

1-1 By: Bettencourt S.B. No. 2044  
1-2 (In the Senate - Filed March 7, 2025; March 17, 2025, read  
1-3 first time and referred to Committee on State Affairs; May 5, 2025,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 9, Nays 1; May 5, 2025, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18		X		

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 2044 By: Schwertner

1-20 A BILL TO BE ENTITLED  
1-21 AN ACT

1-22 relating to the regulation of certain political communications, a  
1-23 prohibition on electioneering by school district and  
1-24 open-enrollment charter school officials and employees, and the  
1-25 authorization of action by the commissioner of education against a  
1-26 school district that initiates certain actions or proceedings;  
1-27 authorizing an administrative penalty; creating a criminal  
1-28 offense.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 11.061, Education Code, is amended by  
1-31 adding Subsection (b-1) to read as follows:

1-32 (b-1) A person whom the State Board for Educator  
1-33 Certification or the commissioner has determined to have violated  
1-34 Section 22B.003 may not serve as a member of the board of trustees  
1-35 of a school district for the period beginning on the date on which  
1-36 the determination was made and ending the day after the date on  
1-37 which the first trustee election occurring at least three years  
1-38 after the date on which the determination was made is held.

1-39 SECTION 2. Section 12.120, Education Code, is amended by  
1-40 adding Subsection (c) to read as follows:

1-41 (c) A person whom the State Board for Educator Certification  
1-42 or the commissioner has determined to have violated Section 22B.003  
1-43 may not serve as a member of the governing body of an  
1-44 open-enrollment charter school for the three-year period after the  
1-45 date on which the determination was made.

1-46 SECTION 3. Section 22.092, Education Code, is amended by  
1-47 amending Subsection (c) and adding Subsection (c-1) to read as  
1-48 follows:

1-49 (c) The registry maintained under this section must list the  
1-50 following persons as not eligible to be employed by public schools:

1-51 (1) a person determined by the agency under Section  
1-52 22.0832 as a person who would not be eligible for educator  
1-53 certification under Subchapter B, Chapter 21;

1-54 (2) a person determined by the agency to be not  
1-55 eligible for employment based on the person's criminal history  
1-56 record information review, as provided by Section 22.0833;

1-57 (3) a person who is not eligible for employment based  
1-58 on criminal history record information received by the agency under  
1-59 Section 21.058(b);

1-60 (4) a person whose certification or permit issued  
1-61 under Subchapter B, Chapter 21, is revoked by the State Board for  
1-62 Educator Certification on a finding that the person engaged in

misconduct described by Section 21.006(b)(2)(A) or (A-1); [and]

(5) subject to Subsection (c-1), a person who is determined by the State Board for Educator Certification to have engaged in electioneering under Section 22B.003;

(6) a person who is determined by the commissioner under Section 22.094 to have engaged in misconduct described by Section 22.093(c)(1)(A) or (B); and

(7) subject to Subsection (c-1), a person who is determined by the commissioner under Section 22B.005 or by another governmental body to have engaged in electioneering under Section 22B.003.

(c-1) The agency shall remove a person included in the registry under Subsection (c)(5) or (7) not later than:

(1) the third anniversary of the date on which the person was included in the registry under the applicable subdivision if the person was the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement at the time the person was included in the registry; or

(2) the first anniversary of the date on which the person was included in the registry under the applicable subdivision if the person held a position other than a position described by Subdivision (1) of this subsection at the time the person was included in the registry.

SECTION 4. The heading to Subtitle D, Title 2, Education Code, is amended to read as follows:

SUBTITLE D. EDUCATORS AND SCHOOL OFFICIALS, ~~[DISTRICT]~~ EMPLOYEES, AND VOLUNTEERS

SECTION 5. Subtitle D, Title 2, Education Code, is amended by adding Chapter 22B to read as follows:

CHAPTER 22B. ELECTIONEERING PROHIBITED

Sec. 22B.001. DEFINITIONS. In this chapter:

(1) "Electioneering" includes:

(A) posting, using, or distributing political signs or literature;

(B) proposing, endorsing, or expressing support for or opposition to a measure before a governmental body other than a school district; and

(C) engaging in conduct prohibited by:

(i) Section 255.003 or 255.0031, Election Code; or

(ii) Section 305.027 or 556.0055, Government Code.

(2) "Measure" includes:

(A) a question or proposal submitted in an election for an expression of the voters' will, including the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will;

(B) a bill, resolution, order, or other proposal to adopt, enact, amend, or repeal a statute, ordinance, rule, or policy of general application; and

(C) a proposal to adopt, enact, amend, or repeal, or to grant a variance or other exception to, a zoning ordinance.

(3) "Other charter entity" has the meaning assigned by Section 21.006.

Sec. 22B.002. APPLICABILITY. This chapter applies only to:

(1) the board of trustees or a member of the board of trustees of a school district;

(2) the governing body or a member of the governing body of an open-enrollment charter school;

(3) an educator; and

(4) a school district or open-enrollment charter school employee, agent, or contractor.

