

HOME-RULE DISTRICTS

AG
(LEGAL)

A district may choose to operate under a home-rule charter. Adoption of a home-rule charter does not affect:

1. The district's boundaries.
2. Taxes or bonds of the district authorized before the effective date of the charter.

Education Code 12.0011, .011

Powers of Home-Rule District

A home-rule district has the powers and entitlements granted to school districts and school district boards, including taxing authority. A home-rule district is subject to federal and state laws and rules governing school districts except:

1. A home-rule district is subject to the Education Code only to the extent a provision of the Education Code specifically provides for the applicability to a home-rule district;
2. A home-rule district is subject to a rule adopted by the State Board of Education (SBOE) or the commissioner of education only if the code provision authorizing the rule specifically applies to a home-rule district; and
3. A home-rule district is subject to all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

Nondiscrimination

The above statements do not permit a home-rule district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia or attention deficit/hyperactivity disorder. Prohibited discrimination includes denial of placement in a gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability.

The above statements do not permit a home-rule district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest level program necessary to ensure the student's success.

Education Code 12.012(a), (c)

Charter Commission

A board shall appoint a charter commission to frame a home-rule school district charter if:

1. The board receives a petition requesting the appointment of a charter commission signed by at least five percent of the district's registered voters; or
2. At least two-thirds of the total membership of the board adopts a resolution ordering the appointment of a charter commission.

The board must appoint the commission by the 30th day after receipt of the petition or adoption of the resolution.

The commission must complete the proposed charter not later than the first anniversary of the date of the commission's appointment. After that date, the commission expires and the appointment of the commission is void.

Education Code 12.014, .015(a), (c)

Membership

The charter commission shall consist of 15 district residents. The membership must reflect the racial, ethnic, socioeconomic, and geographic diversity of a district. A majority of the commission members must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by representatives of the professional staff as provided by the planning process under Education Code 11.251(e). [See BQ series] *Education Code 12.015(a)–(b)*

Governmental Body

The charter commission is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.015(d)*

Content of Home-Rule Charter

The home-rule charter must:

1. Describe the educational program to be offered.
2. Provide that continuation of the charter is contingent on:
 - a. Acceptable student performance on assessment instruments.
 - b. Compliance with other applicable accountability provisions.
3. Specify any basis, in addition to a basis specified at Education Code Chapter 11, Subchapter B, on which the charter may be placed on probation or revoked.
4. Describe the governing structure of the district and campuses.
5. Specify any procedure or requirement, in addition to those at Education Code Chapter 38 [see FF series], the district will follow to ensure the health and safety of students and employees.
6. Describe the process by which the district will adopt an annual budget, including the use of program-weight funds.
7. Describe how the annual audit of the district's financial and programmatic operations will be conducted, including how the district will provide the necessary information to participate in

the Public Education Information Management System (PEIMS).

8. Include any other provision the charter commission considers necessary.

Education Code 12.016

**Review by
Commissioner of
Education**

The charter commission shall submit the proposed charter to the commissioner of education. The commissioner shall review the charter for compliance with applicable laws and recommend any necessary modifications. If the commissioner does not act within 30 days after the date the commissioner receives the proposed charter, the charter is approved. *Education Code 12.018*

Charter Elections

As soon as practicable after the commissioner approves the charter, a board shall order an election on the proposed charter. The election shall be held on the first uniform election date that occurs at least 45 days after the date the board orders the election.

At least three copies of the proposed charter must be available in the office at each school campus and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the proposed charter shall be attached to each copy. The summary shall also be made available to district employees, parents, community members, and the media.

The ballot shall be written to permit voting for or against the proposition: "Whether the (name of district) shall be governed under the home-rule district charter, which is proposed by a charter commission appointed by the board and under which only certain laws and rules apply to the district."

Education Code 12.019

**Minimum Voter
Turnout**

An election on the adoption of a proposed home-rule charter has no effect unless at least 25 percent of the registered voters of the district vote in the election.

If the required number of voters does not vote in the election, the board shall order another election to be held on the first uniform election date:

1. That occurs at least 45 days after the election is ordered, and
2. On which one or more elections are to be held, the combination of which covers all the territory of the district.

If the required number of voters does not vote in the election, a board may continue to order elections until the required minimum is achieved.

Education Code 12.022

**Charter
Amendments**

A home-rule charter may be amended pursuant to Education Code 12.020 and .022(b).

