

The Texas Education Agency (TEA) proposes new §109.4001, concerning fiscal peer groups. The proposed new section would establish the criteria to be used to place school districts and open-enrollment charter schools into fiscal peer groups for purposes of an online financial information tool.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code, §39.001, authorizes the commissioner of education to adopt rules as necessary to administer TEC, Chapter 39, Public School System Accountability, and TEC, §39.085, authorizes the commissioner to adopt rules to administer TEC, Chapter 39, Subchapter D, Financial Accountability. TEC, §39.082(a)(2)(A), directs the commissioner to provide additional transparency to public education finance, and TEC, §39.082(h), authorizes the commissioner to adopt rules to administer the section.

Proposed new 19 TAC §109.4001 would promote transparency by allowing users of the txschools.gov website, which is designed to provide an in-depth look into how campuses and districts are performing overall and in different areas, to compare the financial data of similar school districts and open-enrollment charter schools based upon specific criteria. The criteria include whether the school district is eligible to receive the sparsity adjustment and student enrollment levels as established in proposed new subsection (a)(2). Open-enrollment charter schools will be placed in fiscal peer groups that do not receive the sparsity adjustment. A list of fiscal peer groups categorized using the criteria in the proposed new rule is posted on the TEA website at [https://tea.texas.gov/Finance_and_Grants/State_Funding/Financial_Information_Tool_\(FIT\)/](https://tea.texas.gov/Finance_and_Grants/State_Funding/Financial_Information_Tool_(FIT)/).

The establishment of fiscal peer groups is for informational purposes only and has no effect upon a school district's or an open-enrollment charter school's financial accountability rating. Groupings will be reevaluated on an ongoing basis.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance, 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 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. Lopez 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 promoting transparency by ensuring that rule language provides for comparison of fiscal peer groups as determined by the commissioner. 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 May 17, 2019, and ends June 17, 2019. A public hearing to solicit testimony and input on the proposal will be held at 9:00 a.m. on May 29, 2019, in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. Anyone wishing to testify at the hearing must sign in between 8:00 a.m. and 9:00 a.m. on the day of the hearing. The hearing will conclude once all who have signed in have been given the opportunity to comment. 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 new section is proposed under Texas Education Code (TEC), §39.001, which authorizes the commissioner to adopt rules as necessary to administer TEC, Chapter 39; TEC, §39.082(a)(2)(A), which directs the commissioner of education to provide additional transparency to public education finance; TEC, §39.082(h), which authorizes the commissioner to adopt rules to administer TEC, §39.082; and TEC, §39.085, which authorizes the commissioner to adopt rules to administer TEC, Chapter 39, Subchapter D.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §§39.001; 39.082(a)(2)(A) and (h); and 39.085.

<rule>

§109.4001. Establishment of Fiscal Peer Groups.

- (a) The criteria selected by the Texas Education Agency for use in an online financial information tool to place school districts and open-enrollment charter schools in fiscal peer groups include:
 - (1) whether the school district is eligible to receive the sparsity adjustment; and
 - (2) student enrollment levels, which are determined by districtwide enrollment of:
 - (A) 1 through 499 students;
 - (B) 500 through 999 students;
 - (C) 1,000 through 1,599 students;
 - (D) 1,600 through 4,999 students;
 - (E) 5,000 through 24,999 students; or
 - (F) 25,000 or more students.
- (b) Open-enrollment charter schools will be placed in fiscal peer groups that do not receive the sparsity adjustment.
- (c) The establishment of fiscal peer groups is for informational purposes only and has no effect upon a school district's or an open-enrollment charter school's financial accountability rating.
- (d) Fiscal peer groups will be reevaluated on an ongoing basis.