
Note: The following provisions address requirements for a charter partnership to receive the benefits of Education Code 11.174 and 48.252. For the general campus charter requirements applicable to partnership charters, see EL(LEGAL).

**Contract Regarding
Operation of District
Campus**

The board may contract with a partner to operate a campus. The partner may be an open-enrollment charter school or, on approval by the commissioner of education, an entity granted a charter by the district under Chapter 12, Subchapter C that is eligible to be awarded a charter under Education Code 12.101(a). The campus must be granted a charter under Chapter 12, Subchapter C. *Education Code 11.174(a), (d)*

A campus operated under a contract qualifies for an exemption from intervention as provided below and qualifies for funding as provided by Education Code 48.252 [see Funding for Certain Students, below].

The board may enter into a contract only if:

1. The charter of the open-enrollment charter school has not been previously revoked;
2. For the three school years preceding the school year of the proposed operation of the campus, the open-enrollment charter school has received:
 - a. An overall performance rating of acceptable or higher; and
 - b. A financial accountability rating indicating financial performance of satisfactory or higher; or
3. The entity considered for a district-authorized charter has not previously operated an open-enrollment charter school in which the charter expired or was revoked or surrendered.

Education Code 11.174(a)–(b)

Intervention Pause

For a campus under a contract that received an overall performance rating of unacceptable under Education Code Chapter 39, Subchapter C for the school year before operation under the contract began, the commissioner may not impose a sanction or take action against the campus under Education Code 39A for failure to satisfy academic performance standards during the first two school years of operation of a campus under the contract. [See AIA, AIC]

A campus is eligible for an exemption from applicable sanctions or actions if the campus and the partnership to operate the campus

meet all applicable requirements and the campus was operated under the partnership from the first to the last day of the school year of the campus. A school year must include, at a minimum, all minutes of operation and instructional time conducted on the campus, and all the days for which the instructional workforce of the campus that provides education services for students are employed.

The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years.

Education Code 11.174(f); 19 TAC 97.1077

Applicability

A campus shall not qualify for an intervention pause unless during the school year prior to the operation of a partnership charter the campus received an unacceptable performance rating, except as provided by 19 Administrative Code 97.1077(e) (campus that operates a partnership charter for less than a year). *19 TAC 97.1062(b)*

The Texas Education Agency (TEA) will not withdraw or postpone issuing any orders or determinations required or authorized that arise due to the performance rating from the school year prior to the school year in which the campus qualifies for the intervention pause, and any order or determination will resume upon expiration of the intervention pause.

Any intervention or sanction not covered by the intervention pause shall continue.

If a campus ceases to qualify for the intervention pause at any point during a school year, TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

TEA will not pursue interventions under Education Code 39A.101–39A.109 and 39A.111 for a campus eligible for an intervention pause if one of the school years eligible for an intervention pause results in an acceptable or higher overall rating.

If after the expiration of the intervention pause a campus receives an unacceptable rating, TEA will apply the requisite interventions that apply to the consecutive year that corresponds to the campus's actual number of consecutive years of unacceptable performance minus the number of intervention pause years and, if applicable, accounting for the modification under 19 Administrative Code 97.1062(c).

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If a campus qualifies for an intervention pause for a school year after the conclusion of the school year in which an order is authorized under Education Code 39A.111, the intervention under Education Code 39A.111 will not pause.

A campus that receives an intervention pause will still receive an accountability rating for that school year.

Performance of students at a campus that receives an intervention pause shall be considered in the accountability rating of the district and the application of an intervention pause to a campus shall not pause or alter any intervention applicable to the district or other campuses.

Appeal

A determination under this section that arises from the application of Education Code 28.020 is final and may not be appealed.

Partial Year

A partial school year that results in an intervention pause under 19 Administrative Code 97.1077(b) or (c) constitutes one full year of a pause. This provision expires on September 1, 2023.

