

The Texas Education Agency (TEA) proposes the repeal of §89.1311, concerning the memorandum of understanding to provide educational services to released offenders. The proposed repeal is necessary because the statutory authority for adult basic education was transferred from the TEA to the Texas Workforce Commission (TWC) effective September 1, 2013.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with Texas Government Code, §508.318, §89.1311 establishes objectives to provide educational services that will assist releasees in remaining outside of the prison system and integrating into the community. Effective October 1, 1998, the rule addresses identifying and coordinating with local adult education providers, assessment of student needs, staff development, and process for referrals with local parole offices.

Senate Bill (SB) 307, 83rd Texas Legislature, Regular Session, 2013, transferred the authority for adult basic education from TEA to TWC.

The proposed repeal of §89.1311 is necessary because the statutory authority for the rule was transferred to TWC. TEA no longer has authority or funding for adult education.

FISCAL IMPACT: Lily Laux, deputy commissioner for school programs, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government 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 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 create a new regulation; 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. Laux 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 removing a rule for which TEA no longer has statutory authority. SB 307, 83rd Texas Legislature, Regular Session, 2013, transferred authority for adult basic education from TEA to TWC. 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: The 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 April 5, 2019, and ends May 6, 2019. 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 April 5, 2019. 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/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The repeal is proposed under Texas Government Code, §508.318, which required the Texas Education Agency (TEA) to coordinate with the Texas Board of Criminal Justice to provide literacy programs for releasees; and Senate Bill 307, Section 3.01, 83rd Texas Legislature, Regular Session, 2013, which transferred adult education and literacy programs from TEA to the Texas Workforce Commission.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Government Code, §508.318, and Senate Bill 307, Section 3.01, 83rd Texas Legislature, Regular Session, 2013.

<rule>

§89.1311. Memorandum of Understanding to Provide Educational Services to Released Offenders.

- [(a) Purpose. This memorandum of understanding is a non financial, mutual agreement between the Texas Department of Criminal Justice (TDCJ) and the Texas Education Agency (TEA). Pursuant to the Texas Government Code, §508.318, the TDCJ and the TEA shall set forth the respective responsibilities of the department and the agency in implementing a continuing education program to increase the literacy of releasees.]
- [(b) Objective. This memorandum of understanding is to realize a human service system that offers releasees choices and opportunities, within the realm of educational services, to remain outside prison and achieve maximum integration in the community. The following guiding principles should be considered to accomplish the objectives of this memorandum:]

 - [(1) the releasee will achieve more success outside of prison if a support system is in place to promote educational growth:]
 - [(2) the releasee may be less likely to become a repeat offender if he/she pursues education further; and]
 - [(3) the releasee must be encouraged to recognize the need for increasing his/her educational level to remain in the free world and learn to function as a productive citizen.]
- [(c) Participation:]

 - [(1) The Texas Department of Criminal Justice (TDCJ) will:]

 - [(A) establish a continuing education system to increase literacy for releasee(s) in the Day Resource Centers:]
 - [(B) establish a system whereby the TDCJ will inform adult education cooperatives of the process and requirements for continued education of the releasee(s);]
 - [(C) provide adult education cooperatives with assessment and educational profile information that will facilitate student placement in appropriate programs:]
 - [(D) coordinate with adult education cooperatives in implementing a system for identification of student needs and barriers, student referral, outreach activities, and releasee's compliance with educational requirements:]
 - [(E) identify resources that assist local adult education cooperatives in expanding services for releasees; and]

~~[(F) — participate in training necessary to develop the capacity at the local level to access and interact effectively with adult education service providers.]~~

~~[(2) — The Texas Education Agency will:]~~

~~[(A) — coordinate with the TDCJ to inform local parole offices of services available through the adult education cooperative system in which local school districts, junior colleges, and educational service centers provide instructional programs throughout the state;]~~

~~[(B) — assist the TDCJ in identifying barriers to provide adult education services to released offenders;]~~

~~[(C) — assist local adult education programs in developing the capacity to serve the released offender population;]~~

~~[(D) — coordinate with the TDCJ in establishing a referral process between local parole offices and local adult education cooperatives whereby releasees will be referred to adult education programs;]~~

~~[(E) — assist local adult education cooperatives in providing services to releasees in adult education programs on a first come, first served basis and to the extent the funds and classroom space are available;]~~

~~[(F) — assist local adult education cooperatives in communicating and coordinating with local parole offices on prospective students awaiting referral to education programs, availability of services, identification of financial resources, and other educational programs available for released offenders;]~~

~~[(G) — coordinate with the TDCJ in developing program objectives and collecting data to establish educational performance standards for released offenders;]~~

~~[(H) — coordinate with the TDCJ in providing training to assist local parole officers with the coordination of adult education services to released offenders; and]~~

~~[(I) — monitor program quality and compliance of local adult education programs serving released offenders.]~~

~~[(d) — Terms of the memorandum of understanding. This memorandum of understanding shall be adopted by rule by each participating agency and shall be effective October 1, 1998. The memorandum may be considered for expansion, modification, or amendment at any time upon the mutual agreement of the executive officers of the named agencies.]~~