may not assign to a campus or program

under this section a teacher who has signed a written statement that the teacher does not agree to that assignment.

Added by Acts 2003, 78th Leg., ch. 1212, Sec. 1, eff. June 20, 2003.

Sec. 12.053. COOPERATIVE CAMPUS CHARTER. (a) The board of trustees may grant a charter to parents and teachers at two or more campuses in the district for a cooperative charter program if the board is presented with a petition signed by:

(1) the parents of a majority of the students at each school campus; and

(2) a majority of the classroom teachers at each school campus.

(b) For purposes of Subsection (a)(1), the signature of only one parent is required.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.054. AUTHORITY UNDER CHARTER. A campus or program for which a charter is granted under this subchapter:

(1) is exempt from the instructional and academic rules and policies of the board of trustees from which the campus or program is specifically exempted in the charter; and

(2) retains authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter in accordance with Section 12.059.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1335, Sec. 2, eff. Sept. 1, 1997.

Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR PROGRAM GRANTED CHARTER. A campus or program for which a charter is granted under this subchapter is subject to federal and state laws and rules governing public schools, except that the campus or program is subject to this code and rules adopted under this code only to the extent the applicability to a campus or program for which a charter is granted under this subchapter of a provision of this code or a rule adopted under this code is specifically

provided.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.056. APPLICABILITY OF TITLE. (a) A campus or program for which a charter is granted under this subchapter has the powers granted to schools under this title.

(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; and

(I) public school accountability under Subchapters B, C, E, and J, Chapter 39.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 14, eff. June 19, 2009.

Sec. 12.057. STATUS. (a) With respect to the operation of a campus or program granted a charter under this subchapter, the

governing body of the campus or program provided for under the charter is considered a governmental body for purposes of Chapters 551 and 552, Government Code.

(b) An employee of an independent school district who is employed on a campus or program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

(c) A campus or program granted a charter under Section 12.052, 12.0521(a)(1), or 12.053 is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by Acts 2003, 78th Leg., ch. 1212, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [1359](#), Sec. 1, eff. September 1, 2005.

Sec. 12.058. CHARTER POLICY. Each school district shall adopt a campus charter and program charter policy. The policy must specify:

(1) the process to be followed for approval of a campus charter or a program charter;

(2) the statutory requirements with which a campus charter or program charter must comply; and

(3) the items that must be included in a charter application.

Added by Acts 1997, 75th Leg., ch. 1335, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 1212, Sec. 2, eff. June 20, 2003.

Sec. 12.059. CONTENT. Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which may be a general or specialized program;

(2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B, Chapter 39, and on compliance with other applicable accountability provisions under Chapter 39;

(3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked;

(4) prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

(5) describe the governing structure of the campus or program;

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Education Code Sec. 12.058 by Acts 1997, 75th Leg., ch. 1335, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.060. FORM. A charter shall be in the form and substance of a written contract signed by the president of the board of trustees granting the charter and the chief operating officer of the campus or program for which the charter is granted.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Education Code Sec. 12.059 by Acts 1997, 75th Leg., ch. 1335, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.061. CHARTER GRANTED. Each charter a board of trustees grants under this subchapter must:

(1) satisfy this subchapter; and

(2) include the information that is required under Section 12.059 consistent with the information provided in the application and any modification the board requires.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Education Code Sec. 12.060 and amended by Acts 1997, 75th Leg., ch. 1335, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.062. REVISION. (a) A charter granted under Section 12.052 or 12.053 may be revised:

(1) with the approval of the board of trustees that granted the charter; and

(2) on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

(b) A charter granted under Section 12.0521 may be revised with the approval of the board of trustees that granted the charter. A charter may be revised under this subsection only before the first day of instruction of a school year or after the final day of instruction of a school year.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Education Code Sec. 12.061 by Acts 1997, 75th Leg., ch. 1335, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1212, Sec. 2, eff. June 20, 2003.

Sec. 12.063. BASIS FOR PLACEMENT ON PROBATION OR REVOCATION. (a) A board of trustees may place on probation or revoke a charter it grants if the board determines that the campus or program:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management; or

(3) failed to comply with this subchapter, another law, or a state agency rule.

