

August 2, 2024

The Honorable Mike Morath  
Commissioner of Education  
Texas Education Agency  
Austin, Texas

**RE: Questions and Concerns About TEA’s Proposal for a New Charter Application Pathway for “High Performing Entities”**

Dear Commissioner Morath:

On behalf of the 18 education organizations listed below, we wish to raise questions and concerns about the Texas Education Agency’s (TEA’s) fast-track proposal to create a **new charter application pathway for “high-performing” charter entities** that includes nonprofit out-of-state and in-state Subchapter C or E charter operators that receive A or B performance ratings (or the equivalent of A or B ratings in Texas).

We understand that while the authorization for this proposal is included in Texas Education Code (TEC) [12.1011](#), it has never been implemented and is not mandatory, but can be implemented at the discretion of the Commissioner.

With limited information about this new proposal available from TEA at this time, we ask TEA for a response to the questions below.

We hope that TEA will ensure that the proposed application process guarantees that new charter schools approved for Texas students will be held to the same high standards and comprehensive evaluation currently required for open-enrollment charter schools.

However, we are concerned that TEA may allow these “high performing” charter entities to provide far less detail and information to parents, the public, and decision-makers about their finances, governance, operations, and the education model than what is currently required in the regular open enrollment school charter school application [[TEC 12.1011\(a\)](#)].

Limited details about this new “high performing” application pathway were first presented by TEA staff to the State Board of Education (SBOE) Committee on School Initiatives on June 27, 2024. As far as we are aware, this new proposal has not otherwise been disclosed to the public but appears to be on a fast-track to completion.

Since this “high performing” statute was passed in 2013, we have learned a lot about the need for guardrails and high standards to ensure strong accountability and to avoid misuse of public funds. Decision-makers in particular need sufficient information to evaluate the quality of a proposed new charter school before they determine whether or not to approve it.

It is crucial not to limit the information that goes to parents, the public, and decision-makers by providing fewer details and less information about how charter schools intend to operate new schools in our communities and expend taxpayer dollars.

In addition, we are concerned that allowing authorization by another state or school district as a proxy for a more comprehensive evaluation process will not guarantee that the charter applicants were evaluated using the same high standards, public process, and uniform quality metrics as current Texas open enrollment charter schools. Texas could be ceding our authority over quality to other states and entities.

We request that TEA open up this new charter application process to involve more stakeholders and to provide more information to parents, the public, taxpayers, and decision-makers upfront. These stakeholders must be fully informed about the implications and impact of this new TEA charter application pathway before it is approved and have an opportunity to ask questions and provide their comments to TEA.

**We ask for TEA’s timely response to the questions and concerns listed below.**

**1. Will out-of-state charter applicants or their affiliated organizations be allowed to serve as the charter management organization (CMO)? Will TEA include the current CMO addendum as part of the new application and require a services agreement that discloses the responsibilities and fee structure of the CMO?**

**2. Will in-district charter schools approved by public school districts in order to receive the benefits of a Senate Bill (SB) 1882 partnership from TEA be eligible to apply for an open-enrollment charter under this new “high performing” entity charter application pathway?**

**3. Will out-of-state entities be allowed to appoint Texas charter school boards?**

It appears that these out-of-state operators could routinely be allowed to appoint Board members of a Texas charter school approved through this new pathway [[TEC 12.1011\(b\)](#)] through a “member entity” that could also serve as the contracted CMO, a potential conflict of interest.

We ask TEA to define what organization qualifies as a “member entity” and to clarify whether the Commissioner will allow an out-of-state entity to appoint any member of a Texas charter school board.

#### **4. How will “high performing” charter schools be held to the highest standards?**

The statute authorizing these “high performing” charter schools allows the Commissioner to exempt the “high performing” charter applicants from providing information in the application about the financial, governing, educational, and operational standards that are requirements for regular open-enrollment charter applicants [[TEC 12.101\(b\)](#) and [TEC 12.1011\(a\)](#)].

In addition, these charters or their corporate affiliates could be approved even if they had a charter in another state that had been surrendered, revoked, denied renewal, or returned at any time over the last 10 years – conditions that bar regular charter schools from approval and indicate concerns about the overall quality standards of a proposed charter organization [[TEC 12.101\(b\)\(1-2\)](#)].

These potential exemptions raise serious questions about whether TEA and the SBOE would have sufficient information to adequately evaluate these charter applicants during the charter review, monitor them after approval, and hold them accountable to high quality standards.

Perhaps these exemptions are allowed because these “high performing” charter schools have been approved by another charter authorizer. If so, this process raises additional concerns. There is no uniformity in charter authorization state-by-state or district-by-district that guarantees comprehensive and uniform metrics for quality.