19 TAC 97.1062(d), (f)-(n)

Additional Exemption

A campus that receives an exemption from a sanction or other action may receive another exemption while operating under a subsequent contract only if the campus receives approval for the exemption from the commissioner. *Education Code 11.174(g)*

Funding for Certain Students

A district that enters into a contract is entitled to receive for each student in average daily attendance at the campus an amount equivalent to the difference, if the difference results in increased funding, between the amount described by Education Code 12.106 and the amount to which the district would be entitled under this Education Code Chapter 48. This section applies only to a district that does not appoint a majority of the governing body of the charter holder. *Education Code 48.252*

Consultation with Campus Personnel

Before entering into a contract, the district must consult with campus personnel regarding the provisions to be included in the contract between the district and the open-enrollment charter school. All rights and protections afforded by current employment contracts or agreements may not be affected by the contract entered into between a district and an open-enrollment charter school. *Education Code 11.174(c)*

Notice to Commissioner

A district proposing to enter into a contract with a campus or program charter shall notify the commissioner of the district's intent to enter into the contract according to commissioner rules. The commissioner shall notify the district whether the proposed contract is

approved not later than the 60th day after the date the commissioner receives notice of the proposed contract and all information required by the commissioner to be submitted. If the commissioner fails to notify the district that the proposed contract has been approved or denied within the period prescribed by this subsection, the proposed contract is considered approved. *Education Code 11.174(k)*

Enrollment Eligibility The contract must include a provision addressing student eligibility for enrollment.

The contract must provide that any student residing in the attendance zone of the campus as the attendance zone existed before operation of the campus under the contract shall be admitted for enrollment at the campus. The contract must establish enrollment preference for students who do not reside in the attendance zone as follows:

1. Other students residing in the school district in which the campus is located; and
2. Students who reside outside the school district.

Education Code 11.174(h), (i)

Operating Partner An operating partner means a state authorized open-enrollment charter school or an eligible entity as defined by Education Code 12.101(a). *19 TAC 97.1075(b)(1)*

*Conferred
Authority*

The district must confer, at a minimum, the following enhanced authorities to the operating partner:

Staffing
Authorities

1. The operating partner must have authority to employ and manage the campus chief operating officer, including the initial and final non-delegable authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.
2. The operating partner must have authority over the employees of the operating partner, including initial and final non-delegable authority for the operating partner to employ and/or manage all of the operating partner's own administrators, educators, contractors, or other staff. Such authority includes the authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment and establish any other terms of employment.
3. The operating partner must have authority over the assignment of all district employees to the campus, including initial

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and final authority to approve the assignment of all district employees or contractors to the campus, as well as initial and final authority to supervise, manage, and rescind the assignment of any district employee or district contractor from the campus.

4. The operating partner must directly manage the instructional staff described above who provide services to at least a majority of the students.

19 TAC 97.1075(c)(1)

Other Authorities

The operating partner must have:

1. Initial and final authority to approve all curriculum decisions beyond the minimum requirements under regulation, lesson plans, instructional strategies, and instructional materials as defined by law;
2. Initial and final authority over educational programs for specific, identified student groups, such as gifted and talented students, students of limited English proficiency, students at risk of dropping out of school, special education students, and other statutorily defined populations;
3. Initial and final authority to set the school calendar and daily schedule, which may differ from those in other district campuses;
4. Initial and final authority to approve all assessments that are not required by the state of Texas; and
5. Initial and final authority to adopt and implement the campus budget. The governing body of the operating partner shall approve the campus budget in a meeting held under the Texas Open Meetings Act [see BE]. Notwithstanding such budget authority, the operating partner's expenditures must comply with the applicable restrictions on the use of state and federal funds.

19 TAC 97.1075(c)(2)

Performance
Contract

To contract to partner to operate under Education Code 11.174, the district's board must grant the operating partner a campus charter under Education Code Chapter 12, Subchapter C. The charter must include performance expectations memorialized in a performance contract as required by law. The performance contract must include, at a minimum, the following:

1. A description of enhanced authorities as outlined above;

2. Academic performance expectations and goals, which shall include;
 - a. For campuses that are paired for accountability purposes, specific annual targets for improved student academic performance;
 - b. For campuses issued an accountability rating under Education Code 39.054, a specific annual target for the overall campus academic rating and a specific target for student growth based on the School Progress Domain; and
 - c. Specific consequences in the event that the operating party does not meet the annual academic performance expectations and goals described in the performance contract;
3. Annual financial performance expectations and goals, which shall include:
 - a. The completion of an annual financial report of the operating partner meeting the expectation outlined in 19 Administrative Code 109.23;
 - b. Receipt of an unqualified audit opinion, in connection with the annual financial report required above; and
 - c. Specific consequences in the event that the operating partner does not meet the annual financial performance expectations and goals described in the performance contract;
4. A description of the campus enrollment and expulsion policies that must comply with Education Code 11.174(i);
5. A contract term of up to ten years as required by Education Code 12.0531, with a provision specifying a requirement for a public hearing at least 30 days prior to any district action to terminate the contract for an operating partner that successfully met the performance expectations and goals described in the performance contract;
6. A contract term stating that the campus is exempt from laws and rules to the fullest extent allowed by the Education Code, Chapter 12, Subchapter C, and is exempt from all district policies except for laws, rules, and policies that are specifically identified as applicable to the campus in the performance contract;

