

19 TAC § 97.1075

This document reflects all regulations in effect as of June 30, 2020

TX - Texas Administrative Code > TITLE 19. EDUCATION > PART 2. TEXAS EDUCATION AGENCY > CHAPTER 97. PLANNING AND ACCOUNTABILITY > SUBCHAPTER EE. ACCREDITATION STATUS, STANDARDS, AND SANCTIONS > DIVISION 2. CONTRACTING TO PARTNER TO OPERATE A DISTRICT CAMPUS

§ 97.1075. Contracting to Partner to Operate a Campus under Texas Education Code, § 11.174

- (a) **Applicability.** This section applies only to an independent school district that intends to contract to partner to operate a campus and receive benefits under Texas Education Code (TEC), § 11.174 and § 48.252.
- (b) **Definitions.** For purposes of this division, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise.
- (1) **Operating partner--**Either a state-authorized open-enrollment charter school or an eligible entity as defined by TEC, § 12.101(a).
 - (2) **Open-enrollment charter holder--**This term has the meaning assigned in TEC, § 12.1012(1).
 - (3) **Governing body of a charter holder--**This term has the meaning assigned in TEC, § 12.1012(2).
 - (4) **Governing body of a charter school--**This term has the meaning assigned in TEC, § 12.1012(3).
 - (5) **Contract to partner to operate a campus--**This term means the partner must operate the campus in accordance with subsection (c) of this section under a performance contract as outlined in subsection (d) of this section.
 - (6) **Campus--**This term has the meaning assigned in § 97.1051(3) of this title (relating to Definitions).
- (c) **Conferred authority.** In order to qualify as operating a district campus under TEC, § 11.174, the district must confer, at a minimum, the following enhanced authorities to the operating partner.
- (1) **Staffing authorities.**
 - (A) The operating partner must have authority to employ and manage the campus chief operating officer, including initial and final non-delegable authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.

(B) 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.

(C) The operating partner must have sole authority over the assignment of all district employees to the campus, including initial and final authority to approve the assignment of all district employees or contractors to the campus.

(D) The operating partner must have initial, final, and sole authority to supervise, manage, evaluate, and rescind the assignment of any district employee or district contractor from the campus. If the operating partner rescinds the assignment of any district employee or district contractor, the district must grant the request within 20 working days.

(E) The operating partner must directly manage the campus principal or chief operating officer, including having the sole responsibility for evaluating the performance of the campus principal or chief operating officer.

(2) Other authorities. The operating partner must have:

(A) initial, final, and sole authority to approve all curriculum decisions beyond the minimum requirements outlined in § 74.2 of this title (relating to Description of a Required Elementary Curriculum) or § 74.3 of this title (relating to Description of a Required Secondary Curriculum), lesson plans, instructional strategies, and instructional materials, as defined in TEC, § 31.002(1), to be used at that campus;

(B) initial, final, and sole 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;

(C) initial, final, and sole authority to set the school calendar and the daily schedule, which may differ from those in other district campuses;

(D) initial, final, and sole authority to select and determine the use of any and all assessments to be used on the campus that are not required by the state of Texas;

(E) initial, final, and sole authority to determine how the entire campus budget, including any and all federal and state grant funds due the campus, is allocated. The governing body of the operating partner shall approve the campus budget in a meeting held under the Texas Open Meetings Act, Texas Government Code, Chapter 551. Notwithstanding such budget authority, the operating partner's expenditures must comply with applicable restrictions on the use of state and federal funds; and

(F) initial, final, and sole authority to implement and adjust the campus budget.

(d) Performance contract. To contract to partner to operate under TEC, § 11.174, the independent school district's board of trustees must grant the operating partner a campus charter under TEC, Chapter 12, Subchapter C. The charter must include performance expectations memorialized in a

performance contract, as required by TEC, § 12.0531. This performance contract must include, at a minimum, the following provisions:

- (1)** a clear and unambiguous description of enhanced authorities as outlined in subsection (c) of this section;
- (2)** academic performance expectations and goals, which shall include, but are not limited to:
 - (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 TEC, § 39.054, a specific annual target for the overall campus academic rating; and
 - (C)** specific consequences in the event that the operating party does not meet the academic performance expectations and goals described in the performance contract;
- (3)** annual financial performance expectations and goals, which shall include, but are not limited to:
 - (A)** the completion of an annual independent financial report, including an audit, of the operating partner organization, limited to matters directly related to the management or operation of the campus or campuses;
 - (B)** receipt of an unqualified audit opinion, in connection with the annual financial report required in subparagraph (A) of this paragraph; 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 TEC, § 11.174(i);
- (5)** a contract term of up to 10 years as required by TEC, § 12.0531, with a provision(s) specifying:
 - (A)** 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; and
 - (B)** a requirement for a public hearing at least 30 days prior to any district action to extend the contract for an operating partner that failed to meet 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 TEC, 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;
- (7)** a section that describes the funding structure of the partnership. This section must specify:
 - (A)** a reasonable per pupil amount or percentage of the revenue generated by attendance at the campus from the district to the operating partner of all federal, state, and local funds due the campus, to be paid to the operating partner for managing the campus or campuses each year;

19 TAC § 97.1075

- (B)** the total budget for the first year of operation; and
 - (C)** the authority of the partner over the entire campus budget, which includes all federal, state, and local funds due the campus as described in subparagraph (A) of this paragraph;
 - (8)** service-level agreements that list the resources and services the operating partner intends to purchase from the district and the specific costs of such services by pupil, square foot, campus, or the percentage of the total district budget for the specific resource or service. The resources and services 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;
 - (9)** a section that describes the educational plan or academic model that the operating partner will implement on the campus or campuses;
 - (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 TEC, § 11.174(c), unless the district is partnering with an entity described in TEC, § 11.174(a)(2); and
 - (11)** a description of the specific and material consequence(s) in the instance that either the district or the operating partner breaches the contract.
- (e)** Capacity to operate. In order to qualify as an eligible partnership under TEC, § 11.174, the district must demonstrate that the operating partner has the necessary capacity to successfully manage campuses.
- (f)** Contract notification to the TEA. In order to qualify as an eligible partnership under TEC, § 11.174, notification of contracts related to TEC, § 11.174(a)(1), must meet the deadlines published by the TEA staff.
- (g)** Contract amendments. Eligible partnerships under TEC, § 11.174, must notify the TEA of amendments to performance contracts related to TEC, § 11.174(a)(1) and (2), within 30 calendar days of the amendment of the contract.
- (h)** Performance ratings. The commissioner of education shall continue to evaluate and assign overall and domain performance ratings under TEC, § 39.054, to the campus.
- (i)** Monitoring. 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.
- (j)** Continued eligibility. To receive benefits under TEC, § 11.174(f) and (g) and § 48.252, the district must continuously meet the requirements in subsections (c)-(i) of this section.
- (k)** Decision finality. A decision of the commissioner made under this section is a final administrative decision and is not subject to appeal under TEC, § 7.057.

History

SOURCE:

The provisions of this § 97.1075 adopted to be effective April 4, 2018, 43 TexReg 1993; amended to be effective September 1, 2019, 44 TexReg 4477; amended to be effective March 31, 2020, 45 TexReg 2168

TEXAS ADMINISTRATIVE CODE TEXAS ADMINISTRATIVE CODE

End of Document