



TCSA Model Board Policy Series

Module 600: *Human Resources 2012*

*Charter Board Policy for SCHOOL OF EXCELLENCE IN
EDUCATION*

INTRODUCTION

The Model Board Policies for Charter Schools is a series of publications by the Texas Charter Schools Association (TCSA). These publications are an educational tool for charter school leaders to aid in the operation and management of open-enrollment charter schools in Texas.

Overall Policy Framework

Each module in the Board Policy Series provides a summary of federal and state statutes, regulations, and related materials applicable to open-enrollment charter schools. Citations to these materials are provided throughout the module and many contain a hyperlink so the actual statutory or regulatory provision can be accessed on the Internet. The summary is designated by the LEGAL AUTHORITY tab on the right edge of each page.

After the LEGAL AUTHORITY portion of the module are suggested model policies designed to comply with current statutory and regulatory requirements described in the summaries. These policies are designated by the red CHARTER BOARD POLICY tab on the right edge of each page.

These are suggested policies to address the requirements set forth in this Module. Prior to adoption of the model policies by the Board of a charter school, each policy should be customized by including the school's name and by tailoring the language, if appropriate, to fit the specific needs, culture and requirements of the school. TCSA recommends that the Board of a charter school consult with and obtain the advice of the school's legal counsel in connection with adopting policies to comply with laws governing charter schools.

TCSA plans to update the Model Board Policies for Charter Schools after each Texas Legislative Session to reflect changes in applicable laws and regulations. We encourage you to renew your subscription to the policy series after each update to ensure that your school has the most recent laws and regulations.

Scope of Service & Copyright Notice

This policy module prepared by the TCSA is designed and intended as a resource of information for charter schools and is not to be construed as legal advice. It should be used in connection with consulting and obtaining the advice of the school's legal counsel to ensure compliance with applicable legal requirements.

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Module 600: Human Resources 2012

The Human Resources Module 600, is the sixth and final module of the Model Board Policies. The material included in this module provides a comprehensive summary of statutes and regulations that apply to charter schools, as well as specific model board policies designed to comply with these legal requirements. Other policy modules currently available include:

Module 100: Financial Operations

Module 200: Charter School Governance & Organization

Module 300: General School Operations

Module 400: Students

Module 500: Open Government

Legal Abbreviations Used In the TCSA Model Board Policy Series

Atty. Gen. Op.	Attorney General Opinion C.F.R
	Code of Federal Regulations
Tex. Admin. Code	Texas Administrative Code Tex.
Educ. Code	Texas Education Code
Tex. Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Tex. Loc. Gov't Code	Texas Local Government Code
U.S.C.A	United States Code Annotated

600.020 EQUAL OPPORTUNITY

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Anti-Discrimination Policy

SCHOOL OF EXCELLENCE IN EDUCATION employees shall not engage in discrimination or harassment motivated by race, color, religion, sex, disability, military service, or age directed toward other SCHOOL OF EXCELLENCE IN EDUCATION employees or students. A substantiated charge of discrimination and/or harassment shall result in disciplinary action. Retaliation against employees or students who report discrimination and/or harassment is strictly prohibited. Acts of retaliation may result in disciplinary action up to and including termination.

SECTION 2. Investigation

Any allegations of discrimination or harassment of students or employees shall be investigated and addressed.

SECTION 3. Coordinator

SCHOOL OF EXCELLENCE IN EDUCATION designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Age Discrimination Act of 1975, and this anti-discrimination policy:

Name: April Short
Title: Human Resource Specialist
Address: 1826 Basse Road, San Antonio, Texas 78213
Telephone No.: 210-431-9881

SECTION 4. Complaints

The Coordinator shall be responsible for the investigation of discrimination complaints filed by employees and citizens. Complaints regarding any type of alleged discrimination shall be made in accordance with School of Excellence in Education’s complaint policy in Section 300.120.

600.040 DRUG-FREE WORKPLACE

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Drug-Free Policy

SCHOOL OF EXCELLENCE IN EDUCATION is committed to maintaining a drug-free workplace and shall make a good faith effort to maintain such an environment. The unlawful manufacture, distribution, possession, or use of a controlled substance in the workplace is strictly prohibited. In addition to any consequences established by law, violation of this policy may lead to disciplinary consequences up to and including termination.

SECTION 2. Drug-Free Awareness Program

The Superintendent, or designee, shall establish a drug-free awareness program in accordance with federal law.

SECTION 3. Notification.

Employees shall notify the Superintendent or designee of any conviction based on a drug statute violation that occurred in the workplace within five days of such a conviction.