(b) The action the board takes under Subsection (a) shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or

program has committed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Renumbered from Education Code Sec. 12.062 by Acts 1997, 75th Leg.,
ch. 1335, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.064. PROCEDURE FOR PLACEMENT ON PROBATION OR REVOCATION. (a) Each board of trustees that grants a charter under this subchapter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the campus or program for which a charter is granted under this subchapter and to parents and guardians of students at the campus or in the program. A hearing under this subsection must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Renumbered from Education Code Sec. 12.063 by Acts 1997, 75th Leg.,
ch. 1335, Sec. 1, eff. Sept. 1, 1997.

Sec. 12.065. ADMISSION. (a) Eligibility criteria for admission of students to the campus or program for which a charter is granted under this subchapter must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials in general or in a specific area, as necessary for the type of program offered.

(b) The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Renumbered from Education Code Sec. 12.064 by Acts 1997, 75th Leg.,
ch. 1335, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER D. OPEN-ENROLLMENT CHARTER SCHOOL

Sec. 12.101. AUTHORIZATION. (a) In accordance with this subchapter, the State Board of Education 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) The State Board of Education may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter. The State Board of Education may not grant a total of more than 215 charters for an open-enrollment charter school.

(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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 193, Sec. 1, eff. June 2, 2003.

Sec. 12.1012. DEFINITIONS. In this subchapter:

(1) "Charter holder" means the entity to which a charter is granted under this subchapter.

(2) "Governing body of a charter holder" means the

board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of an open-enrollment charter school" means the board of directors, board of trustees, or other governing body of an open-enrollment charter school. The term includes the governing body of a charter holder if that body acts as the governing body of the open-enrollment charter school.

(4) "Management company" means a person, other than a charter holder, who provides management services for an open-enrollment charter school.

(5) "Management services" means services related to the management or operation of an open-enrollment charter school, including:

(A) planning, operating, supervising, and evaluating the school's educational programs, services, and facilities;

(B) making recommendations to the governing body of the school relating to the selection of school personnel;

(C) managing the school's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the school a proposed budget;

(E) recommending policies to be adopted by the governing body of the school, developing appropriate procedures to implement policies adopted by the governing body of the school, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the school based on the indicators adopted under Sections 39.053 and 39.301 or by the governing body of the school.

(6) "Officer of an open-enrollment charter school" means:

(A) the principal, director, or other chief operating officer of an open-enrollment charter school;

(B) an assistant principal or assistant director of an open-enrollment charter school; or

(C) a person charged with managing the finances

of an open-enrollment charter school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 15, eff. June 19, 2009.

Sec. 12.102. AUTHORITY UNDER CHARTER. An open-enrollment charter school:

(1) shall provide instruction to students at one or more elementary or secondary grade levels as provided by the charter;

(2) is governed under the governing structure described by the charter;

(3) retains authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Section 12.111; and

(4) does not have authority to impose taxes.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.103. GENERAL APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO OPEN-ENROLLMENT CHARTER SCHOOL. (a) Except as provided by Subsection (b) or (c), an open-enrollment charter school is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) An open-enrollment charter school is subject to this code and rules adopted under this code only to the extent the applicability to an open-enrollment charter school of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of an open-enrollment charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 4, eff. Sept. 1, 2001.

Sec. 12.104. APPLICABILITY OF TITLE. (a) An open-enrollment charter school has the powers granted to schools under this title.

(b) An open-enrollment charter school 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) 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, 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, E, G, and J, Chapter 39;

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

(N) intensive programs of instruction under

Section 28.0213.

(c) An open-enrollment charter school is entitled to the same level of services provided to school districts by regional education service centers. The commissioner shall adopt rules that provide for the representation of open-enrollment charter schools on the boards of directors of regional education service centers.

(d) The commissioner may by rule permit an open-enrollment charter school to voluntarily participate in any state program available to school districts, including a purchasing program, if the school complies with all terms of the program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.04, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 212, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1504, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 374, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1212, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [728](#), Sec. 5.001, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 16, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [662](#), Sec. 3, eff. June 17, 2011.

Sec. 12.105. STATUS. An open-enrollment charter school is part of the public school system of this state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 1335, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Sec. 12.1051. APPLICABILITY OF OPEN MEETINGS AND PUBLIC INFORMATION LAWS. (a) With respect to the operation of an open-enrollment charter school, the governing body of a charter holder and the governing body of an open-enrollment charter school are considered to be governmental bodies for purposes of Chapters 551 and 552, Government Code.

