

The Texas Education Agency (TEA) proposes an amendment to §109.1001, concerning financial accountability. The proposed amendment would update financial accountability rating information and rating worksheets for school districts, open-enrollment charter schools, and charter schools operated by public institutions of higher education (IHEs).

BACKGROUND INFORMATION AND JUSTIFICATION: Section 109.1001 includes the financial accountability rating system and rating worksheets that explain the indicators that the TEA will analyze to assign financial accountability ratings for school districts and open-enrollment charter schools. The rule also specifies the minimum financial accountability rating information that a school district or an open-enrollment charter school is to report to parents and taxpayers in the district.

The proposed amendment would clarify the financial accountability rating indicators used to determine each school district's rating for the 2018-2019 rating year and subsequent years by revising the ratings worksheet calculations in §109.1001(e)(4), (e)(5), (f)(4), and (f)(5). The proposed amendment would also include modifications to the rating worksheets in §109.1001(e)(4), (e)(5), (f)(4), (f)(5), (g)(1), and (g)(2) to clarify that financial accountability ratings for a rating year are based on the data from the prior fiscal year. The proposed worksheets, dated June 2019, would differ from the current worksheets, dated February 2018, as follows.

Figure: 19 TAC §109.1001(e)(4)

The header in the worksheet would be amended to clarify that the rating worksheet is for multiple rating years based on corresponding prior fiscal year end data.

The Determination of School District Rating table would be revised to include the word "Achievement" beside the adopted terminology for each rating. The ratings terminology would change to "Superior Achievement," "Above Standard Achievement," and "Meets Standard Achievement."

Indicator 4 would be revised to amend the calculation text to allow for Internal Revenue Service (IRS) payments made within 30 days to be considered timely payments.

Indicator 5 would be revised to amend the calculation by adding variable G for Other Post Employment Benefit (OPEB). The OPEB liability would be added to the calculation to account for required changes in accounting requirements that adversely affect the total net position amount.

Indicator 11 would be revised to simplify the calculation for the administrative cost ratio.

Figure: 19 TAC §109.1001(e)(5)

The header in the worksheet would be amended to clarify that the rating worksheet is for multiple rating years based on corresponding prior fiscal year end data.

Indicator 4 would be revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

Indicator 5 would be revised to amend the calculation by adding variable G for OPEB. The OPEB liability would be added to the calculation to account for required changes in accounting requirements that adversely affect the total net position amount.

Indicator 6 would be revised to clarify terminology to match the calculation and to correct the calculation by removing an extra parenthesis.

Indicator 7 would be revised to clarify terminology to match the calculation.

Indicator 10 would be revised to clarify terminology to match the calculation and to correct the order of operation in the calculation by adding and removing an extra parenthesis.

Indicator 13 would be revised to simplify the calculation for the administrative cost ratio.

Indicator 20 would be revised to clarify when the requirement for the indicator must be met.

Figure: 19 TAC §109.1001(f)(4) and Figure: 19 TAC §109.1001(f)(5)

The headers in the worksheets would be amended to clarify that the rating worksheets are for multiple rating years based on corresponding prior fiscal year end data.

Indicator 4 would be revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

Figure: 19 TAC §109.1001(g)(1) and Figure: 19 TAC §109.1001(g)(2)

The headers in the worksheets would be amended to clarify that the rating worksheets are for multiple rating years based on corresponding prior fiscal year end data.

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 expand an existing regulation by updating the rating worksheets for school districts, open-enrollment charter schools, and charter schools operated by public IHEs.

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 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 ensuring that the provisions of the financial accountability rating system align to make the indicators uniform for all school districts and charter schools and would provide a fair and equitable rating for all school districts and charter schools. 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 June 21, 2019, and ends July 22, 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 June 21, 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), §12.104, which subjects open-enrollment charter schools to the prohibitions, restrictions, or requirements relating to public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and TEC, Chapter 39A; TEC, §39.082, which states that the financial performance of a charter school operated by a public institution of higher education under TEC, Chapter 12, Subchapter D or E, shall be evaluated using only the indicators adopted under TEC, §39.082, determined by the commissioner by rule as appropriate to accurately measure the financial performance of such charter schools. The statute also requires the commissioner to develop and implement a financial accountability rating system for public schools and establishes certain minimum requirements for the system, including an appeals process; TEC, §39.083, which requires the commissioner to include in the financial accountability system procedures for public schools to report and receive public comment on an annual financial management report; TEC, §39.085, which requires the commissioner to adopt rules to implement TEC, Chapter 39, Subchapter D, which addresses financial accountability for public schools; and TEC, §39.151, which requires the commissioner to provide a process by which a district or charter school can challenge an agency decision related to academic or financial accountability under TEC, Chapter 39. This process must include a committee to make recommendations to the commissioner. These provisions collectively authorize and require the commissioner to adopt the financial accountability system rules, which implement each requirement of statute applicable to districts and open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§12.104, 39.082, 39.083, 39.085, and 39.151.

<rule>

§109.1001. Financial Accountability Ratings.

(a)-(d) (No change.)

(e) The TEA will base the financial accountability rating of a school district on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.

(1)-(3) (No change.)

(4) The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 are based on financial data from fiscal years 2017, 2018, and 2019, respectively, and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating years 2017-2018 through 2019-2020." The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph.

Figure: 19 TAC §109.1001(c)(4) ~~[Figure: 19 TAC §109.1001(c)(4)]~~

(5) The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating year 2020-2021." The financial

accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph.

Figure: 19 TAC §109.1001(e)(5) ~~[Figure: 19 TAC §109.1001(e)(5)]~~

- (6) (No change.)
- (f) The TEA will base the financial accountability rating of an open-enrollment charter school on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.
- (1)-(3) (No change.)
- (4) The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 are based on financial data from fiscal years 2017, 2018, and 2019, respectively, and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating year 2017-2018." The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph.
- Figure: 19 TAC §109.1001(f)(4) ~~[Figure: 19 TAC §109.1001(f)(4)]~~
- (5) The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating year 2020-2021." The financial accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph.
- Figure: 19 TAC §109.1001(f)(5) ~~[Figure: 19 TAC §109.1001(f)(5)]~~
- (6) (No change.)
- (g) The TEA will base the financial accountability rating of a charter school operated by a public IHE on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.
- (1) The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "IHE Charter FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating years 2016-2017 through 2019-2020." The financial accountability rating indicators for rating years 2016-2017 through 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph.
- Figure: 19 TAC §109.1001(g)(1) ~~[Figure: 19 TAC §109.1001(g)(1)]~~
- (2) The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "IHE Charter FIRST - Rating Worksheet Dated June 2019 ~~[February 2018]~~ for rating year 2020-2021." The financial accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph.
- Figure: 19 TAC §109.1001(g)(2) ~~[Figure: 19 TAC §109.1001(g)(2)]~~
- (h)-(q) (No change.)