

The Texas Education Agency (TEA) proposes the repeal of §61.1008 and new §61.1008, concerning the school safety allotment. The proposed repeal and new rule would reflect changes to the school safety allotment made by House Bill (HB) 1525, 87th Texas Legislature, Regular Session, 2021, and HB 3, 88th Texas Legislature, Regular Session, 2023.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 3, 86th Texas Legislature, 2019, transferred many Foundation School Program formulas from Texas Education Code (TEC), Chapters 41 and 42, to Chapter 48. However, TEC, §42.168, which authorized the school safety allotment, remained in Chapter 42. Section 61.1008 was adopted to allow the school safety allotment authorized under TEC, §42.168, to be treated as an allotment under TEC, Chapter 48, Subchapter C. HB 1525, 87th Texas Legislature, Regular Session, 2021, transferred and redesignated TEC, §42.168, to §48.115, making the existing rule unnecessary.

HB 3, 88th Texas Legislature, Regular Session, 2023, amended TEC, §48.115(a)(2), to create a per-campus safety allotment in addition to the per-student funding districts and open-enrollment charter schools are currently provided by appropriation for each student in average daily attendance.

Proposed new §61.1008 would implement the school safety allotment authorized under TEC, §48.115.

Proposed new subsection (a) would clarify definitions applicable the school safety allotment.

Proposed new subsection (b) would clarify that eligibility for funding under TEC, §48.115(a)(2), is open to both school districts and open-enrollment charter schools based on qualifying campuses and that juvenile justice alternative education program (JJAEP) campuses or those campuses offering exclusively virtual instruction are not eligible for funding under §61.1008.

Proposed new subsection (c) would clarify the timeline for calculating the school safety allotment entitlement under TEC, §48.115(a)(2), using data from the Texas Student Data System Public Education Information Management System (TSDS PEIMS) summer submission.

Proposed new subsection (d) would clarify that school districts and open-enrollment charter schools will receive estimated funding for eligible campuses at the start of the school year based on the prior year's data from TSDS PEIMS. The final funding amount will be determined using current-year data from TSDS PEIMS. Any discrepancies between the estimated and final funding will be resolved as part of the Foundation School Program settle-up process as outlined in TEC, §48.272.

FISCAL IMPACT: Mike Meyer, deputy commissioner of 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 repeal an

existing regulation to remove an unnecessary provision from rule. The proposed rulemaking would also create a new regulation to implement the school safety allotment authorized under TEC, §48.115.

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 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. Meyer 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 to implement legislative changes that help school districts provide a safe and secure environment through the school safety allotment. 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: 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 November 3, 2023, and ends December 4, 2023. 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 fourteen calendar days after notice of the proposal has been published in the *Texas Register* on November 3, 2023. 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/).

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §48.004, which requires the commissioner to adopt rules and take action, as necessary, to implement and administer the Foundation School Program; and TEC, §48.115, as amended by House Bill (HB) 1525, 87th Texas Legislature, Regular Session, 2021, and HB 3, 88th Texas Legislature, Regular Session, 2023, which establishes provisions for the school safety allotment.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §48.004 and §48.115, as amended by House Bill (HB) 1525, 87th Texas Legislature, Regular Session, 2021, and HB 3, 88th Texas Legislature, Regular Session, 2023.

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§61.1008. School Safety Allotment.

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STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §48.004, which requires the commissioner to adopt rules and take action, as necessary, to implement and administer the Foundation School Program; and TEC, §48.115, as amended by House Bill (HB) 1525, 87th Texas Legislature, Regular Session, 2021, and HB 3, 88th Texas Legislature, Regular Session, 2023, which establishes provisions for the school safety allotment.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §48.004 and §48.115, as amended by House Bill (HB) 1525, 87th Texas Legislature, Regular Session, 2021, and HB 3, 88th Texas Legislature, Regular Session, 2023.

<rule>

§61.1008. School Safety Allotment.

- (a) Definitions. The following definitions apply to the school safety allotment (SSA) in accordance with Texas Education Code (TEC), §48.115.
- (1) School district campus--a campus that:
 - (A) has its own unique campus ID number registered with the Texas Education Agency (TEA), an assigned administrator, enrolled students who are counted for average daily attendance, and assigned instructional staff;
 - (B) receives federal, state, or local funds or any combination of the three as its primary support;
 - (C) provides instruction in the Texas Essential Knowledge and Skills;
 - (D) has one or more grade groups in the range from early education through Grade 12; and
 - (E) is not a program for students enrolled in another public school, does not provide only virtual instruction, and does not use only facilities not subject to the district's control.
 - (2) Instructional facility--a term that has the meaning defined by §61.1031(a)(3) of this title (relating to School Safety Requirements).
- (b) Eligibility.
- (1) Both school districts and open-enrollment charter schools are eligible for the SSA.
 - (2) Funding under TEC, §48.115(a)(2), will be calculated for campuses that qualify as a school district or an open-enrollment charter school campus and an instructional facility, as defined in subsection (a) of this section, used for teaching the curriculum required by TEC, Chapter 28.
 - (3) Juvenile justice alternative education program campuses or campuses that provide only virtual instruction are not eligible for funding under TEC, §48.115(a)(2).
- (c) Entitlement. In the fall of each school year, as part of the settle-up process for the preceding school year, campus data reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) for eligible campuses with confirmed enrollment and average daily attendance from the TSDS PEIMS summer submission will be used to calculate the allotment provided by TEC, 48.115(a)(2).
- (d) Estimates. School districts and open-enrollment charter schools will be provided with estimated funding during a school year for eligible campuses based on the prior year's summer TSDS PEIMS data using the same methodology described in subsection (c) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §48.272.