(b) With respect to the operation of an open-enrollment

charter school, any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

Amended by Acts 1999, 76th Leg., ch. 1335, Sec. 1, eff. June 19, 1999. Renumbered from Sec. 12.105(b) and amended by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [258](#), Sec. 3.01, eff. September 1, 2007.

Sec. 12.1052. APPLICABILITY OF LAWS RELATING TO LOCAL GOVERNMENT RECORDS. (a) With respect to the operation of an open-enrollment charter school, an open-enrollment charter school is considered to be a local government for purposes of Subtitle C, Title 6, Local Government Code, and Subchapter J, Chapter 441, Government Code.

(b) Records of an open-enrollment charter school and records of a charter holder that relate to an open-enrollment charter school are government records for all purposes under state law.

(c) Any requirement in Subtitle C, Title 6, Local Government Code, or Subchapter J, Chapter 441, Government Code, that applies to a school district, the board of trustees of a school district, or an officer or employee of a school district applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or an officer or employee of an open-enrollment charter school except that the records of an open-enrollment charter school that ceases to operate shall be transferred in the manner prescribed by Subsection (d).

(d) The records of an open-enrollment charter school that ceases to operate shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner.

The commissioner may designate any appropriate entity to serve as custodian, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner shall ensure that the transferred records, including student and personnel records, are transferred to a custodian capable of:

- (1) maintaining the records;
- (2) making the records readily accessible to students, parents, former school employees, and other persons entitled to access; and
- (3) complying with applicable state or federal law restricting access to the records.

(e) If the charter holder of an open-enrollment charter school that ceases to operate or an officer or employee of such a school refuses to transfer school records in the manner specified by the commissioner under Subsection (d), the commissioner may ask the attorney general to petition a court for recovery of the records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Sec. 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 State Board of Education.

- (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. Added by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Sec. 12.1054. APPLICABILITY OF LAWS RELATING TO CONFLICT OF INTEREST. (a) A member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, or an officer of an open-enrollment charter school is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code;

(2) notwithstanding any provision of Section 12.1054(1), an employee of an open-enrollment charter school rated acceptable or higher under Section 39.054 for at least two of the preceding three school years may serve as a member of the governing body of the charter holder of the governing body of the school if the employees do not constitute a quorum of the governing body or any committee of the governing body; however, all members shall comply with the requirements of Sections 171.003-171.007, Local Government Code.

(b) 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. Added by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 17, eff. June 19, 2009.

Sec. 12.1055. APPLICABILITY OF NEPOTISM LAWS. (a) An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by state law or by a rule adopted under state law, relating to nepotism under Chapter 573, Government Code.

(b) Notwithstanding Subsection (a), if an open-enrollment charter school is rated acceptable or higher under Section 39.054 for at least two of the preceding three school years, then Chapter 573, Government Code, does not apply to that school; however, a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school shall comply with the requirements of Sections 171.003-171.007, Local Government Code, with respect to a personnel matter concerning a person related to the member or officer within the degree specified by Section 573.002, Government Code, as if the personnel matter were a transaction with a business entity subject to those sections, and persons defined under Sections 573.021-573.025, Government Code, shall not constitute a quorum of the governing body or any committee of the governing body.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 18, eff. June 19, 2009.

Sec. 12.1056. IMMUNITY FROM LIABILITY. In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability to the same extent as a school district trustee.

Amended by Acts 1999, 76th Leg., ch. 1335, Sec. 1, eff. June 19, 1999. Renumbered from Sec. 12.105(c) and amended by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Sec. 12.1057. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS. (a) An employee of an open-enrollment charter school operating under a charter granted by the State Board of Education who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

(b) For each employee of the school covered under the system, the school is responsible for making any contribution that otherwise would be the legal responsibility of the school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.

Amended by Acts 1999, 76th Leg., ch. 1335, Sec. 1, eff. June 19, 1999. Renumbered from Sec. 12.105(d) and amended by Acts 2001, 77th Leg., ch. 1504, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [1359](#), Sec. 2, eff. September 1, 2005.

Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN EMPLOYEES. A person may not be employed by or serve as a teacher, librarian, educational aide, administrator, or counselor for an open-enrollment charter school unless the person has been approved by the agency following a review of the person's national criminal history record information as provided by Section 22.0832.

Added by Acts 2007, 80th Leg., R.S., Ch. [1372](#), Sec. 2, eff. June 15, 2007.

