

# Texas Administrative Code

[TITLE 19](#)

## EDUCATION

[PART 2](#)

## TEXAS EDUCATION AGENCY

[CHAPTER 100](#)

## CHARTERS

[SUBCHAPTER AA](#)COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT  
CHARTER SCHOOLS[DIVISION 2](#)

## COMMISSIONER ACTION AND INTERVENTION

## RULE §100.1021

## Revocation and Modification of Governance of an Open-Enrollment Charter

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(a) Mandatory revocation or reconstitution. Except as provided by subsection (b) of this section, the commissioner of education shall either revoke the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder 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;
- (4) failed to comply with Texas Education Code, Chapter 12, Subchapter D, or another applicable law or rule;
- (5) failed to satisfy the performance framework standards as set forth in the Charter School Performance Framework Manual established under Texas Education Code (TEC), §12.1181; or
- (6) is imminently insolvent as determined by the commissioner in accordance with §100.1022(h) of this title (relating to Standards to Revoke and Modify the Governance of an Open-Enrollment Charter).

(b) **Mandatory revocation.**

(1) **Use of criteria.** Notwithstanding §100.1022 of this title, the commissioner shall revoke the charter of an open-enrollment charter school if for the three preceding school years:

(A) the charter holder has been assigned an "academically unacceptable" performance rating under TEC, Chapter 39, Subchapter C;

(B) the charter holder has been assigned a financial accountability performance rating under TEC, Chapter 39, Subchapter D, indicating financial performance lower than satisfactory; or

(C) the charter holder has been assigned any combination of an academic performance rating of "academically unacceptable" under TEC, Chapter 39, Subchapter C, and/or a financial performance rating lower than satisfactory under TEC, Chapter 39, Subchapter D.

(2) Use of determinations and data. The following provisions apply to a mandatory revocation under this section.

(A) If a rating is not issued during one or more of the preceding school years, then the term "three preceding school years" means the most recent three school years during which a rating was issued.

(B) For purposes of revocation under paragraph (1)(A) of this subsection, the term "unacceptable performance" means an academic accountability rating that is unacceptable as defined in §100.1001(26) of this title (relating to Definitions).

(C) For purposes of revocation under paragraph (1)(B) of this subsection, the term "financial performance lower than satisfactory" means a financial accountability rating that is lower than satisfactory as defined in §100.1001(27) of this title.

(D) For purposes of revocation under paragraph (1)(A) of this subsection, the initial three school years for which performance ratings under TEC, Chapter 39, Subchapter C, shall be considered are the 2009-2010, 2010-2011, and 2012-2013 school years.

(E) For purposes of revocation under paragraph (1)(B) of this subsection, the initial three school years for which financial accountability performance ratings under TEC, Chapter 39, Subchapter D, shall be considered are the 2010-2011, 2011-2012, and 2012-2013 school years.

(F) The provisions in subparagraphs (D) and (E) of this paragraph and this subparagraph expire on September 1, 2016.

(c) Notice and content of decision to revoke or modify. The commissioner shall provide written notice to the charter holder of the commissioner's decision to revoke or modify the governance of a charter. The notice shall include an explanation of the factual and legal basis for the decision, a description of the legally relevant factors considered, an explanation of why the result reached is reasonable, and a description of the procedures to seek a review of the decision.

(d) State Office of Administrative Hearing (SOAH) review of revocation. A decision by the commissioner to revoke the charter of an open-enrollment charter school under TEC, §12.115, is subject to review by the SOAH under an arbitrary and capricious or clearly erroneous standard as described by Chapter 157, Subchapter EE, Division 4, of this title (relating to State Office of Administrative Hearings Arbitrary and Capricious or Clearly Erroneous Review).

(e) Reconstitution of governing body of charter holder and/or creation of a new 501(c)(3) organization. With the exception of revocation actions taken under subsection (b) of this section, the commissioner may choose to reconstitute the governing board of a charter holder and/or require the creation of a new 501(c)(3) organization if it is determined that the charter holder committed any violation under subsection (a) of this section.

(1) To reconstitute the board, the commissioner shall appoint members to the governing body and shall consider local input from community members and parents as well as appropriate credentials and expertise for membership, including financial expertise, residency, and educational background. The commissioner may reappoint current members of the governing body.

(2) The commissioner may also require the charter holder board to create a new single purpose organization that is exempt from taxation under 501(c)(3), Internal Revenue Code of 1986, if the governing body of a charter holder subject to reconstitution governs enterprises other than the open-enrollment charter school. The commissioner shall appoint the members of the governing body of the newly created organization.

(3) The commissioner may require the charter holder to surrender the charter to the commissioner for

transfer to the newly created organization.

(4) A decision by the commissioner to reconstitute the governing body of the charter of an open-enrollment charter school or to create a new 501(c)(3) organization under Internal Revenue Code of 1986 under TEC, §12.115, is subject to a formal review as described by Chapter 157, Subchapter EE, Division 2, of this title (relating to Formal Review).

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**Source Note:** The provisions of this §100.1021 adopted to be effective September 18, 2014, 39 TexReg 7295

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