

The Texas Education Agency adopts an amendment to §102.1601, concerning the supplemental special education services program. The amendment is adopted without changes to the proposed text as published in the October 31, 2025 issue of the *Texas Register* (50 TexReg 7089) and will not be republished. The adopted amendment clarifies criteria for parent-directed services for students receiving special education services to align with the passage of House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025.

REASONED JUSTIFICATION: Section 102.1601 establishes criteria for supplemental special education services. HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, changed the name of the program to Parent-Directed Services for Students Receiving Special Education Services (PDSSES), so the section title has been updated to align with the new program name.

Adopted changes throughout the rule add clarity to supplemental instructional materials and services.

The adopted amendment to subsection (a) aligns with terminology updated by legislation.

The adopted amendment to subsection (c) clarifies eligibility criteria by adding that eligible students must be currently attending a public school and by repealing specifications about special education programs.

Adopted subsection (e)(2)(C) adds that service providers must maintain their eligibility to offer services through the PDSSES program and that they must complete an annual agreement. Additionally, the adopted new language adds that if they do not complete this process, they will be removed from the marketplace and must notify the program if they are no longer eligible to provide services.

The adopted amendment to subsection (f)(6) adds that parents can only appeal a PDSSES eligibility decision during the annual appeal window and that failure to do so means they must reapply during a subsequent application window.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began October 31, 2025, and ended December 1, 2025. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §29.041, as amended by House Bill (HB) 2, HB 6, and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for providing a supplemental special education services and instructional materials program for certain public school students receiving special education services and requires the commissioner by rule to determine, in accordance with TEC, Chapter 29, Subchapter A-1, the criteria for providing a program to provide supplemental special education services and instructional materials for eligible public school students; TEC, §29.042, as amended by HB 1926, 88th Texas Legislature, Regular Session, 2023, and HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements related to the establishment and administration of a parent-directed program for students receiving special education services; TEC, §29.043, which requires the commissioner to establish an application process for eligible student's parent to apply for a grant held in an online account maintained under TEC, §29.042(b), and assigned to the student under TEC, §29.045; TEC, §29.044, which requires the commissioner to determine eligibility criteria for the approval of an application submitted under TEC, §29.043; TEC, §29.045, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements for students meeting eligibility criteria and requirements for assigning and maintaining accounts under TEC, §29.042(b); TEC, §29.046, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements and restrictions related to account use for accounts assigned to students under TEC, §29.045; TEC, §29.047, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements related to criteria and application for agency-approved providers and vendors; TEC, §29.0475, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements for a program participant, provider, and vendor autonomy of supplemental instructional materials; TEC, §29.048, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine responsibilities for the admission, review, and dismissal committee; TEC, §29.0485, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes that the determination of the commissioner is final, notwithstanding TEC, §7.057; and TEC, §29.049, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which

requires that the commissioner adopt rules as necessary to establish and administer the SSES and instructional materials program.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §29.041, as amended by House Bill (HB) 2, HB 6, and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; §29.042, as amended by HB 1926, 88th Texas Legislature, Regular Session, 2023, and HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.043; §29.044; §29.045, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.046, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.047, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.0475, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.048, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.0485, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; and §29.049, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