For expiration of Subsections (a-3) and (a-4), see Subsection (a-4).

Sec. 12.106. STATE FUNDING.

Text of subsection as amended by Acts 2011, 82nd Leg., 1st C.S., Ch. [4](#), Sec. 57.02

Text of subsection effective until September 01, 2017

(a) A charter holder is entitled to receive for the

open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by \$120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

Text of subsection effective on September 01, 2017

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253.

(a-1) In determining funding for an open-enrollment charter school under Subsection (a), adjustments under Sections 42.102, 42.103, 42.104, and 42.105 are based on the average adjustment for the state.

(a-2) In addition to the funding provided by Subsection (a), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under Section 42.302 based on the state average tax effort.

(a-3) In determining funding for an open-enrollment charter school under Subsection (a), the commissioner shall apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school

is entitled.

(a-4) Subsection (a-3) and this subsection expire September 1, 2015.

(b) An open-enrollment charter school is entitled to funds that are available to school districts from the agency or the commissioner in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding.

(c) The commissioner may adopt rules to provide and account for state funding of open-enrollment charter schools under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to Section 12.104(b) if the commissioner determines that the rule is related to financing of open-enrollment charter schools and is necessary or prudent to provide or account for state funds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [1328](#), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. [4](#), Sec. 57.02, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. [4](#), Sec. 57.03, eff. September 1, 2017.

Sec. 12.1061. RECOVERY OF CERTAIN FUNDS. The commissioner may not garnish or otherwise recover funds paid to an open-enrollment charter school under Section 12.106 if:

(1) the basis of the garnishment or recovery is that:

(A) the number of students enrolled in the school during a school year exceeded the student enrollment described by the school's charter during that period; and

(B) the school received funding under Section 12.106 based on the school's actual student enrollment;

(2) the school:

(A) submits to the commissioner a timely request

to revise the maximum student enrollment described by the school's charter and the commissioner does not notify the school in writing of an objection to the proposed revision before the 90th day after the date on which the commissioner received the request, provided that the number of students enrolled at the school does not exceed the enrollment described by the school's request; or

(B) exceeds the maximum student enrollment described by the school's charter only because a court mandated that a specific child enroll in that school; and

(3) the school used all funds received under Section 12.106 to provide education services to students.

Added by Acts 2003, 78th Leg., ch. 1048, Sec. 1, eff. June 20, 2003.

Sec. 12.107. STATUS AND USE OF FUNDS. (a) Funds received under Section 12.106 after September 1, 2001, by a charter holder:

(1) are considered to be public funds for all purposes under state law;

(2) are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;

(3) may be used only for a purpose for which a school may use local funds under Section 45.105(c); and

(4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract.

(b) A charter holder shall deliver to the agency a copy of the depository contract between the charter holder and any bank into which state funds are deposited.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 7, eff. Sept. 1, 2001.

Sec. 12.1071. EFFECT OF ACCEPTING STATE FUNDING. (a) A charter holder who accepts state funds under Section 12.106 after the effective date of a provision of this subchapter agrees to be subject to that provision, regardless of the date on which the charter holder's charter was granted.

(b) A charter holder who accepts state funds under Section

12.106 after September 1, 2001, agrees to accept all liability under this subchapter for any funds accepted under that section before September 1, 2001. This subsection does not create liability for charter holder conduct occurring before September 1, 2001.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 8, eff. Sept. 1, 2001.

Sec. 12.108. TUITION AND FEES RESTRICTED. (a) An open-enrollment charter school may not charge tuition to an eligible student who applies under Section 12.117.

(b) The governing body of an open-enrollment charter school may require a student to pay any fee that the board of trustees of a school district may charge under Section 11.158(a). The governing body may not require a student to pay a fee that the board of trustees of a school district may not charge under Section 11.158(b).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 9, eff. Sept. 1, 2001.

Sec. 12.109. TRANSPORTATION. An open-enrollment charter school shall provide transportation to each student attending the school to the same extent a school district is required by law to provide transportation to district students.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.110. APPLICATION. (a) The State Board of Education 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 board 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 board may approve or deny an application based on criteria it adopts. The criteria the board adopts must include:

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

(2) 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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the State Board of Education of an application for a charter for an open-enrollment charter school under Section 12.110:

(1) the board of trustees of each school district from which the proposed open-enrollment charter school is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school, as determined by the commissioner.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 10, eff. Sept. 1, 2001.

