



Texas Association of School Boards

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Texas Partnership Charters

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Senate Bill (SB) 1882 was passed by the 85th Texas Legislature in 2017. In the years since the bill was signed by the governor, the law has stirred up controversy in school districts across Texas. While some see SB 1882 partnership charters as an opportunity for innovation, others are concerned that SB 1882 has furthered the privatization of public schools. Yet partnership charters offer real benefits to cash-strapped schools and can also give flexibility to schools that are working to make changes and improve their accountability rating. This FAQ addresses basic issues and considerations for districts considering a partnership charter.

1. What is a partnership charter?

Partnership charters allow a school district to partner with an open-enrollment charter school (OECS) or other eligible entity to operate a charter campus. By doing so, the district may receive increased funding. Certain districts may also qualify for a two year reprieve from sanctions under the state accountability system. In order to qualify for these benefits, districts must undergo a lengthy approval process under the rules and guidance issued by the Texas Education Agency (TEA). TEA may require districts to modify their applications, contracts, and policies.

2. Why would a district want to utilize a partnership charter?

Partnership charters incentivize district charter partnerships in two distinct ways. First, a district with a partnership charter may receive an increase in state funding. The district is eligible to receive either the average daily attendance for each student at the campus or, if greater, the amount that an OECS would receive for that same average daily attendance. Tex. Educ. Code §§ 11.174(a), 48.252. According to Raise Your Hand Texas, the difference in funding can amount to more than 2,000 dollars per student in additional resources in certain districts. Raise Your Hand Texas, [District Partnerships Map](#). The second benefit applies to districts that received overall unacceptable performance ratings. When a district chooses to create a partnership charter, the commissioner of education may not sanction or take action against the campus during the first two school years of operation under the campus's charter. Tex. Educ. Code § 11.174(f). These tolled sanctions may include anything from the requirement to submit a turnaround plan to school closure or appointment of a board of managers for the district.

3. What are some considerations before starting the process?

Know your why.

The idea behind partnership charters is that innovative change in the district can improve academic achievement, but that the innovation may need some time before it is measurable in the accountability process. Because this law aims to empower and autonomize the new charter campus, TEA requires that the performance contract restrict the district's authority over school operations and employees. A school district board of trustees contemplating a partnership charter should have a plan and vision for what type of change they would like to see through the partnership and should understand fully the consequences for the district.

Partnership charters include benefits for campuses that are receiving sanctions under the state accountability system. Partnerships can also benefit campuses that wish to pursue additional funding, even if they are not subject to sanctions.

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The right type of partnership and innovation.

Districts may choose to partner with a state-authorized OECS in good standing or another type of entity, including an institution of higher education, a local government, or a nonprofit. If a district chooses to partner with an entity other than a charter school, the entity must be granted a charter under Subchapter C, Chapter 12 of the Texas Education Code. Tex. Educ. Code § 11.174(a), (d).

Partnering with an entity that is not already authorized as an OECS has benefits and disadvantages. In addition to the financial and accountability benefits, this type of partnership can be both innovative and flexible. For example, a district may choose to operate an early college high school with the local community college or a preschool with a local nonprofit. These partnerships can also be combined with certain other funding opportunities to create additional benefits for students and programming.

One difficult aspect of partnering with an entity that is not an OECS is the lengthy approval process. TEA has issued templates for model policies, partnership applications, rubrics, and performance contracts for districts to use, but the process is complex and TEA may deny the district's application. Districts may use TEA's model policy from the txpartnerships.org website or may use TASB's ELA(LOCAL). Districts can contact their TASB policy consultant for assistance accessing ELA(LOCAL).

TEA describes two types of schools created with partnership charters in its Texas Partnerships Guide, available at txpartnerships.org:

- Turnaround partnership schools: A district contracts with a partner to operate a campus that is currently in an academically unacceptable status.
- Innovation partnership schools: A district contracts with a partner to operate a campus that has previously met accountability standards or to create a new school.