SECTION 4. Alcohol & Drug Testing

Section 4.1. Establishment of Testing Program & Procedures. In an effort to promote safety and help prevent accidents resulting from alcohol and/or drug misuse, the Superintendent, or Superintendent’s designee, shall establish an alcohol and drug and controlled substance testing program and procedures for the following:

1. Employees who are drivers of charter school-owned or rented vehicles;
2. Employees who perform safety-sensitive functions;
3. Applicants for positions in the above-referenced categories; and
4. Any employee when there is reasonable suspicion of use of alcohol or controlled substances in the workplace.

The SUPERINTENDENT shall designate a charter school official who shall be responsible for ensuring that information is provided to all employees regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

Section 4.2. Reasonable Suspicion Testing. Only supervisors trained in accordance with federal regulations may, based upon reasonable suspicion, remove an employee and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of the appearance, behavior, speech, or body

odors of the employee whose motor ability, emotional equilibrium, or mental acuity appears impaired. Such observations must take place just preceding, during, or just after the period of the workday that the employee is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

Section 4.3. Required Procedures. The procedures established under Section 4.1 shall result in disciplinary action up to and including termination for refusal to submit to a required test for alcohol or controlled substances.

Section 4.4. Supervisor Training. The Superintendent, or the Superintendent's designee, shall ensure that supervisors are properly trained in accordance with the terms of the applicable law and this policy.

600.060 HIRING PRACTICES & CRIMINAL BACKGROUND CHECKS

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. New HiresSection 1.1. Compliance.

The Executive Director, or designee, shall ensure compliance with applicable laws and regulations regarding hiring practices of new employees.

Section 1.2. Posting Job Vacancies.

The Superintendent, or designee, shall ensure that job vacancies are posted on the district website.

SECTION 2. Criminal Background Checks

The Superintendent, or designee, shall ensure compliance with applicable laws and regulations regarding criminal background checks. Upon notification that an employee or prospective employee has engaged in an offense which legally prohibits that individual from employment at an open-enrollment charter school, the Superintendent, or designee, shall terminate, or not hire as applicable, that individual.

600.080 COMPENSATION

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Fair Labor Standards Act (FLSA) Compliance

Section 1.1. Designation of Work Week. For purposes of the FLSA, the board generally designates the 40 hour work-week for employees as Monday at 8am through Friday at 5pm. The Board authorizes the Superintendent to designate separate work weeks for specific school personnel such as, but not limited to, the school maintenance staff.

Section 1.2. Classification of Employees. The Superintendent or designee shall determine the classification of employees as “exempt” or “nonexempt” for purposes of FLSA compliance. Employees with an employee classification of “exempt” do not receive overtime.

Section 1.3. Permission Required to Work Overtime. Nonexempt employees may only work over 40 hours per week if they have received prior approval from their supervisor. Employees who work overtime without prior approval from their supervisor may be subject to disciplinary action, up to and including termination.

SECTION 2. COMPENSATION PLANS FOR SCHOOL EMPLOYEES

The Superintendent shall recommend for Board approval compensation plans for all categories of charter school employees including salary schedules, stipends, benefits, incentives or other components determined appropriate by the Superintendent. The Superintendent shall administer the compensation plan in a manner consistent with the annual budget adopted by the Board.

SECTION 3. Wage Overpayment / Underpayment

SCHOOL OF EXCELLENCE IN EDUCATION strives to take all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled paydays. In the unlikely event that there is an error in the amount of pay, the employee shall promptly bring the discrepancy to the attention of his or her supervisor so that corrections can be made as quickly as possible. If the employee has been paid in excess of what he or she has earned, the employee shall return the overpayment to SCHOOL OF EXCELLENCE IN EDUCATION as soon as possible. No employee is entitled to retain any pay in excess of the amount he or she has earned according to the agree-upon rate of pay. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) until the overpaid amount has been fully repaid. Each employee will be expected to sign a wage deduction authorization agreement authorizing such a deduction either soon after employed with SCHOOL OF EXCELLENCE IN EDUCATION or as soon as practicable. Such authorization agreement is valid for the duration of the employment relationship.

SECTION 4. Expense Reimbursement

The Superintendent shall designate allowable expenses for expense reimbursement when employees incur expenses that are pre-approved and related to their work assignments. Employees shall be required to submit accurate documentation of the expenses for which reimbursement is sought. Employees has 30 calendar days to submit to Accounts Payable.

600.100 TRAINING: CAMPUS ADMINISTRATIVE OFFICERS & BUSINESS MANAGERS

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

Each campus Principal and Supervisor and business manager shall comply with and keep accurate records concerning his or her compliance with the commissioner of education rules governing training requirements.

600.120 IMMUNITIES

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

Section 1. Exhaustion of Administrative Claims

Prior to filing a lawsuit against a professional employee hired by SCHOOL OF EXCELLENCE IN EDUCATION, potential claimants shall exhaust administrative remedies in accordance with state law. Administrative remedies must be pursued through the Board’s grievance process set forth in Board Policy 300.120.