Sec. 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) specify the period for which the charter or any charter renewal is valid;

(3) provide that continuation or renewal of the charter is contingent on acceptable student performance on

assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter;

(4) establish the level of student performance that is considered acceptable for purposes of Subdivision (3);

(5) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which renewal of the charter may be denied;

(6) 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;

(7) specify the grade levels to be offered;

(8) 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;

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

(10) 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;

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

(12) 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 State Board of Education rule, in the Public Education Information Management System (PEIMS);

(13) describe the facilities to be used;

(14) describe the geographical area served by the program; and

(15) specify any type of enrollment criteria to be used.

(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 Section 28.0212.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 1335, Sec. 2, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1504, Sec. 11, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1212, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [1032](#), Sec. 1, eff. September 1, 2005.

Sec. 12.112. FORM. A charter for an open-enrollment charter school shall be in the form of a written contract signed by the chair of the State Board of Education and the chief operating officer of the school.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 12.113. CHARTER GRANTED. (a) Each charter the State Board of Education grants for an open-enrollment charter school must:

(1) satisfy this subchapter; and

(2) include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the board requires.

(b) The grant of a charter under this subchapter does not create an entitlement to a renewal of a charter on the same terms as it was originally issued.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 11, eff. Sept. 1, 2001.

Sec. 12.114. REVISION. (a) A revision of a charter of an open-enrollment charter school may be made only with the approval of the commissioner.

(b) Not more than once each year, an open-enrollment charter school may request approval to revise the maximum student enrollment described by the school's charter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1048, Sec. 2, eff. June 20, 2003.

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner may modify, place on probation, revoke, or deny renewal of the charter of an open-enrollment charter school if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

(4) failed to comply with this subchapter or another

applicable law or rule.

(b) The action the commissioner takes under Subsection (a) shall be based on the best interest of the school's students, the severity of the violation, and any previous violation the school has committed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 12, eff. Sept. 1, 2001.

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner shall adopt a procedure to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school. A hearing under this subsection must be held at the facility at which the program is operated.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, or denial of renewal under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 12, eff. Sept. 1, 2001.

Sec. 12.1161. EFFECT OF REVOCATION, DENIAL OF RENEWAL, OR SURRENDER OF CHARTER. (a) Except as provided by Subsection (b), if the commissioner revokes or denies the renewal of a charter of an open-enrollment charter school, or if an open-enrollment charter school surrenders its charter, the school may not:

- (1) continue to operate under this subchapter; or
- (2) receive state funds under this subchapter.

(b) An open-enrollment charter school may continue to operate and receive state funds under this subchapter for the remainder of a school year if the commissioner denies renewal of the school's charter before the completion of that school year.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 13, eff. Sept. 1, 2001.

Sec. 12.1162. ADDITIONAL SANCTIONS. (a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.102(a), to the extent the commissioner determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.058(b):

(1) commits a material violation of the school's charter;

(2) fails to satisfy generally accepted accounting standards of fiscal management; or

(3) fails to comply with this subchapter or another applicable rule or law.

(b) The commissioner may temporarily withhold funding, suspend the authority of an open-enrollment charter school to operate, or take any other reasonable action the commissioner determines necessary to protect the health, safety, or welfare of students enrolled at the school based on evidence that conditions at the school present a danger to the health, safety, or welfare of the students.

(c) After the commissioner acts under Subsection (b), the open-enrollment charter school may not receive funding and may not resume operating until a determination is made that:

(1) despite initial evidence, the conditions at the school do not present a danger of material harm to the health, safety, or welfare of students; or

(2) the conditions at the school that presented a danger of material harm to the health, safety, or welfare of students have been corrected.

(d) Not later than the third business day after the date the commissioner acts under Subsection (b), the commissioner shall provide the charter holder an opportunity for a hearing.

(e) Immediately after a hearing under Subsection (d), the commissioner must cease the action under Subsection (b) or initiate action under Section 12.116.

(f) The commissioner shall adopt rules implementing this

section. Chapter 2001, Government Code, does not apply to a hearing under this section.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 13, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [895](#), Sec. 19, eff. June 19, 2009.

Sec. 12.1163. AUDIT BY COMMISSIONER. (a) To the extent consistent with this section, the commissioner may audit the records of:

- (1) an open-enrollment charter school;
- (2) a charter holder; and
- (3) a management company.

