

ATTACHMENT I

Statutory Citation Relating to New 19 TAC Chapter 61, School Districts, Subchapter AA, Commissioner's Rules on School Finance, §61.1017, Alternative Compensatory Education Allotment Calculation

Texas Education Code, §42.152, Compensatory Education Allotment:

- (a) For each student who is Educationally disadvantaged or who is a student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 29.081 because the student is pregnant.
- (b) For purposes of this section, the number of Educationally disadvantaged students is determined:
 - (1) by averaging the best six months' numbers of students eligible for enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or
 - (2) in the manner provided by commissioner rule.
- (b-1) A student receiving a full-time virtual Education through the state virtual school network may be included in determining the number of Educationally disadvantaged students under Subsection (b) if the school district submits to the commissioner a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.
- (c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or a disciplinary alternative Education program established under Section 37.008, to pay the costs associated with placing students in a juvenile justice alternative Education program established under Section 37.011, or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are Educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory Education allotment shall be used for costs supplementary to the regular Education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. For purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular Education program, and a district may use its compensatory Education allotment for such a program.
- (c-1) Notwithstanding Subsection (c), funds allocated under this section may be used to fund in proportion to the percentage of students served by the program that meet the criteria in Section 29.081(d) or (g):

- (1) an accelerated reading instruction program under Section 28.006(g); or
 - (2) a program for treatment of students who have dyslexia or a related disorder as required by Section 38.003.
- (c-2) Notwithstanding Subsection (c), funds allocated under this section may be used to fund a district's mentoring services program under Section 29.089.
- (d) The agency shall evaluate the effectiveness of accelerated instruction and support programs provided under Section 29.081 for students at risk of dropping out of school.
- (e)-(p) Repealed by Acts 2009, 81st Leg., Ch. 1328 (H.B. 3646), §105(a)(6), effective September 1, 2009.
- (q) The State Board of Education, with the assistance of the comptroller, shall develop and implement by rule reporting and auditing systems for district and campus expenditures of compensatory Education funds to ensure that compensatory Education funds, other than the indirect cost allotment, are spent only to supplement the regular Education program as required by Subsection (c). The reporting requirements shall be managed electronically to minimize local administrative costs. A district shall submit the report required by this subsection not later than the 150th day after the last day permissible for resubmission of information required under Section 42.006.
- (q-1) The commissioner shall develop a system to identify school districts that are at high risk of having used compensatory Education funds other than in compliance with Subsection (c) or of having inadequately reported compensatory Education expenditures. If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is not at high risk of having misused compensatory Education funds or of having inadequately reported compensatory Education expenditures, the district may not be required to perform a local audit of compensatory Education expenditures and is not subject to on-site monitoring under this section.
- (q-2) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having misused compensatory Education funds, the commissioner shall notify the district of that determination. The district must respond to the commissioner not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having misused compensatory Education funds or if the district does not respond in a timely manner, the commissioner shall:
 - (1) require the district to conduct a local audit of compensatory Education expenditures for the current or preceding school year;
 - (2) order agency staff to conduct on-site monitoring of the district's compensatory Education expenditures; or
 - (3) both require a local audit and order on-site monitoring.
- (q-3) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having inadequately reported compensatory Education expenditures, the commissioner may require agency staff to assist the district in following the proper reporting methods or amending a district or campus improvement plan under Subchapter F, Chapter 11. If the district does not take appropriate corrective action before the 45th day after the date the agency staff notifies the district of the action the district is expected to take, the commissioner may:
 - (1) require the district to conduct a local audit of the district's compensatory Education expenditures; or

- (2) order agency staff to conduct on-site monitoring of the district's compensatory Education expenditures.
- (q-4) The commissioner, in the year following a local audit of compensatory Education expenditures, shall withhold from a district's foundation school fund payment an amount equal to the amount of compensatory Education funds the agency determines were not used in compliance with Subsection (c). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (c).
- (r) The commissioner shall grant a one-year exemption from the requirements of Subsections (q)-(q-4) to a school district in which the group of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l) subsequently performs on those assessment instruments at a level that meets or exceeds a level prescribed by commissioner rule. Each year the commissioner, based on the most recent information available, shall determine if a school district is entitled to an exemption for the following school year and notify the district of that determination.
- (s)-(s-3) Expired pursuant to Acts 2009, 81st Leg., Ch. 1328 (H.B. 3646), §53, effective September 1, 2013.
- (t)-(u) Repealed by Acts 2009, 81st Leg., Ch. 1328 (H.B. 3646), §105(a)(6), effective September 1, 2009.