<rule>

### **§102.1601. Parent-Directed Services for Students Receiving Special Education Services.**

- (a) The Texas Education Agency (TEA) will administer the Parent-Directed Special Education Services (PDSES) grant program in accordance with Texas Education Code (TEC), Chapter 29, Subchapter A-1.
- (b) Definitions. For the purposes of this section, the following definitions apply.
  - (1) Eligible student--A student who meets all program eligibility criteria under TEC, §29.044, and this section.
  - (2) Management system--The online system provided by the marketplace vendor to allow for account creation, management of funds, and access to the marketplace.
  - (3) Marketplace--The virtual platform where parents and guardians with program funds may purchase goods and services.
  - (4) Marketplace vendor--The vendor chosen by TEA to create an online marketplace for the use of program funds.
  - (5) Supplemental instructional materials (materials)--This term has the meaning defined in TEC, §29.041, and specifically excludes materials that are provided as compensatory services or as a means of providing a student with a free appropriate public education.
  - (6) Supplemental services (services)--This term has the meaning defined in TEC, §29.041, and specifically excludes services that are provided as compensatory services or as part of a free appropriate public education, as well as payment for an independent educational evaluation (IEE) if the parent has asked for an IEE at public expense.
  - (7) Program-- The PDSES grant program described by TEC, Chapter 29, Subchapter A-1.
- (c) Eligibility criteria. All students currently enrolled in and attending a Texas public school district or open-enrollment charter school who are served under an individualized education program (IEP) in a special education program are eligible for the program with the following exclusions:
  - (1) students who do not reside in Texas or move out of the state, not including military-connected students entitled to enroll or remain enrolled while outside the state; or
  - (2) students who previously received a program grant, beginning with the program's launch in the 2020-2021 school year.
- (d) Awards.
  - (1) Parents and guardians of eligible students will receive grants of \$1,500 as long as funds are available for use in the purchasing of supplemental materials and services through the curated

marketplace of educational goods and services. Parents and guardians may receive only one grant for each eligible student.

- (2) Grants will be prioritized for a student enrolled in a school district or open-enrollment charter school that is eligible for a compensatory education allotment under TEC, §48.104.
- (3) TEA will use Public Education Information Management System (PEIMS) codes submitted by school districts and open-enrollment charter schools by each school year's TEA-established fall data submission deadline to verify eligibility in order to award accounts for the program.

(e) Establishment of the marketplace.

- (1) In accordance with TEC, §29.042(d), TEA shall award an education service center (ESC) with an operational and school district support grant, which may include, but is not limited to, the following operational requirements:
  - (A) writing and administering a contract for a vendor for the program marketplace that curates the content in its marketplace for educational relevancy. In accordance with the Family Educational Rights and Privacy Act, the contract must require the vendor for the marketplace to protect and keep confidential students' personally identifiable information, which may not be sold or monetized;
  - (B) providing technical assistance to parents and guardians throughout the program process;
  - (C) serving as the main point of contact for the selected marketplace vendor to ensure eligible student accounts are appropriately spent down;
  - (D) approving or denying all purchases from the program marketplace, including communication with parents and guardians about purchase order requests; and
  - (E) approving or denying all potential service providers.
- (2) Providers of supplemental materials and services may apply to be listed in the marketplace. To become an approved marketplace service provider, an applicant must sign a service provider agreement and comply with licensing, safety, and employee background checks.
  - (A) Organization service providers are required to provide their Texas Tax ID for TEA to verify the validity of the organization.
  - (B) Individual service providers are required to provide proof of credentials and licensing in accordance with the individual service provider categories established by TEA.
  - (C) Service providers must maintain their eligibility to offer services under the PDSSES service provider agreement and must complete an eligibility confirmation process annually. Failure to complete this process will result in removal from the marketplace. If a provider becomes ineligible, they must notify the program so they can be removed from the marketplace.
- (3) TEA shall provide a process for the application and approval of vendors to the marketplace.
- (4) TEA and the marketplace vendor shall provide a curated list of vendors through which parents and guardians can purchase educationally relevant materials. The established marketplace vendor shall be responsible for ensuring the vendors comply with program parameters as they relate to the marketplace and be responsible for all communications with marketplace vendors.

(f) Application process for grant on behalf of a student.

- (1) TEA is responsible for the application process and the determination of which applicants are approved for program grants.
- (2) Parents and guardians who would like to apply on behalf of their eligible students must complete the online application.
- (3) TEA will establish an annual application window. If applications are submitted during the window for students who would not show as eligible under the fall PEIMS data collection used by TEA

under subsection (d)(3) of this section, a parent may submit evidence of eligibility when submitting the application.