Sec. 22B.003. ELECTIONEERING PROHIBITED. (a)

Notwithstanding any other law, a person to whom this chapter applies may not use federal, state, or local money or other school resources to engage in electioneering, or assist another person in

engaging in electioneering, for or against any candidate, measure, or political party.

(b) Except as otherwise provided by law, a person to whom this chapter applies may not use federal, state, or local money or other school resources to encourage or discourage participation in an election.

(c) The board of trustees of a school district and the governing body of an open-enrollment charter school shall adopt protocols and policies and take actions necessary to ensure compliance with this section.

(d) The State Board for Educator Certification shall adopt standards of conduct prohibiting an educator from engaging in conduct that violates this section.

Sec. 22B.004. REQUIRED REPORT OF ALLEGED ELECTIONEERING; PENALTIES. (a) The superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall report an alleged violation of Section 22B.003, not later than the seventh day after the date the superintendent or director becomes aware of the alleged violation, to:

(1) the State Board for Educator Certification if the alleged violation was committed by an educator; or

(2) the commissioner if the alleged violation was committed by a person other than an educator.

(b) The report required by Subsection (a) must be:

(1) in writing; and

(2) in a form prescribed by:

(A) the State Board for Educator Certification if an educator is the subject of the report; or

(B) the commissioner if a person other than an educator is the subject of the report.

(c) The principal of a school district, district of innovation, open-enrollment charter school, or other charter entity shall report an alleged violation of Section 22B.003, not later than the seventh day after the date the principal becomes aware of the alleged violation, to the superintendent or director of the district, school, or entity at which the principal is employed.

(d) A person required to report an alleged violation of Section 22B.003 under this section and who in good faith reports the alleged violation in accordance with this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(e) A person required to report an alleged violation of Section 22B.003 under this section commits an offense if the person fails to report the alleged violation by the date required under this section with the intent to conceal the alleged violation. An offense under this subsection is a state jail felony.

(f) If a person required to report an alleged violation of Section 22B.003 under this section fails to report the alleged violation in accordance with this section, the State Board for Educator Certification:

(1) shall determine whether to impose sanctions against the person, including an administrative penalty of not less than \$500 and not more than \$10,000; and

(2) if the board imposes an administrative penalty on the person, may not renew the person's educator certification until the penalty is paid.

(g) The commissioner may review the records of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement to ensure compliance with this section.

(h) The commissioner shall adopt rules as necessary to implement this section.

Sec. 22B.005. DETERMINATION OF ALLEGED ELECTIONEERING; INELIGIBILITY FOR EMPLOYMENT. (a) This section applies only to a person to whom this chapter applies who does not hold a certification or permit issued under Subchapter B, Chapter 21.

(b) Except as provided by Subsection (c), a person who is alleged to have violated Section 22B.003 is entitled to a hearing on the merits of the allegation under the procedures provided by Chapter 2001, Government Code.

(c) A person who is alleged to have violated Section 22B.003 is not entitled to a hearing under this section if:

(1) a final decision has been entered under other law finding the person to have engaged in conduct that constitutes electioneering; or

(2) another governmental body has jurisdiction over the alleged violation and the commissioner elects not to pursue enforcement under this section.

(d) On receiving a report under Section 22B.004, or pursuant to an investigation conducted under Section 39.003, of an alleged violation of Section 22B.003 by a person who is entitled to a hearing under this section, the commissioner shall promptly send to the person written notice that includes:

(1) a statement informing the person that the person must request, not later than the 10th day after the date the person receives the notice, a hearing on the merits of the allegation;

(2) a request that the person submit, not later than the 10th day after the date the person receives the notice, a written response to show cause why the commissioner should not pursue an investigation under this section; and

(3) a statement informing the person that if the person does not timely submit a written response to show cause as provided by Subdivision (2), the commissioner will instruct the agency to make available on the Internet portal described by Section 22.095 information indicating the person is under investigation for an alleged violation of Section 22B.003.

(e) If a person who is entitled to a hearing under this section does not request a hearing before the date required by Subsection (d)(1), the commissioner shall make a determination on whether the person violated Section 22B.003 based on the contents of the report submitted under Section 22B.004 or the results of the investigation under Section 39.003, as applicable.

(f) If the commissioner determines under this section that a person violated Section 22B.003, the commissioner shall instruct the agency to add the person to the registry of persons not eligible for employment in public schools under Section 22.092.

(g) If the commissioner determines that a person did not violate Section 22B.003 and the agency made available on the Internet portal described by Section 22.095 information indicating the person was under investigation in accordance with Subsection (d)(3), the commissioner shall instruct the agency to immediately remove the information from the Internet portal.

(h) The commissioner shall adopt rules as necessary to implement this section.

Sec. 22B.006. EXCEPTION. Notwithstanding any other provision of this chapter, the State Board for Educator Certification or the commissioner may elect not to take action against a person determined to have violated Section 22B.003 if the person:

(1) was ordered to take the action by another person in a position of actual or apparent authority over the person; and

(2) could not reasonably have been expected to know the person's action constituted a violation of that section.