#### **5. Will TEA guarantee that the new charter applicants conduct public meetings and participate in the TEA/SBOE charter applicant interviews?**

When asked by a member of the SBOE whether the “high performing” charter applicants would participate in the TEA/SBOE capacity interviews that are currently built into the process for regular open-enrollment charter applicants, TEA staff indicated this had not been decided.

The charter interviews are a unique and critical opportunity that allows charter applicants to provide valuable insight and clarification about their charter proposal to TEA and the SBOE in a public venue that will better inform their decision to approve a new charter or not.

Likewise, public meetings in advance of the submission of the application provide the only opportunity for parents and the public to learn more about the proposed charter in a meeting directly with the applicant.

Without these two opportunities, there is much less transparency and limited public input in the application process.

#### **6. How will TEA guarantee that charter authorizations by other states or individual school districts incorporate sufficient standards to ensure a truly “high performing” quality charter model?**

- **Will TEA use the same criteria it uses for regular open enrollment applicants to evaluate these applications?**
- **Will TEA review the criteria used by each state and local school district authorizer to ensure applicants were held to the same high standards and quality metrics as our requirements in Texas and make this comparison a public document?**

Other states and public school districts have different authorizing practices and standards for charter approval. Allowing a prior authorization to be a proxy for a rigorous and comprehensive charter application process in Texas will not ensure that a new charter applicant is prepared to serve Texas students effectively, nor will it ensure that these charters are evaluated and approved using the same set of high quality standards or criteria required in Texas.

### **7. How will TEA create a Texas equivalent to out-of-state accountability ratings?**

A charter applicant would be allowed to use its out-of-state performance rating to qualify for this new “high-quality” charter application pathway. However, TEA has not disclosed how it will create this equivalency, or whether existing ratings in other states are even relevant to Texas ratings. At a minimum, if TEA proceeds with implementation of the “high performing” charter application pathway, it should fully disclose how it creates equivalent ratings for other states.

There are many challenges to determining an equivalent performance rating for Texas. For example:

- Will TEA use performance ratings from other states that reflect only a district rating or will it use an aggregated/average campus rating? Will a rating below an A or B for any campus disqualify an applicant?
- What if states do not have a district rating or if the district rating includes metrics that are not used in Texas?
- How do A or B ratings for a specific charter school, or a state, that serves far fewer economically disadvantaged, at-risk, or bilingual students equate to the ratings for Texas schools that may serve a very different student demographic?
- Will TEA consider the percentages of special education students served in the creation of an equivalent rating?
- While Texas elementary school ratings are based solely on state test results (STAAR), other states include a variety of metrics, such as chronic absenteeism, physical fitness, completion of (or access to) a well-rounded curriculum, and school climate. How will TEA weight these different metrics?
- Will TEA request additional state funding for staff or consultants to develop these equivalent ratings for out-of-state charter applicants?

### **8. Will TEA use data to replace detailed information in the “high performing” charter application? If so, what data will be requested and what information will it replace?**

At the June 27, 2024 SBOE committee meeting, TEA staff indicated that the agency may allow data “to stand in for process questions” in its existing “experienced operator” open-enrollment charter application. This change may also apply to the new charter application pathway for

“high performing” charter entities, especially if detailed descriptions of finances, operations, governance, and the education model are eliminated from the application as described above.

We ask TEA to be specific about what data it would use “in place of process questions” and what information currently required in the application would be replaced. We are concerned that data alone is insufficient information for parents, the public, and decision-makers to evaluate the quality of a new charter application and to be fully informed about the policies and programs that a new charter school would implement and its legal, financial, operational, and administrative history in another state. We have learned from past experience that the data provided in new charter applications can be incorrect or misleading, can mask certain student demographics or inequities and is not a proxy for other important information.

Thank you for your consideration of our questions and concerns. We ask for a timely response so that we can provide additional comments.

**The following 18 education organizations sign-on to the comments above:**

- Association of Texas Professional Educators (ATPE)
- Coalition for Education Funding
- Every Texan
- Fast Growth School Coalition (FGSC)
- Go Public
- IDRA (Intercultural Development Research Association)
- Pastors for Texas Children
- Texas American Federation of Teachers (Texas AFT)
- Texas Association of Community Schools (TACS)
- Texas Association of Midsize 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 Rural Education Association (TREA)
- Texas School Alliance (TSA)
- Texas State Teachers Association (TSTA)

Cc: Marian Schutte, Deputy Associate Commissioner, TEA Department of Authorizing & Policy