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7. Service-level agreements that describe and allocate shared resources and services the district provides to the operating partner, which may include:
 - a. Facility use and related matters;
 - b. Transportation;
 - c. Specific education program services, such as providing special education services; and
 - d. Access to other resources and services as agreed between the parties;
8. A per-pupil allocation from the district to the operator that provides a student level allocation of local, state, and federal funds received by the district;
9. A description of the educational plan for the campus;
10. An assurance that the district has consulted with campus personnel regarding the provisions included in the performance contract and that the rights and protections afforded by current employment contracts or agreements shall not be affected by this contract as required by Education Code 11.174(c); and
11. A description of the consequences in the instance that either the district or the operating partner breaches the contract. The contract may not be contingent on any rating issued by TEA to the campus prior to the operation of the campus by the operating partner.

19 TAC 97.1075(d); Education Code 12.0531

TEA Monitoring

The commissioner shall continue to evaluate and assign overall and domain performance ratings under Education Code 39.054 to the campus. In order to qualify for ongoing benefits subsequent to initial eligibility validation or approval, the eligible partnership campus must comply with all information requests or monitoring visits deemed necessary by the TEA staff to monitor the ongoing eligibility of the partnership. *19 TAC 97.1075(g)*

Entity Granted a Charter by the District

Title 19 Administrative Code 97.1079 applies only to districts that intend to contract to partner to operate the district campus with, on approval by the commissioner, an entity granted a charter by the district under Education Code Subchapter C, Chapter 12.

Definitions

Eligible Entity

“Eligible entity” means an institution of higher education, a non-profit organization, or a governmental entity. For applicants seeking approval of an institution of higher education, which has been

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granted a charter in accordance with Education Code Chapter 12, Subchapter E, the commissioner will treat the institution of higher education as an open-enrollment charter.

Campus

“Campus” means an organization unit operated by a district that is eligible to receive a campus performance rating in the state accountability system, including a rating of Not Rated or Not Rated: Data Integrity Issues. This definition includes a charter school campus.

Applicant

“Applicant” means a district seeking approval to receive benefits under Education Code 11.174.

*Proposed
Operating
Partner*

“Proposed operating partner” means an eligible entity seeking approval in coordination with a district to contract to partner to operate a campus.

19 TAC 97.1079, .1051(3); Education Code 12.101(a)

Eligibility Approval
Process

TEA shall review eligibility approval requests. If TEA determines that an eligibility approval request does not meet the eligibility criteria in Education Code 11.174, TEA shall notify the applicant and allow ten business days for the applicant to submit any missing or explanatory documents.

If, after giving the applicant opportunity to provide supplementary documents, TEA determines that the eligibility approval request remains incomplete and/or the eligibility requirements have not been met, the eligibility approval request will be denied. If the documents are not timely submitted, TEA shall remove the eligibility approval request without further processing.

19 TAC 97.1079(d)

Review Panel

Applicants with complete eligibility approval requests shall be reviewed by an external eligibility approval request review panel selected by the commissioner, in accordance with the procedures and criteria established in the eligibility approval request form. The recommendation, ranking, or other type of endorsement by a member or members of the review pane is not binding on the commissioner. *19 TAC 97.1079(d)(4)–(5)*

*Public
Information*

All parts of the district’s eligibility approval request are releasable under the Texas Public Information Act [see GBA] and will be posted to the TEA website. Information described in 19 Administrative Code 97.1079(d)(6) must be excluded or redacted from an eligibility approval request. *19 TAC 97.1079(d)(6)*

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*Criteria for
Approval*

The commissioner shall consider the criteria described in 19 Administrative Code 97.1079(d)(8) when determining approval to contract to partner to operate a campus and receive benefits under Education Code 11.174(a)(2). *19 TAC 97.1079(d)*

Appeals

A decision made by TEA to deny, remove, or return an eligibility approval request is a final administrative decision of TEA and may not be appealed under Education Code 7.057. *19 TAC 97.1079(e)*