(b) An audit under Subsection (a) must be limited to matters directly related to the management or operation of an open-enrollment charter school, including any financial and administrative records.

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit under Section 12.1163 during any fiscal year, including any financial and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 13, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 511, Sec. 1, eff. Sept. 1, 2003.

Sec. 12.1164. NOTICE TO TEACHER RETIREMENT SYSTEM OF TEXAS.

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation, denial of renewal, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

(b) The commissioner must notify the Teacher Retirement System of Texas in writing that an open-enrollment charter school is no longer receiving state funding not later than the 10th

business day after the date on which the funding ceases.

(c) The commissioner must notify the Teacher Retirement System of Texas in writing that an open-enrollment charter school has resumed receiving state funds not later than the 10th business day after the date on which funding resumes.

Added by Acts 2005, 79th Leg., Ch. [1359](#), Sec. 3, eff. September 1, 2005.

Sec. 12.117. ADMISSION. (a) For admission to an open-enrollment charter school, the governing body of the school shall:

(1) require the applicant to complete and submit an application not later than a reasonable deadline the school establishes; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) fill the available positions by lottery; or

(B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.

(b) An open-enrollment charter school may fill applications for admission under Subsection (a)(2)(B) only if the school published a notice of the opportunity to apply for admission to the school. A notice published under this subsection must:

(1) state the application deadline; and

(2) be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline.

(c) An open-enrollment charter school authorized by a charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before

conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 14, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [317](#), Sec. 1, eff. June 17, 2011.

Sec. 12.1171. ADMISSION TO OPEN-ENROLLMENT CHARTER SCHOOLS SPECIALIZING IN PERFORMING ARTS. Notwithstanding Section 12.117, the governing body of an open-enrollment charter school that specializes in one or more performing arts may require an applicant to audition for admission to the school.

Added by Acts 2005, 79th Leg., Ch. [1032](#), Sec. 2, eff. September 1, 2005.

Sec. 12.118. EVALUATION OF OPEN-ENROLLMENT CHARTER SCHOOLS. (a) The commissioner shall designate an impartial organization with experience in evaluating school choice programs to conduct an annual evaluation of open-enrollment charter schools.

(b) An evaluation under this section must include consideration of the following items before implementing the charter and after implementing the charter:

(1) students' scores on assessment instruments administered under Subchapter B, Chapter 39;

(2) student attendance;

(3) students' grades;

(4) incidents involving student discipline;

(5) socioeconomic data on students' families;

(6) parents' satisfaction with their children's schools; and

(7) students' satisfaction with their schools.

(c) The evaluation of open-enrollment charter schools must also include an evaluation of:

(1) the costs of instruction, administration, and transportation incurred by open-enrollment charter schools;

(2) the effect of open-enrollment charter schools on school districts and on teachers, students, and parents in those districts; and

(3) other issues, as determined by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 15, eff. Sept. 1, 2001.

Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the State Board of Education 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 board.

(b) Each year within the period and in a form prescribed by the State Board of Education, each open-enrollment charter school shall file with the board 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 State Board of Education shall provide the information required by this section and Section 12.111(a)(8) to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the information.

Added by Acts 1999, 76th Leg., ch. 1335, Sec. 3, eff. June 19, 1999.
Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 16, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [91](#), Sec. 7.002, eff. September 1, 2011.

Sec. 12.120. RESTRICTIONS ON SERVING AS MEMBER OF GOVERNING BODY OF CHARTER HOLDER OR OPEN-ENROLLMENT CHARTER SCHOOL OR AS

OFFICER OR EMPLOYEE. (a) A person may not serve as a member of the governing body of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer or employee of an open-enrollment charter school if the person:

(1) has been convicted of a felony or a misdemeanor involving moral turpitude;

(2) has been convicted of an offense listed in Section 37.007(a);

(3) has been convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure; or

(4) has a substantial interest in a management company.

(b) For purposes of Subsection (a)(4), a person has a substantial interest in a management company if the person:

(1) has a controlling interest in the company;

(2) owns more than 10 percent of the voting interest in the company;

(3) owns more than \$25,000 of the fair market value of the company;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the company;

(5) is a member of the board of directors or other governing body of the company;

(6) serves as an elected officer of the company; or

(7) is an employee of the company.