4. What should a district consider while creating a performance contract with the partner?

Similar to a charter school, the partnership school is exempt from specific laws that apply to traditional school districts, including laws regarding teacher contract rights, teacher certification, and the school calendar. The district should consider which employees will be affected. Depending on the agreement between the district and the partner, employees on the campus may be employed by the partner entity or the school district. Districts will have to decide if the partnering entity will have only a few employees while teachers remain in the employ of the district or if all or most of the employees on the campus will be employees of the partner entity.

The district should be aware that partnership charter regulations apply additional legal requirements that differ from the requirements for other charter schools or districts of innovation. The law requires any employee of the charter campus to be under the complete authority of the partner entity. 19 Tex. Admin. Code § 97.1075(c)(1). Also, before entering a partnership, districts should consult with current employees, including certified teachers, regarding the provisions included in the performance contract. 19 Tex. Admin. Code § 97.1075(d)(10). In addition to consultation, the law requires all rights and protections in current employment contracts or agreements to remain unaffected by the district's contract with an OECS. Tex. Educ. Code § 11.174(c).

The district must also consider which students will be served by the partnership charter. Tex. Educ. Code § 11.174(h). For campuses that seek the tolling of accountability sanctions, the campus must continue to admit students residing in the campus attendance zone as the zone existed before the partnership charter. The contract must also prioritize enrollment of students who reside in the district, but not the attendance zone, before allowing students outside the district to attend the charter. Tex. Educ. Code § 11.174(i).

Because the operating partner is in many ways its own entity with its own board and policies, TASB member services, such as TASB Policy Service and TASB Legal Services, may not be available to the operating partner or the partnership's charter campus. In addition, a district should consult with local counsel and its insurance carrier or risk pool to understand the liability and coverage issues, and should address these issues in the contract. Because the governing

entities of the district and the partnership charter differ, the charter campus and its employees may not be covered by the district's insurance. The district may want to require the operating partner to provide proof of insurance, name the district as an additional insured, and indemnify the district for certain claims. Partnership charter regulations require the contract to address access to services and resources as agreed to by the parties. All parties benefit when the contract addresses a broad range of potential issues.

5. What steps should a district take to start this process?

- First, consult with the district's school attorney. The details in the regulations and TEA materials are voluminous, and it is easy to miss an important provision.
- Know the deadlines. This process has several phases, and districts would be wise to plan ahead accordingly. TEA's first deadline to declare intent to begin the partnership process is required in late fall of the prior year.
- Consult with district staff. Staff buy-in is critical to the success of the new campus.
- Find and approve a partner. This is one of the more complicated steps. TEA requires that the district rigorously evaluate the application and that the partner meet certain criteria. If partnering with a non-OECS entity, the district must adopt a Subchapter C authorizing policy and a Subchapter C application. See [TEA's SB 1822 website](#) and txpartnerships.org for more details on this process.
- Negotiate the terms of the contract. Under 19 Texas Administrative Code section 97.1075, districts must include several items in their performance contracts including descriptions of the operating partner's authority, academic performance expectations, financial performance expectations, a description of the educational plan, service-level agreements for resources and services, consequences for breaching the contract, and other specific contract terms, including the terms for funding and contract length.
- Submit materials to TEA for approval. This may need to be done in phases. See the Texas Partnerships Guide, available at txpartnerships.org for more information.

6. What are some things to know after the partnership has been approved?

Districts should continue to work with TEA and their school attorneys during implementation. State law and regulations impose specific requirements regarding the management, evaluation, and extension or cancellation of a partnership charter performance contract. For example, the partner's board may not include any district board member, superintendent, or staff member responsible for evaluating or overseeing the performance contract. Districts may not appoint a majority of the members of the partner's governing board, and nepotism laws may apply. In addition, termination of the partnership must be in compliance with 19 Texas Administrative Code section 97.1075 and may require a public hearing. In order to ensure that the district will continue to receive the benefits of SB 1882, the district should regularly ensure compliance with laws and regulations.

This document is continually updated at tasb.org/services/legal-services/tasb-school-law-eshource/governance/documents/texas-partnership-charters.pdf. For more information on school law topics, visit TASB School Law eSource at schollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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