The Texas Education Agency (TEA) proposes the repeal of §97.1004, concerning adequate yearly progress (AYP). The proposed repeal is necessary because the rule is concerned with requirements from the No Child Left Behind Act of 2001 (NCLB), which is no longer in effect.

BACKGROUND INFORMATION AND JUSTIFICATION: Under the federal accountability provisions in NCLB, all campuses, school districts, and the state were evaluated for AYP. Districts, campuses, and the state were required to meet AYP criteria on three measures: reading/English language arts, mathematics, and either graduation rate (for high schools and districts) or attendance rate (for elementary and middle/junior high schools). If a campus, district, or state receiving Title I, Part A, funds failed to meet AYP for two consecutive years, that campus, district, or state was subject to certain requirements such as offering supplemental educational services, offering school choice, or taking corrective actions. To implement these requirements, TEA developed the AYP guide effective July 14, 2005. In 2015, NCLB was replaced by the Every Student Succeeds Act, which did not continue AYP.

The proposed repeal of 19 TAC §97.1004 would repeal applicable excerpts, *Sections II-V*, of the *2012 Adequate Yearly Progress Guide*. These excerpted sections describe specific features of the system, AYP measures and standards, and appeals, which are no longer applicable since NCLB has been replaced.

FISCAL IMPACT: Jeff Cottrill, deputy commissioner for academics standards and engagement, 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 repeal an existing regulation. The proposed repeal would remove the excerpted sections of the *2012 Adequate Yearly Progress Guide*, which are no longer applicable.

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 create a new regulation; would not expand or limit 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. Cottrill 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 informing the public that AYP is no longer applicable. 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 31, 2019, and ends July 1, 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 May 31, 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/. 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 Education Code (TEC), §7.055(b)(32), which requires the commissioner to perform duties in connection with accreditation status and the public school accountability system as prescribed by TEC, Chapter 39; TEC, §39.073, as that section existed before amendment by House Bill (HB) 3, 81st Texas Legislature, 2009, which required the commissioner to perform duties in connection with accreditation status and the public school accountability system as prescribed by TEC, Chapter 39; and TEC, §39.075(a)(4), as that section existed before amendment by HB 3, 81st Texas Legislature, 2009, which required the commissioner to authorize special accreditation investigations to be conducted in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §7.055(b)(32); and §39.073 and §39.075(a)(4), as those sections existed before amendment by House Bill 3, 81st Texas Legislature, 2009.

<rule>

§97.1004. Adequate Yearly Progress.