Added by Acts 1999, 76th Leg., ch. 1335, Sec. 3, eff. June 19, 1999.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 17, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [1008](#), Sec. 2.04, eff. September 1, 2005.

Sec. 12.121. RESPONSIBILITY FOR OPEN-ENROLLMENT CHARTER SCHOOL. The governing body of an open-enrollment charter school is responsible for the management, operation, and accountability of

the school, regardless of whether the governing body delegates the governing body's powers and duties to another person.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.122. LIABILITY OF MEMBERS OF GOVERNING BODY OF OPEN-ENROLLMENT CHARTER SCHOOL. (a) Notwithstanding the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or other law, on request of the commissioner, the attorney general may bring suit against a member of the governing body of an open-enrollment charter school for breach of a fiduciary duty by the member, including misapplication of public funds.

(b) The attorney general may bring suit under Subsection (a) for:

- (1) damages;
- (2) injunctive relief; or
- (3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.123. TRAINING FOR MEMBERS OF GOVERNING BODY OF SCHOOL AND OFFICERS. (a) The commissioner shall adopt rules prescribing training for:

- (1) members of governing bodies of open-enrollment charter schools; and
- (2) officers of open-enrollment charter schools.

(b) The rules adopted under Subsection (a) may:

- (1) specify the minimum amount and frequency of the training;
- (2) require the training to be provided by:
 - (A) the agency and regional education service centers;
 - (B) entities other than the agency and service centers, subject to approval by the commissioner; or

(C) both the agency, service centers, and other entities; and

(3) require training to be provided concerning:

(A) basic school law, including school finance;

(B) health and safety issues;

(C) accountability requirements related to the use of public funds; and

(D) other requirements relating to accountability to the public, such as open meetings requirements under Chapter 551, Government Code, and public information requirements under Chapter 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.124. LOANS FROM MANAGEMENT COMPANY PROHIBITED. (a) The charter holder or the governing body of an open-enrollment charter school may not accept a loan from a management company that has a contract to provide management services to:

(1) that charter school; or

(2) another charter school that operates under a charter granted to the charter holder.

(b) A charter holder or the governing body of an open-enrollment charter school that accepts a loan from a management company may not enter into a contract with that management company to provide management services to the school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.125. CONTRACT FOR MANAGEMENT SERVICES. Any contract, including a contract renewal, between an open-enrollment charter school and a management company proposing to provide management services to the school must require the management company to maintain all records related to the management services separately from any other records of the management company.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.126. CERTAIN MANAGEMENT SERVICES CONTRACTS PROHIBITED. The commissioner may prohibit, deny renewal of, suspend, or revoke a contract between an open-enrollment charter school and a management company providing management services to the school if the commissioner determines that the management company has:

(1) failed to provide educational or related services in compliance with the company's contractual or other legal obligation to any open-enrollment charter school in this state or to any other similar school in another state;

(2) failed to protect the health, safety, or welfare of the students enrolled at an open-enrollment charter school served by the company;

(3) violated this subchapter or a rule adopted under this subchapter; or

(4) otherwise failed to comply with any contractual or other legal obligation to provide services to the school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.127. LIABILITY OF MANAGEMENT COMPANY. (a) A management company that provides management services to an open-enrollment charter school is liable for damages incurred by the state as a result of the failure of the company to comply with its contractual or other legal obligation to provide services to the school.

(b) On request of the commissioner, the attorney general may bring suit on behalf of the state against a management company liable under Subsection (a) for:

(1) damages, including any state funding received by the company and any consequential damages suffered by the state;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies and does not affect:

(1) the liability of a management company to the

charter holder; or

(2) the liability of a charter holder, a member of the governing body of a charter holder, or a member of the governing body of an open-enrollment charter school to the state.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.128. PROPERTY PURCHASED OR LEASED WITH STATE FUNDS.

(a) Property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;

(2) is held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(b) If at least 50 percent of the funds used by a charter holder to purchase real property are funds received under Section 12.106 before September 1, 2001, the property is considered to be public property to the extent it was purchased with those funds.

(c) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of an open-enrollment charter school that ceases to operate; and

(2) supervise the disposition of the property in accordance with law.

(d) The commissioner may adopt rules necessary to administer this section.

(e) This section does not affect a security interest in or lien on property established by a creditor in compliance with law if the security interest or lien arose in connection with the sale or lease of the property to the charter holder.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.129. MINIMUM TEACHER QUALIFICATIONS. A person employed as a teacher by an open-enrollment charter school must

hold a high school diploma.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.130. NOTICE OF TEACHER QUALIFICATIONS. Each open-enrollment charter school shall provide to the parent or guardian of each student enrolled in the school written notice of the qualifications of each teacher employed by the school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 18, eff. Sept. 1, 2001.

Sec. 12.131. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The governing body of an open-enrollment charter school shall adopt a code of conduct for its district or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences. The code of conduct shall also outline the school's due process procedures with respect to expulsion. Notwithstanding any other provision of law, a final decision of the governing body of an open-enrollment charter school with respect to actions taken under the code of conduct may not be appealed.

(b) An open-enrollment charter school may not elect to expel a student for a reason that is not authorized by Section 37.007 or specified in the school's code of conduct as conduct that may result in expulsion.

(c) Notwithstanding any other provision, Section 37.002 and its provisions, wherever referenced, are not applicable to an open-enrollment charter school unless the governing body of the school so determines.

Added by Acts 2003, 78th Leg., ch. 1055, Sec. 1, eff. June 20, 2003.

Sec. 12.132. USE OF MUNICIPAL FUNDS FOR CHARTER SCHOOL LAND OR FACILITIES. A municipality to which a charter is granted under this subchapter may borrow funds, issue obligations, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or facilities and related improvements

for its open-enrollment charter school within the city limits of the municipality in the same manner the municipality is authorized to borrow funds, issue obligations, or otherwise spend its funds in connection with any other public works project.

Added by Acts 2003, 78th Leg., ch. 193, Sec. 2, eff. June 2, 2003.

Renumbered from Education Code, Section 12.131 by Acts 2005, 79th Leg., Ch. [728](#), Sec. 23.001(11), eff. September 1, 2005.

Sec. 12.133. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

(a) This section applies to a charter holder that on January 1, 2006, operated an open-enrollment charter school.

(b) Each school year, using state funds received by the charter holder for that purpose under Subsection (d), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to \$2,500.

(b-1) Using state funds received by the charter holder for that purpose under Subsection (d-1), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in average compensation increases as follows:

(1) for full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district, an average increase at least equal to \$500; and

(2) for part-time employees, an average increase at least equal to \$250.

(c) Each school year, using state funds received by the charter holder for that purpose under Subsection (e), a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to \$2,000.

(d) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the charter holder at an open-enrollment charter school.

(d-1) In addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the sum of:

(1) the product of \$500 multiplied by the number of full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district; and

(2) the product of \$250 multiplied by the number of part-time employees.

(e) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the

product of \$2,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the charter holder at an open-enrollment charter school.

(f) A payment under this section is in addition to wages the charter holder would otherwise pay the employee during the school year.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. [5](#), Sec. 4.02, eff. May 31, 2006.

Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES OF BOND GUARANTEE. (a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.

(b) A charter district may apply for bonds issued under Chapter 53 for the open-enrollment charter school to be guaranteed by the permanent school fund as provided by Chapter 45.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. [4](#), Sec. 59.01, eff. September 28, 2011.

SUBCHAPTER E. COLLEGE OR UNIVERSITY OR JUNIOR COLLEGE
CHARTER SCHOOL

Sec. 12.151. DEFINITIONS. In this subchapter, "public junior college" and "public senior college or university" have the meanings assigned by Section 61.003.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [631](#), Sec. 2, eff. June 19, 2009.

Sec. 12.152. AUTHORIZATION. (a) In accordance with this subchapter and Subchapter D, the State Board of Education 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.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [631](#), Sec. 2, eff. June 19, 2009.

Sec. 12.153. RULES. The commissioner may adopt rules to implement this subchapter.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Sec. 12.154. CONTENT. (a) Notwithstanding Section 12.110(d), the State Board of Education 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 State Board of Education:

(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 State Board of Education 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 State Board of Education:

(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.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [631](#), Sec. 2, eff. June 19, 2009.

Sec. 12.155. SCHOOL NAME. The name of a college or university charter school or junior college charter school must include the name of the public senior college or university or public junior college, as applicable, operating the school.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [631](#), Sec. 2, eff. June 19, 2009.

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were granted a charter under that subchapter.

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 19, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [631](#), Sec. 3, eff. June 19, 2009.