- (4) Upon approval of the application:
    - (A) TEA shall send contact information for parents and guardians of eligible students in a secure manner to the online marketplace vendor for account creation and distribution;
    - (B) parents and guardians of eligible students will receive an email to the same email address provided during application from the marketplace vendor with information on how to access their accounts; and
    - (C) parents and guardians will be awarded an account of \$1,500, depending on availability of funds, per eligible student to be used to purchase supplemental services and materials.
  - (5) Parents and guardians of students who are determined to have violated account use restrictions under subsection (i) of this section will receive notification from TEA and be provided an opportunity to appeal the account use determination. TEA shall exercise its discretion to determine the validity of any such appeal.
  - (6) A parent or guardian of a student who is deemed not eligible because the student cannot be verified through the PEIMS process described under subsection (d)(3) of this section or because the parent or guardian did not submit the necessary documentation during the designated application window for a student who became eligible after the timeline described in subsection (d)(3) of this section may choose to appeal this decision during the annual appeal window. If a parent or guardian does not appeal, they must reapply during a subsequent school year's application window.
  - (7) If necessary, eligible students will be placed on a waitlist and parents and guardians will be notified. When additional funds become available, priority will be in accordance with subsection (d) of this section.
  - (8) TEA shall maintain confidentiality of students' personally identifiable information in accordance with the Family Educational Rights and Privacy Act and, to the extent applicable, the Health Insurance Portability and Accountability Act.
- (g) Approval of application; assignment of account.
- (1) TEA shall set aside funds for a pre-determined number of accounts of \$1,500 to be awarded to parents and guardians of eligible students.
  - (2) Parents and guardians with more than one eligible student may apply and receive a grant for each eligible student.
  - (3) Approved parents and guardians will receive an award notification email from the marketplace vendor and may begin spending account funds upon completion of account setup.
  - (4) Parents and guardians who receive an award notification but whose student no longer qualifies under subsection (c) of this section shall notify TEA of their student's change in eligibility status.
  - (5) Within 30 calendar days from receiving an award notification email, parents and guardians must:
    - (A) access or log in to their account or the account may be subject to reclamation; and
    - (B) agree to and sign the parental agreement.
- (h) Use of funds. Use of program funds provided to parents and guardians are limited as follows.
- (1) Only supplemental materials and services available through the marketplace of approved providers and vendors may be purchased with program funds.
  - (2) Supplemental materials and services must directly benefit the eligible student's educational needs.
  - (3) Supplemental materials shall be used in compliance with TEA purchasing guidelines.

- (4) If TEA approves vendors for a category of material under subsection (e) of this section, materials must be purchased from the TEA-approved vendor for that category of material. If TEA does not establish criteria for a category of materials, funds in a student's account may be used to purchase the materials from any vendor.
  - (5) The contracted ESC has full authority to reject or deny any purchase.
  - (6) Parents and guardians may not use program funds for reimbursement of goods or services obtained outside of the marketplace. Program funds shall not be paid directly to parents or guardians of eligible students.
- (i) Account use restrictions. TEA may, subject to the appeal process referenced in subsection (f)(5) of this section, close or suspend accounts and reclaim a portion or all of the funds from accounts in the marketplace if:
- (1) the supplemental materials or services that parents or guardians attempt to purchase are not educational in nature or are deemed to be in violation of the purchasing guidelines set forth by TEA;
  - (2) it is determined that the supplemental materials or services purchased do not meet the definitions in subsection (b)(5) and (6) of this section;
  - (3) the program parental agreement is not signed within 30 calendar days of receipt of account email from the marketplace vendor; or
  - (4) a student no longer meets the eligibility criteria set out in subsection (c) of this section.
- (j) Requirements to provide information. School districts and open-enrollment charter schools shall notify families of the program and, unless the school district or charter school has verified that a parent has already received or applied for a program grant, shall provide the following at the student's admission, review, and dismissal (ARD) committee meeting:
- (1) instructions and resources on accessing the online accounts, including the application window established by TEA; and
  - (2) information about the types of supplemental goods and services that are available through the program grant.
- (k) Restrictions. A student's ARD committee may not consider a student's current or anticipated eligibility for any materials or services that may be provided under this section when developing or revising a student's IEP, when determining a student's educational setting, or in the provision of a free appropriate public education.