

Basic School Law II

2:45 p.m. – 3:45 a.m.

The Board of Trustees as Body Corporate

**Presenter:
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*11th Annual
Texas Charter
School
Conference*

Authority & Responsibilities of Open-Enrollment Charter Schools



General Charter Schools Responsibilities

- **Fiduciary Accountability**
- **Fiscal Accountability**
- **Academic Accountability**
- **Charter Accountability**
 - Grant of a charter (§12.113)
 - Revision of a charter (§12.114)
 - Renewal of a charter
 - Adverse Action Against Charter (§12.115-§12.1162)
- **Penal Accountability**
 - Misuse of public funds (theft, bribery, fraud, etc.)
 - Improper handling of government records
 - Various others

Authority of Open-Enrollment Charter Schools

- **Schools are part of the public school system.**
Tex. Educ. Code §12.105
- **Governing bodies are subject to OMA and PIA.**
Tex. Educ. Code §12.1051(a)
- **School records are government records for all purposes under state law.**
Tex. Educ. Code §12.1052
- **The School, its officers, employees and volunteers are immune from liability to the same extent as traditional school districts, officers, employees and volunteers.**
Tex. Educ. Code §12.1056

Authority of Open-Enrollment Charter Schools (Cont'd)

- **School employees who qualify for TRS must be covered.**

Tex. Educ. Code §12.1057

- **Schools are entitled to state funding**

Tex. Educ. Code §12.106 & Tex. Educ. Code 12.107

- **Funds are considered public funds for all purposes.**
- **Funds are held in trust by the charter holder for the benefit of the students enrolled.**
- **Funds may be used only as permitted under Education Code section 45.105(c).**
- **Funds must be deposited into a bank with which the board has entered a depository contract.**

Authority of Open-Enrollment Charter Schools (Cont'd)

- Schools may not charge tuition to an eligible student who applies. **Tex. Educ. Code §12.108**
- Schools may charge fees to students as permitted by Education Code section 11.158. **Tex. Educ. Code §12.108**
- Schools must provide student transportation to the same extent that traditional school districts are required to provide transportation. **Tex. Educ. Code §12.109**
- Schools are entitled to the services from regional education service centers. Open-enrollment charter schools must be represented on the board of directors. **Tex. Educ. Code §12.104(c)**

Delegation of Duties

- **Absent approval from the Commissioner, the governing board of a charter holder may not delegate final authority:**
 - **to hear or decide employee grievances, citizen complaints or parental concerns**
 - **to adopt or amend the budget of the school**
 - **to authorize the expenditure or obligation of state funds or the use of public property**
 - **to approve audit reports**
 - **to direct the disposition or safekeeping of public records**
 - **to adopt policies governing school operations,**
 - **and MAY NOT Delegate initial or final authority**
to select, employee, direct, evaluate, renew, nonreview, terminate or set compensation for a chief executive officer

Charter Amendments

- **“Substantive amendments” require that an amendment request be filed with TEA before implementing the change.**
- **Substantive amendment – a change to the charter concerning grade levels, enrollment, geographic boundaries, approved sites, charter holder or charter school names, governance, articles of incorporation, bylaws, management company, admissions policy, or educational program.**
- **A charter amendment request must be made in or attached to a written resolution adopted by the charter holder board.**

State and Federal Laws Affecting Charter Schools



Texas Education Code

- **Chapter 12 – Underlying authority for the creation of charter schools**
 - Home-rule school district charters – Subchapter B
 - A campus or campus program charter – Subchapter C
 - Open-enrollment charter – Subchapter D
- **Specific additional chapters of Education Code also may be applicable to charter schools depending on the type or charter that is granted.**

Texas Administrative Code (Title 19 TAC)

**Rules promulgated by the Texas
Education Agency or by the State
Board of Education.**

- **Chapter 100**
- **Other designated chapters**

Texas Government Code (Gov't. Code)

- **Open Meetings** (Chapter 551)
- **Open Records/Public Information Act**
(Chapter 552)
- **Ethics/Nepotism (Chapter 573)**
(Tex. Educ. Code §12.1055);(19 TAC §100.1111 – 11116)
- **Contracting** (Chapter 2232)
- **Teacher Retirement/Benefits**
(Chapters 821 – 830)
- **Investment of Public Funds** (Chapter 2256)

