

Recommendations to the Texas Education Agency:

Generation 27 New Charter Application (2022)

August 31, 2021

The following 19 organizations endorse the recommendations for changes to the Generation 27 new charter application for 2022 that are included in this document. These recommendations reflect input from organizations, individuals, and school districts that were engaged in the application process. They propose common sense and practical changes that will increase the transparency of the process, respond to concerns about accountability, and ensure that more complete and comprehensive information is available to the Texas Education Agency (TEA), the State Board of Education (SBOE), and the public during the next generation charter application process.

The recommendations include both priorities for change that will increase accountability and transparency as well as operational recommendations that will ensure a more informed and efficient process.

Most importantly, we urge TEA to factor in the impact of each proposed charter on affected public school districts and their students and to make local impact the highest priority during the agency's approval process. The Commissioner is charged with ensuring that his decisions are in the best interest of students, but unlimited charter growth can result in fewer resources and options available to the majority of students who choose to remain enrolled in their locally governed public school district. Students should not be penalized for making the choice to attend their district public school.

The following 19 organizations appreciate your attention to these recommendations and welcome your questions.

- Association of Texas Professional Educators (ATPE)
- Coalition for Education Funding
- Every Texan
- Fast Growth School Coalition
- Go Public
- Intercultural Development Research Association (IDRA)
- Pastors for Texas Children
- Raise Your Hand Texas
- Texas American Federation of Teachers (Texas AFT)
- Texas Association of Community Schools (TACS)
- Texas Association of Mid-size Schools (TAMS)
- Texas Association of Rural Schools (TARS)
- Texas Association of School Administrators (TASA)

- Texas Association of School Boards (TASB)
- Texas Classroom Teachers Association (TCTA)
- Texas Elementary Principals and Supervisors Association (TEPSA)
- Texas School Alliance (TSA)
- Texas State Teachers Association (TSTA)
- Texas Urban Council of Superintendents (TUC)

PRIORITY RECOMMENDATIONS

1. FACTOR THE LOCAL IMPACT OF CHARTER EXPANSION INTO THE APPLICATION PROCESS.

The Commissioner should factor the local impact of charter expansion into his approval of new charter applications and respond to the Statements of Impact submitted by affected school districts. School districts provide invaluable information to TEA about the impact of a new charter on area students and correct inaccurate or incomplete information that is often included (or excluded) in charter applications.

For example, charter applicants often state there is a need for their new charter school primarily because students do not have access to a new “innovative” program that the charter intends to offer. However, that is often not the case, and the “innovative” charter program is actually offered by the affected school district. TEA would not have this accurate information unless the agency read the district’s Statement of Impact and factored it into the Commissioner’s approval process. TEA also does not currently receive information about the number of charter campuses that are already located in close proximity to the proposed new charter campus, so TEA cannot assess how the level of charter saturation will impact both existing charter and district schools.

TEA should identify and consider the fiscal impact of a new charter to determine how it will limit the resources available to students who remain in public school districts and how it will affect student outcomes. There is clear evidence that increased charter enrollment results in stranded costs for public school districts because they cannot cut costs dollar for dollar relative to the loss in revenue due to new charter enrollment. This reduction in revenue results in fewer academic programs, enrichment, and support services for students and can affect student performance, often for the most vulnerable children.

Finally, TEA should provide a summary and a complete copy of each Statement of Impact to all members of the State Board of Education in advance of the capacity interviews for charter applicants that meet the scoring criteria. SBOE members should be fully informed about how a proposed charter school will impact public school districts that they represent.

2. ASSESS THE NEED FOR A NEW CHARTER SCHOOL: REQUIRE APPLICANTS TO SPECIFY THE ZIP CODE WHERE CHARTER CAMPUSES WILL BE LOCATED.

Absent a more specific location or address for a new charter campus and a commitment to locate the new charter campus at that site, there is no guarantee that the need for a new charter school described in the application will be consistent with the site where the charter campus is eventually located. Charter applicants may justify the need for a new charter based upon one part of the proposed geographic boundary but may locate the campus at another site within the geographic boundary. A requirement to identify the zip code where a new charter will locate (unless a specific address is provided) will give TEA, the SBOE, and other stakeholders the information needed for a more accurate assessment of the charter application. Instead of providing a more specific location, many charter applicants provide a geographic location that includes multiple school districts or zip codes or an entire county or city area that covers hundreds of square miles and represents multiple neighborhoods with very different student needs.

