

The Texas Education Agency (TEA) proposes new §74.2101, concerning the middle school advanced mathematics program. The proposed new rule would implement Senate Bill (SB) 2124, 88th Texas Legislature, Regular Session, 2023, by establishing requirements related to automatic enrollment of certain middle school students into an advanced mathematics program designed to prepare students to enroll in Algebra I in Grade 8.

**BACKGROUND INFORMATION AND JUSTIFICATION:** SB 2124, passed by the 88th Texas Legislature, Regular Session, 2023, established Texas Education Code (TEC), §28.029, requiring each school district and open-enrollment charter school to automatically enroll in an advanced mathematics course all Grade 6 students who performed in the top 40% on either the Grade 5 mathematics assessment instrument administered under TEC, §39.023(a), or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework. The statute includes an opt-out provision for parents or guardians who wish to remove their child from automatic enrollment in the advanced mathematics course.

The new rule would require each school district and open-enrollment charter school to develop a middle school advanced mathematics program for students in Grades 6-8 to enable students to enroll in Algebra I in Grade 8. The new rule would include requirements for enrollment criteria and parent notification.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and program, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation by establishing a rule related to automatic enrollment of certain middle school students into an advanced mathematics program designed to prepare students to enroll in Algebra I in Grade 8, in accordance with SB 2124, 88th Texas Legislature, Regular Session, 2023.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to provide school districts and open-enrollment charter schools with clarification regarding automatic enrollment in middle school advanced mathematics programs. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins February 23, 2024, and ends March 25, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on February 23, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §28.029, as added by Senate Bill 2124, 88th Texas Legislature, Regular Session, 2023, which requires a school district or open-enrollment charter school to automatically enroll in an advanced mathematics course each Grade 6 student who performed in the top 40% on either the Grade 5 mathematics assessment instrument administered under TEC, §39.023(a), or on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §28.029, as added by Senate Bill 2124, 88th Texas Legislature, Regular Session, 2023.

<rule>

**§74.2101. Middle School Advanced Mathematics Program.**

- (a) Each school district and open-enrollment charter school shall develop a middle school advanced mathematics program for students in Grades 6-8 to enable students to enroll in Algebra I in Grade 8.
- (b) Each school district and open-enrollment charter school shall develop a local measure for use in determining student eligibility for automatic enrollment in a middle school advanced mathematics program.
- (c) School districts and open-enrollment charter schools shall automatically enroll in a middle school advanced mathematics program each Grade 6 student whose performance was:
  - (1) in the 60th percentile or higher on statewide scores for the Grade 5 mathematics assessment instrument administered under Texas Education Code, §39.023(a); or
  - (2) in the top 40% on a local measure that includes the student's Grade 5 class ranking or a demonstrated proficiency in the student's Grade 5 mathematics coursework.
- (d) A local measure shall be used to determine enrollment of Grade 6 students for whom there are no results on the state Grade 5 mathematics assessment.
- (e) A school district or open-enrollment charter school shall make public the criteria for automatic enrollment in a middle school advanced mathematics program, including any criteria for a local measure, before the start of each school year.
- (f) The parent or guardian of a student who will be automatically enrolled in a middle school advanced mathematics program may opt the student out of automatic enrollment in an advanced mathematics program.
- (g) Each school district and open-enrollment charter school shall provide a written notice to the parent or guardian of each student entering Grade 6 who will be automatically enrolled in a middle school advanced mathematics program. The written notification shall be provided no later than 14 days before the first day of instruction for the school year. The required notice shall include a description of:
  - (1) the purpose of the program;

- (2) the middle school advanced mathematics program offered by the school district or open-enrollment charter school, including an overview of the content addressed at each grade level;
  - (3) resources offered to support student success;
  - (4) the right of the parent or guardian to opt their child out of the middle school advanced mathematics program; and
  - (5) the process for a parent or guardian to opt their child out of the program and any associated deadlines.
- (h) This section does not prohibit a school district or open-enrollment charter school from establishing a process to initially enroll Grade 7 or 8 students in a middle school advanced mathematics program.