Texas Tax Code

- **Property owned by charitable organizations is exempt from taxation. (Tex. Tax Code §11.18)**
- **Traditional public schools derive revenues from ad valorem taxation**
 - **Home-rule school district charters, campus charters and program charters are funded by local property tax revenue**
 - **Open-enrollment charters have no authority to levy taxes**

Contract Law

Under Texas Education Code Section 12.1053, open-enrollment charters must comply with the following laws unless the school's approved charter provides otherwise:

- **Tex. Govt. Code Chapter 2252 (Subchapter D)**
- **Tex. Local Govt. Code Chapter 271 (Subchapter B)**
- **Tex. Govt. Code Chapter 2254 (Subchapter A)**
- **Tex. Govt. Code Sections 2256.009-2256.016**

Purchasing and Contracting Tex. Gov't. Code Chapter 2252, Subchapter D

- An open-enrollment charter school may not purchase or sell real property held in trust until the trustee submits a copy of the trust agreement identifying the true owner.
- If the school fails to comply with this provision, the real property conveyance is void.
- A trust agreement submitted to the school under this provision is confidential under the PIA.

Purchasing and Contracting Tex. Gov't. Code Chapter 2254 Professional Services Procurement Act

- **An open-enrollment charter school may not award a contract for professional services on the basis of competitive bids.**
- **Providers for professional services must be selected on the basis of:**
 - **Demonstrated competence**
 - **Demonstrated qualifications**
 - **A fair and reasonable price**
- **Professional services include:**
 - **Accounting**
 - **Architecture**
 - **Landscape architecture**
 - **Land surveying**
 - **Medicine**
 - **Optometry**
 - **Professional engineering**
 - **Real estate appraising**
 - **Professional nursing**

Purchasing and Contracting

Tex. Gov't. Code Sections 2256.009–2256.016

Public Funds Investment Act

- **Authorized investments for open-enrollment charter schools include:**
 - **Obligations of or guaranteed by the state or federal government**
 - **Certificates of deposits or share certificates**
 - **Fully collateralized repurchase agreements**
 - **Securities lending program**
 - **Banker's acceptance**
 - **Mutual funds**
 - **Guaranteed investment contract**
 - **Investment pool**