3. CONSIDER THE IMPACT OF CHARTER EXPANSION ON THE STATE BUDGET.

The state would have saved \$882 million during the 2018-19 biennium if charter schools received the same per-student funding as the districts where charters have the highest enrollment, according to the Legislative Budget Board. It's critical that TEA determine and disclose the fiscal impact of new charter schools on the state budget because the additional cost from charter expansion impacts the resources available to all Texas students.

4. CONFIRM CLAIMS IN THE APPLICATION AND IDENTIFY ADDITIONAL CONCERNS.

Applicants often provide information in the application that may be incomplete, inaccurate, or misleading upon further review. In addition, research into audits, investigations, financial concerns or other deficiencies from the applicant's authorizing organization, state departments of education, federal agencies, and press reports often reveal critical information that should be available to TEA and SBOE members. This information is often not included in the application or is incomplete. TEA staff is diligent in its efforts to identify such information, but additional time should be allowed for staff to research and verify claims made in the application and to identify additional information relevant to the charter's performance and operation.

OPERATIONAL RECOMMENDATIONS

5. ENSURE THAT SCHOOL DISTRICTS AND THE PUBLIC HAVE ACCESS TO THE FULL CHARTER APPLICATION AT LEAST THREE WEEKS BEFORE THE DEADLINE TO SUBMIT THE STATEMENT OF IMPACT TO TEA.

School districts receive very limited information from charter applicants before the full charter application is available. While applications are 800+ page documents, school districts initially receive only the 3-page cover sheet to the application that includes only high-level information such as enrollment projections and the name of the charter applicant. School districts should have access to the full charter application and all supporting documents at least 15 business days prior to the deadline for submission of the Statement of Impact.

School districts would then be able to provide invaluable information to help decision-makers assess the impact of the proposed charter school on district students, provide an on-the-ground perspective about the claims made in the application, and clarify incorrect or incomplete information included in the application.

In 2021, TEA indicated that charter applications would be posted on the TEA website and available to the public on February 21, even though the Statement of Impact forms from school districts were due to TEA on February 15 - five business days before the full applications were even available. Although districts were instructed to contact charter applicants directly to receive the application in advance of that date, not every applicant readily complied with those requests, and the public did not have access at all. In the end, TEA did not post the charter applications on its website until April 12 which was over six weeks later than the original release date (note that one week delay was understandable because of severe weather in Texas).

6. PROVIDE MORE COMPREHENSIVE LOCAL DATA TO INFORM THE APPLICATION PROCESS.

a. Identify all nearby existing charter and district schools.

According to 19 TAC 100.1015 (b)(1)(B)(iv), charter applicants must provide “a brief analysis of the competition in the area(s) for the same students and the methods that the proposed school will use to recruit and retain students.”

To fulfill this requirement, charter applicants should list each existing charter and district campus that is within a five-mile radius of each of the proposed charter campuses and provide a map that shows these campus locations visually. Applicants should also provide current enrollment by grade for each campus, approved enrollment capacity, and the most recent TEA accountability rating. This information is critical so that state officials have ready access to this data and can factor in the existing enrollment capacity and student performance of existing charter and district campuses near the proposed new charter campus.

b. Provide a demographic comparison to students at nearby district campuses, not to district-level data.

Charter applicants should provide projected student demographic data for each proposed

charter campus and compare this data to the student demographics for existing district campuses that are within five miles of the proposed charter location and serve a similar grade level. Only a comparison to nearby campuses provides data that is relevant to actual need and demonstrates whether the proposed charter school has the capacity, resource allotment, and program design to address the needs of students who actually live in the charter's proposed geographic area. For example, one charter school projected enrollment of 25 percent English Learners, which was close to the district average. However, the percentage of English Learners at district campuses near the proposed charter site was up to 93 percent.

7. PROVIDE ADDITIONAL INFORMATION TO THE CMO ADDENDUM TO ENSURE MORE ACCOUNTABILITY AND TO CLARIFY RELATED PARTY AFFILIATIONS.

Add the following information to the CMO Addendum in the charter application:

a. Connections between the CMO and related parties, contractors, and vendors.