Section 2. Written Notice of Legal Claims

Written notice of a potential legal claim against a professional employee of the SCHOOL OF EXCELLENCE IN EDUCATION shall be provided in accordance with state law and shall be mailed or hand-delivered to the employee’s attention at the charter school’s administrative office at the following address: 1826 Basse Road, San Antonio, Texas 78213

600.140 RETIREMENT AND HEALTH BENEFITS

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Compliance

The Superintendent or designee shall administer this policy in compliance with all applicable laws and shall ensure that school records pertaining to each employee’s retirement and health benefits are current and accurate.

SECTION 2. Health Benefits

SCHOOL OF EXCELLENCE IN EDUCATION elects to provide health benefits through TRS – Active Care. All health claims and coverage decisions are final as determined by the school’s selected carrier.

SECTION 3. COBRA Notification

The Superintendent, or designee, shall notify employees of their potential rights under COBRA upon separation from employment with the school, whether for voluntary or involuntary reasons.

SECTION 4. Local Benefits

Local Benefits – SCHOOL OF EXCELLENCE IN EDUCATION offers local employment benefits to its employees as specified in the employee handbook.

SECTION 5. Workers Compensation Benefits

It is the policy of SCHOOL OF EXCELLENCE IN EDUCATION to provide workers’ compensation insurance. The Superintendent or designee shall notify employees of its coverage decisions in accordance with state law.

600. 160 TEACHER CREDENTIALS & QUALIFICATIONS

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Compliance.

The Superintendent shall ensure that each teacher employed by the SCHOOL OF EXCELLENCE IN EDUCATION is properly credentialed and qualified as required by state and federal law. Further, the Superintendent shall ensure that the appropriate notices are sent to parents concerning the credentials and qualifications of the student’s teachers.

SECTION 2. Local Requirements for Teaching Credentials and Qualifications

In addition to the federal and state requirements, the Board directs the Superintendent to hire/make a good faith effort to hire teachers with appropriate credentials and qualifications.

600. 180 EMPLOYEE LEAVES AND ABSENCES

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

Section 1. Extended Absences from Duty

Section 1.1. Abandoning Work. An employee who misses three days of work without directly notifying the employee’s supervisor is considered to have abandoned the employee’s position and will be terminated from employment unless extenuating circumstances exist as determined by the Superintendent or designee.

Section 1.2. Returning to Work from Extended Leave.

Section 1.2.1. Reinstatement. The reinstatement of an employee returning from extended leave such as family medical leave, military leave, or workers’ compensation leave is a high priority for SCHOOL OF EXCELLENCE IN EDUCATION. Reinstatement to an equivalent position will be determined on a case-by-case basis by the Superintendent, or designee, based on the following factors relating to the best interests of the school and its students:

- a. the applicable laws, policies, and practices governing the employee’s absence from duty;
- b. for instructional positions, the time of year, the students’ academic and behavior progress, the proximity of school and/or student holidays, the proximity of student testing, and additional similar factors relating to the academic and behavioral success of the students;
- c. whether the employee is a key employee;
- d. the school’s legal obligations to other employees;
- e. the employee’s ability to perform the essential functions of the job with or without reasonable accommodation;
- f. the impact of reinstatement on the academic, fiscal, or other operations of the school.

Section 1.3. Pay Increases. Employees returning to their prior employment positions from extended leave such as family medical leave or workers’ compensation leave are entitled to any cost of living increases that were awarded during the employee’s absence from duty. Unless legally required otherwise, returning employees **will not be** entitled to any pay increases that were awarded based on seniority, length of service or work performance.

600. 200 COMPLAINTS BY SCHOOL EMPLOYEES

The governing body (“Board”) of SCHOOL OF EXCELLENCE IN EDUCATION adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Process for Employee Complaints

Employees of SCHOOL OF EXCELLENCE IN EDUCATION who have a complaint about their terms or conditions of work are encouraged to resolve their concerns informally with their co-workers and/or supervisors at the lowest level possible. If the employee is not satisfied with the outcome the informal resolution, then the employee may file a formal complaint in accordance with the grievance process set forth in Board Policy Section 300.120.

SECTION 2. Exception for Illegal Harassment & Retaliation Complaints

All formal complaints by charter employees must be pursued in accordance with the process set forth in Board Policy 300.120 unless the complaint is an illegal harassment or retaliation complaint filed by an employee against the employee’s supervisor. Under these circumstances, the employee shall present his or her Level 1 complaint to the school’s Superintendent or designee who will designate another supervisory level employee to hear and respond to the Level1 grievance. If the Superintendent or Superintendent’s designee does not reach a decision that is satisfactory to the employee, then the employee may appeal the decision to Levels 2 and 3 as delineated in Board Policy Section 300.120. A complaint of illegal harassment or retaliation against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board may appoint an appropriate person to conduct an investigation.