Sec. 22B.007. ADDITIONAL REMEDIAL ACTION. If the commissioner determines that an action taken by the board of trustees of a school district or the governing body of an open-enrollment charter school against a person determined to have violated Section 22B.003 is not sufficient to deter future violations of that section, the commissioner may substitute a remedial action the commissioner determines appropriate.

Sec. 22B.008. AGENCY INVESTIGATIVE AUTHORITY. (a) The agency's authority to investigate an alleged violation of Section 22B.003 is concurrent with the authority of any other person charged with investigating such a violation under this chapter.

(b) Another person's dismissal of an alleged violation of



Section 22B.003 does not affect the agency's authority to investigate the alleged violation.

SECTION 6. Section 39.003(a), Education Code, is amended to read as follows:

(a) The commissioner may authorize special investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

(11) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(12) when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement under Section 28.025(c-1);

(13) when an excessive number of students is graduating with a particular endorsement under Section 28.025(c-1);

(14) in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter;

(15) when 10 percent or more of the students graduating in a particular school year from a particular high school campus are awarded a diploma based on the determination of an individual graduation committee under Section 28.0258;

(16) when a school district for any reason fails to produce, at the request of the agency, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification; ~~or~~

(17) in response to an alleged violation of Section 22B.003; or

(18) as the commissioner otherwise determines necessary.

SECTION 7. Section 39A.001, Education Code, is amended to read as follows:

Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. The commissioner shall take any of the actions authorized by this subchapter to the extent the commissioner determines necessary if:

(1) a school district does not satisfy:  
(A) the accreditation criteria under Section 39.052;

(B) the academic performance standards under Section 39.053 or 39.054; or

(C) any financial accountability standard as determined by commissioner rule; ~~[or]~~

(2) the commissioner considers the action to be appropriate on the basis of a special investigation under Section 39.003; or

(3) a school district initiates or maintains an action or proceeding against the state or an agency or officer of the state.

SECTION 8. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.048 to read as follows:

Sec. 44.048. PROHIBITED CONTRACTING. (a) In this section, "electioneering" has the meaning assigned by Section 22B.001.

(b) A school district or open-enrollment charter school may not contract with:

(1) a person for services that would constitute electioneering or services supportive of electioneering;

(2) a person who subcontracts with a person to provide services described by Subdivision (1); or

(3) a person who is included in or who will assign duties under the contract or subcontract to a person who is included in the registry of persons not eligible for employment in public schools under Section 22.092 based on a determination that the person engaged in electioneering.

SECTION 9. Section 251.001(16), Election Code, is amended to read as follows:

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; ~~[or]~~

(B) appears:  
(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website, including on any social media platform, or in any electronic communication; or

(C) is directed to an individual person or multiple persons through any form of communication.

SECTION 10. The heading to Section 255.003, Election Code, is amended to read as follows:

Sec. 255.003. UNLAWFUL USE OF PUBLIC RESOURCES ~~[FUNDS]~~ FOR POLITICAL ADVERTISING AND CERTAIN POLITICAL ACTIVITIES.

SECTION 11. Section 255.003, Election Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (c) to read as follows:

(a-1) An officer, employee, or contractor of a school district or open-enrollment charter school may not use or authorize the use of public money or resources to:

(1) distribute a communication in any form advocating for or opposing any candidate, measure, or political party; or

(2) facilitate any activity by a student or other person for advocacy communications to an elected officer or employee of an elected officer for or against a matter for which the officer may vote or take an official action.

(a-2) For purposes of Subsection (a-1):

(1) the following qualifies as the use of public money or resources:

(A) the development or distribution, or arrangement for the development or distribution, of a communication described by Subsection (a-1)(1) that occurs during the working hours of an officer, employee, or contractor or during any period of time in which the officer, employee, or contractor is compensated by the school district or open-enrollment charter school; or

(B) the provision of contact information by an officer, employee, or contractor of a school district or open-enrollment charter school to a political action committee or similar entity for the purpose of distributing a communication described by Subsection (a-1)(1);

(2) the use of a personal electronic device on school district or open-enrollment charter school property by an officer, employee, or contractor to access the Internet during the officer's, employee's, or contractor's personal time for the purpose of developing or distributing, or arranging for the development or distribution of, a communication described by Subsection (a-1)(1) does not qualify as the use of public money or resources; and

(3) a person's presence on school district or open-enrollment charter school property while engaging in electioneering, as defined by Section 22B.001, Education Code, outside of work hours does not constitute the use of public money.

(c) A person who violates Subsection (a), (a-1), or (b-1) commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 12. Section 255.0031(b), Election Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

(1) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service if the officer or employee is unaware that the distributed materials contain political advertising; or

(2) the use of an internal mail system by a state agency or municipality to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency or municipality.

SECTION 13. Section 572.059, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Subsections (c)(2) and (3) do not apply to a member of the governing body of a school district with respect to a legislative measure outside the district's authority.

(e) This section does not prohibit a person from providing information to a member of the legislature on request.

SECTION 14. The following provisions of the Education Code are repealed:

(1) Section 11.169; and

(2) Section 45.109(e).

SECTION 15. Section 44.048, Education Code, as added by this Act, applies only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect on the date the contract was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 16. The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 17. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

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