The CMO Addendum has several gaps in the information provided by charter applicants that is critical in order to fully disclose any connection between the CMO and any related party, vendor, or contractor. These connections could include CMO appointment of Board members of related party organizations; related parties that appoint CMO Board members; Board members that serve on the Board of both the CMO and a related party, vendor, or contractor and staff members that serve on either Board; and any legal relationship between the CMO and a related party, such as the CMO's position as the legal sole member or controlling entity of the related party organization.

b. Commitments and payments to related parties and affiliated organizations.

The application should disclose any commitments and payments that will be made between the charter organization and the CMO or any related party or affiliated organization, not only for the management fee (which is disclosed), but also for any services, goods, or additional fees. These could include but is not limited to curriculum materials, licensing fees, intellectual property; uniforms; facility leases or other real estate development fees; professional development; consulting; membership dues; use of trademark; public relations and marketing; strategic planning; or any fees that that must be paid by parents.

The application should include the name of each entity that will receive payment; the scope of work to be provided; a description of the relationship between the charter school and the entity; the annual payment to the entity for the start-up year and each

year up to year 5; and whether the cost is a percent of all revenue, a set fee for service, a per student cost, or another financial arrangement.

c. Performance of the CMO including closed schools, audits, investigations, deficiencies.

Additional information should be requested in the Performance Evaluation section of the CMO Addendum. This information should include:

- The names of any schools related to the CMO that have closed over the last five years;
- The names of any schools that have changed names over the last five years; and
- A summary of the findings of any external audit or investigation that has been conducted by a third party over the last five years including authorizing organizations, school districts, state departments of education, federal agencies; or press reports.

Working links to key documents related to this information should be provided or documents attached if links are unavailable.

d. Specific reporting relationships.

In order to fully understand the accountability of key staff positions, charter applicants should be required to provide a chart that includes each specific key staff position and who that position reports to, whether the CMO, the Superintendent, or the charter board, as well as which entity hires that position. Currently, it is difficult to understand which staff positions are hired by and accountable to the CMO vs. the Texas charter school (see Question 5 in the Legal Relationship section of CMO addendum). In addition, the chart should include the percentage of salary for each position that is paid by the CMO and the Texas charter school, and in what geographic location that position is based (where the CMO located or the Texas charter school).

e. Teacher attrition and turnover by campus and by district.

The CMO or a related party that operates charter campuses in other states should provide additional information about key metrics such as annual teacher attrition rates and teacher turnover that can be verified from reliable sources such as the state department of education. The data should not be solely from the CMO's internal reporting systems because it may provide incomplete or misleading data. For example, one 2021 charter applicant reported teacher attrition data from its internal reporting systems but only for "high quality" teachers that represented only a small percentage of all teachers and was much lower than the rate reported by the county education department in public documents.

f. Most recent IRS Form 990 (if the CMO is a nonprofit organization).

Although the IRS Form 990 is a public document, there is a lag time between the date an organization files its 990 and when it is available online. As a result, a recent Form 990 may not be available for review by the public unless it is posted by TEA along with other supporting documents that are part of the requirements in the charter application.

8. REQUIRE REPORTING OF ALL CONTRIBUTIONS AND EXPENDITURES DURING THE APPLICATION PROCESS.

Full accountability to the public requires that charter applicants report the source of all contributions to the sponsoring organization and the Charter Management Organization (CMO) that were used to support the Texas charter application during the entire charter application process and how the contributions were used. In addition, any third-party agreements such as those with donors or individuals or organizations that assist with the application preparation or process should be included as supporting documents to the application so that any contingencies associated with donations or the services provided are transparent to the public.

9. PROVIDE 15 BUSINESS-DAY ADVANCE NOTICE FOR THE REQUIRED PUBLIC MEETINGS AND CLARIFY THAT ATTENDANCE NUMBERS MUST BE INCLUDED IN THE APPLICATION.

The charter application should require applicants to provide a 15-business day advance notice for all public meetings(s) that are a requirement in the charter application. This timeframe is necessary so that if there is a lag time posting the notice on the TEA website, there is still adequate advance notice to the public. In addition, the charter applicant should make an audio or video recording of these public meetings available to the public. TEA has made a significant step forward by placing notice of these public meetings on the agency website, but the posting often gives insufficient advance notice. In addition, some applicants fail to provide the specific number of attendees at each public meeting as required in the application, and this should be highlighted in the charter application instructions.