**Adoption of Charter
or Amendment**

Subject to Education Code 12.022 (minimum voter turnout), the proposed charter or amendment is adopted if approved by a majority of the qualified voters of the district voting in the election. The charter or amendment shall specify an effective date and takes effect according to its terms when the board enters an order declaring the charter or amendment adopted. The board shall enter the order not later than the tenth day after the date the canvass of the election returns is completed.

As soon as practicable after a district adopts the charter or amendment, the board shall notify the commissioner of the outcome of the election.

Education Code 12.021

**Certification of
Charter**

As soon as practicable after the charter or amendment is adopted, the board president shall certify to the secretary of state a copy of the charter or amendment showing voter approval. The secretary of state shall file and record the certification. A recorded charter or amendment is a public act. A court shall take judicial notice of a recorded charter or amendment and proof is not required of its provisions. *Education Code 12.023, .024*

**Governance of
Home-Rule District**

A home-rule district may adopt and operate under any governing structure. The home-rule district may create offices, determine the time and method for selecting officers, and prescribe the qualifications and duties of officers. The term of any officer shall be three or four years, as determined under Education Code 11.059. *Education Code 12.025*

**Change in
Governing Body**

If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the board, the members serving on the date the adoption, amendment, or revocation takes effect shall continue in office until their successors have been chosen and have qualified for office. *Education Code 12.026*

**Requirements Under
Education Code**

A home-rule district is subject to:

1. Provisions of the Education Code establishing a criminal offense.

2. Provisions of the Education Code relating to limitations on liability.
3. Prohibitions, restrictions, or requirements relating to:
 - a. PEIMS, as determined by the commissioner.
 - b. Educator certification under Education Code Chapter 21 and educator rights under Education Code 21.407, .408, and 22.001. [See CFEA, DGA]
 - c. Criminal history records under Education Code Chapter 22, Subchapter C. [See DBAA]
 - d. Student admissions under Education Code 25.001. [See FD]
 - e. School attendance under Education Code 25.085–.087. [See FEA]
 - f. Interdistrict transfers under Education Code Chapter 25, Subchapter B. [See FDA]
 - g. Elementary class-size limits, in the case of any campus that fails to satisfy any standard under Education Code 39.054(e). [See EEB]
 - h. High school graduation under Education Code 28.025. [See EIF]
 - i. Special education programs under Education Code Chapter 29, Subchapter A. [See EHBA series]
 - j. Bilingual education under Education Code Chapter 29, Subchapter B. [See EHBE]
 - k. Prekindergarten programs under Education Code Chapter 29, Subchapter E. [See EEL, EHBG]
 - l. Safety provisions relating to the transportation of students under Education Code 34.002–.004 and .008. [See CNA, CNB, CNC]
 - m. Computation and distribution of state aid under Education Code Chapters 31, 43, and 48.
 - n. Extracurricular activities under Education Code 33.081. [See FM]
 - o. Health and safety under Education Code Chapter 38. [See FF series]

- p. The provisions of Education Code Chapter 39, Subchapter A. [See AIC]
- q. Public school accountability and special investigations under Education Code Chapter 39, Subchapters A, B, C, D, and J, and Chapter 39A. [See AI series]
- r. Options for local revenue levels in excess of entitlement under Education Code Chapter 49.
- s. Bonds or other obligations or tax rates under Education Code Chapters 43, 45, and 48.
- t. Purchasing under Education Code Chapter 44. [See CH]
- u. Parental options to retain a student under Education Code 28.02124. [See EIE]

Education Code 12.013(b)

Employees of Home-Rule Districts

An employee who qualifies for membership in the Teacher Retirement System shall be covered in the same manner and to the same extent as a qualified employee employed by an independent school district. *Education Code 12.012(b)*

Rescission of Charter

A board shall order an election on the question of rescinding the home-rule school district charter if:

1. The board receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or
2. At least two-thirds of the board adopts a resolution ordering the election.

Rescission of a home-rule charter does not affect:

1. District boundaries.
2. Taxes or bonds of the district authorized before the effective date of the rescission.

Education Code 12.030(b), (h)

Probation or Revocation of Charter

The SBOE may place a home-rule charter on probation or revoke the charter. *Education Code 12.027, .028; 19 TAC 100.201*

Material Violation

A home-rule district commits a material violation of the district's charter if the district fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 22.085 or Education Code 22.092. *Education Code 12.0271(a)* [See DBAA]

HOME-RULE DISTRICTS

AG
(LEGAL)

**Status of District in
Case of Annexation
or Consolidation**

If a district is annexed to another district under Education Code Chapter 13, and only one of the districts is a home-rule district, the status of the receiving district shall be the status of both districts following annexation. The petition under Education Code 13.003 must state the status for the consolidated district. *Education Code 12.029*