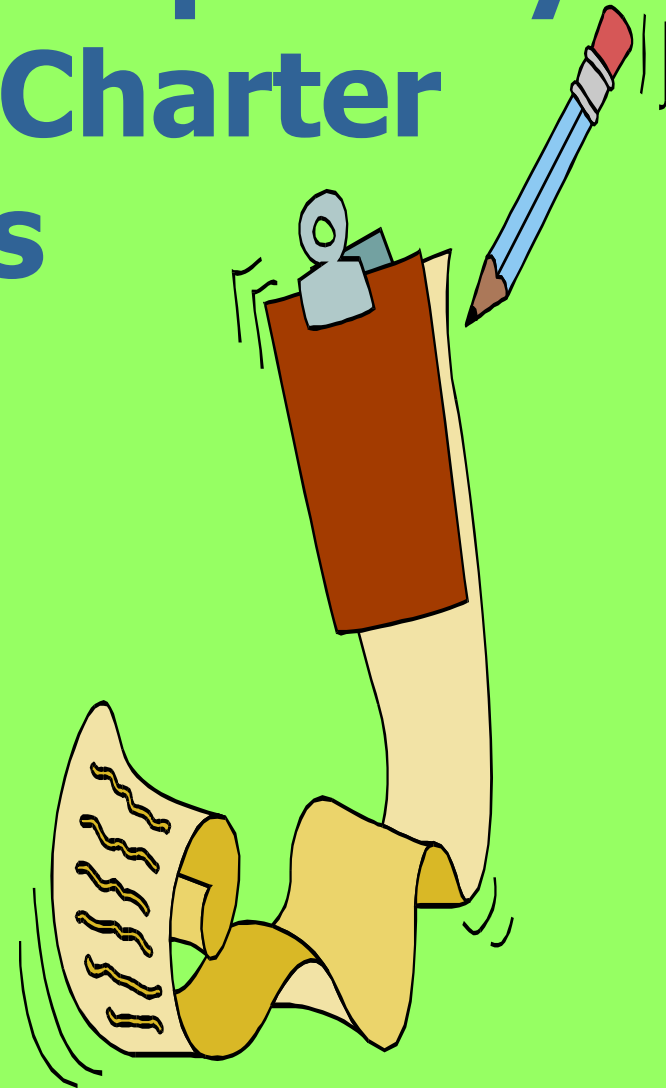
Corporation Law

- **Non-Profit Corporation Law**
- **Officer/Director Liability**
- **State Taxation**
- **Local Taxation**

Federal Laws

- **Family Educational Rights and Privacy Act (Student Records)**
- **Individuals with Disabilities in Education Act (Special Education)**
- **Fair Labor Standards Act (Minimum Wage, Overtime Pay, Recordkeeping)**
- **Family Medical Leave Act (Unpaid Employee Leave)**
- **Antidiscrimination Provisions**
 - **Title VII of the Civil Rights Act of 1964**
 - **Age Discrimination in Employment Act**
 - **Americans with Disabilities Act**
 - **Uniformed Services Employment and Reemployment Rights Act**
 - **Bill of Rights**
 - **Equal Protection**

Survey of Texas Education Code Provisions Expressly Applicable to Charter Schools



TEC, § 12.104

Any provision of Title II of the Education Code establishing a criminal offense:

- ✓ **Unlawful inquiries into religious affiliations of employees or prospective employees, §22.901**
- ✓ **Attempting to defraud the State on any forms submitted under Chapter 42, §44.051**
- ✓ **Voting to approve any expenditure in excess of the amount appropriated or adopted in the budget, §44.052**
- ✓ **Selling, marketing or distributing dietary supplements that contain performance enhancing components, §38.011**

Criminal Offenses (continued)

- ✓ **Violations of any penal provision in Chapter 37, Subchapter E §37.121-37.126**
- ✓ **Violations of the state free textbook law, §31.153**
- ✓ **Receiving any commission or rebate on any textbooks used in the school or accepting a gift, favor, or service that might reasonably tend to influence textbook selection, §31.152**

A prohibition, restriction, or requirement,
Title II of the Education Code or any rule,
relating to:

- **The Public Education Information Management System (PEIMS)**
- **Criminal history records under Subchapter C, Chapter 22 (NEW!)**

- **Reading instruments and accelerated reading instruction programs under Section 28.006**
- **Diagnosis of student reading**
 - **development and comprehension**
- **Notification to parents of students**
 - **determined to be at risk for dyslexia or other reading difficulties**
- **Development of accelerated reading programs to address such problems**

- **Satisfactory performance on assessment instruments and accelerated instruction under Section 28.0211**
 - **No social promotion**
 - **Notification to parents**
 - **Transportation for accelerated programs conducted outside of school hours**

- **High school graduation under Section 28.025**

- **Graduation curriculum requirements set forth by the Legislature and the SBOE.**

- **High Schools must offer three types of diplomas:**

- **advanced**
- **recommended**
- **minimum**

- **Special education programs under Subchapter A, Chapter 29**
- **Bilingual education under Subchapter B, Chapter 29**
- **Prekindergarten programs under Subchapter E, Chapter 29**

- **Extracurricular activities under Section 33.081; Charter Schools are subject to:**
 - **UIL rules,**
 - **no-pass/no-play requirements,**
 - **SBOE rules limiting practices during the school day and school week.**

- **Discipline management practices or behavior management techniques under Section 37.0021**

- **Restraint**
- **Seclusion**
- **Time Out**

- **Health and Safety under Chapter 38**
 - **Immunization requirements,**
 - **Tobacco and alcohol free zones,**
 - **Reporting child abuse,**
 - **Administration of medications to students,**
 - **Parental access to medical records**
- **Available campus AED at each campus (NEW!)**

- **Public school accountability under Subchapters B, C, D, and G, Chapter 39**
 - **TAKS testing (subchapter B)**
 - **Performance Indicators and Reports (subchapter C)**
 - **Accreditation Status (subchapter D)**
 - **Accreditation Sanctions (subchapter G)**

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