10. REQUIRE THE CHARTER CFO TO BE AN EMPLOYEE OF AND ACCOUNTABLE TO THE TEXAS CHARTER SCHOOL, NOT THE CMO.

TEA should require that the CFO or key financial officer of the charter school should be an employee of the charter school, not the CMO, reporting to the Superintendent and/or the charter Board. This is critical to ensure that all financial reporting is conducted by an employee accountable to the Texas charter board and subject to public review. The CFO of

at least one out-of-state charter school that was approved by TEA is an employee of the CMO, which poses a serious conflict of interest and raises concerns about the independence of financial reports.

11. PROVIDE ADDITIONAL INFORMATION ABOUT CONTRACTED SERVICES.

Include more categories and/or descriptions for each contracted service in the Financial Plan Workbook in order to provide more detail about how funds will be spent by program area and function, what vendors will receive contracts, and how the contracted services align with budget line items.

12. PROVIDE ADDITIONAL INFORMATION ABOUT REAL ESTATE TRANSACTIONS.

Expand the information provided regarding the specific charter support/development organization(s) that will provide the charter applicant with financing and/or construction of school facilities or the organization currently used for other similar projects that is under consideration. The information should include: the name and address of the development organization; names of board members; whether it is a related party to the CMO or the charter sponsoring organization; examples of other charter facilities the organization has financed; and typical financing arrangements based on past agreements, such as ownership of the facility, lease/purchase agreements, buyback guarantees, terms of the lease, and projected building cost.

13. PROVIDE DETAILED INFORMATION ABOUT PROGRAM IMPLEMENTATION.

Charter applicants should provide additional information about the planning and implementation for each proposed program including the hours of professional development provided for teachers, the lead staff with responsibility over implementation, and a timeline for full implementation.

Charter applicants often state that multiple new programs will be in place on day-one, but do not provide detail that would demonstrate any understanding of the complexity that comes with implementing many new programs at one time; the constraints that must be considered such as staff capacity to ramp-up multiple new programs; resources sufficient to support each program; and sufficient time for professional development and assessment.

14. EXPAND DESCRIPTION OF “INNOVATIVE” PRACTICES AND PROGRAMS AND IDENTIFY WHICH ARE CURRENTLY OFFERED BY SCHOOL DISTRICTS.

The legislature listed the encouragement of “different and innovative learning methods” as one of the five primary purposes when it authorized the creation of charter schools, and Education Code Section 2.110 (d)(3)(B) states that the Commissioner must include criteria related to encouraging innovative programs in the charter application approval process. Yet, there is no one section in the charter application that requires a thorough and thoughtful

description of how the charter will be truly innovative, how that innovation is distinguished from similar programs already in operation at nearby schools, and how the innovation will improve student outcomes.

Charter applicants should identify similar programs offered by affected school districts and provide specific information about how their program or practice will be different in a meaningful way. Charters often cite practices that are “data-driven” or “individualized” as innovations that justify the new charter; or programs such as social emotional learning or dual language instruction as “innovative,” even though these programs and practices are common in many school districts.

15. EXPAND DESCRIPTION OF HOW CURRICULUM WILL BE ALIGNED WITH TEKS.

Many questions are asked each year during the capacity interviews and the SBOE meetings about how charter applicants will align curriculum to TEKS. While charter applicants provide some information about TEKS, it is referenced in different places and is not thoroughly explained in one section of the application. This section should answer questions such as:

- Is the curriculum or instructional material proposed by the applicant used in another state(s)? If so, which states?
- Is the curriculum or instructional material proposed by the applicant Common Core?
- Is the proposed curriculum and/or instructional materials specifically aligned to TEKS?
- Are the proposed instructional materials approved by the State Board of Education?
- What charter staff position will be responsible for aligning the curriculum to TEKS?
- What is the experience of this staff person with TEKS and with aligning a curriculum to TEKS?
- If outside consultants or universities have been involved in aligning TEKS, provide the name of the firm or the university personnel.

16. CHANGE THE NEW CHARTER APPLICATION PROCESS TO A TWO-YEAR CYCLE.

TEA should change the charter application process to a two-year cycle so that applications are accepted every two years instead of annually. Most importantly, this change would allow TEA to make more accurate budget projections for the biennium based on actual approved charter enrollment. In addition, this more consolidated schedule would accommodate the demands placed on TEA staff during the legislative session. Finally, a two-year cycle would allow TEA to build in the 18-month advance notice that school districts have requested between the time that a charter receives final approval from the State Board of Education and the opening date of the charter.

The following 19 organizations support these recommendations:

