

The Texas Education Agency (TEA) proposes an amendment to §100.1010, concerning charter school performance frameworks. The proposed amendment would modify the existing section to comply with statutory requirements, track agency policy including academic accountability and the Financial Integrity Rating System of Texas (FIRST), and more fully utilize available school data.

BACKGROUND INFORMATION AND JUSTIFICATION: The existing commissioner's rules in 19 TAC Chapter 100, Subchapter AA, cover a wide range of issues related to open-enrollment charter schools. The rules are organized in divisions addressing related subject matter, as follows: Division 1, General Provisions; Division 2, Commissioner Action and Intervention; Division 3, Charter School Funding and Financial Operations; Division 4, Property of Open-Enrollment Charter Schools; Division 5, Charter School Governance; and Division 6, Charter School Operations.

Section 100.1010 was adopted effective September 18, 2014, and was last amended effective August 2, 2018. The rule is issued under Texas Education Code (TEC), §12.1181, which requires the commissioner to develop and adopt frameworks by which the performance of open-enrollment charter schools would be measured. The performance frameworks consist of several indices within academic, financial, and operational categories with data drawn from various sources, reflected in the Charter School Performance Framework (CSPF) Manual, which is included as a figure in the rule and updated every year pursuant to statutory requirement.

The proposed amendment would replace the 2017 CSPF Manual with the 2018 CSPF Manual as Figure: 19 TAC §100.1010(c). The 2018 version of the manual includes the following significant changes from the 2017 version.

The 2018 CSPF Manual would revise the manual's academic indicators to track agency policy pertaining to academic accountability, with indicators for overall academic performance, achievement status for subgroups, English language proficiency for English learners, and campus ratings status. The new manual would also revise financial frameworks to draw from FIRST for charter schools (Charter FIRST) as it relates to a school's short-term and long-term solvency. In addition, the new manual would add operational indicators addressing the requirement that a school have at least 50% of its students in tested grades, its eligibility to participate in the Child Nutrition Program, its appropriate handling of secure testing materials, and its administrative cost ratio as reported in Charter FIRST. Finally, the 2018 CSPF Manual would revise indicators for adult high school diploma and industry certification charter schools to more fully utilize school data that is available.

FISCAL IMPACT: Joe Siedlecki, associate commissioner for improvements, innovations, and charters, 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: Mr. Siedlecki 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 ensuring that rule language is based on current law and updating statutorily required charter school performance frameworks to indicate charter school performance as accurately as possible. 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 amendment is proposed under Texas Education Code (TEC), §12.1181, which directs the commissioner of education to develop and adopt open-enrollment charter school performance frameworks; and TEC, §29.259, which directs the commissioner of education to establish an adult high school diploma and industry certification charter school pilot program, including adoption of frameworks to measure the performance of such a school.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §12.1181 and §29.259.

<rule>

§100.1010. Performance Frameworks.

- (a) The performance of an open-enrollment charter school will be measured annually against a set of criteria set forth in the Charter School Performance Framework (CSPF) Manual established under Texas Education Code (TEC), §12.1181. The CSPF Manual will include measures for charters registered under the standard system and measures for charters registered under the alternative education accountability system as adopted under §97.1001 of this title (relating to Accountability Rating System).
- (b) The performance of an adult high school diploma and industry certification charter school will be measured annually in the CSPF against a set of criteria established under TEC, §29.259.
- (c) The assignment of performance levels for charter schools on the 2018 ~~[2017]~~ CSPF report is based on specific criteria, which are described in the 2018 ~~[2017]~~ *Charter School Performance Framework Manual* provided in this subsection.

Figure: 19 TAC §100.1010(c) ~~[Figure: 19 TAC §100.1010(c)]~~