

The Texas Education Agency (TEA) proposes an amendment to §109.1001, concerning financial accountability ratings. The proposed amendment would update financial accountability rating information and rating worksheets for school districts and open-enrollment charter schools.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 109.1001 includes the financial accountability rating system and rating worksheets that explain the indicators that 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 terminology used to determine each school district's and charter school's rating for the 2023-2024 rating year and subsequent years. The proposed amendment would also include some pandemic-related adjustments applicable to 2023 data, as required by TEC, §39.087, as that section existed before expiration on September 1, 2023, to the Financial Integrity Rating System of Texas (FIRST) based on TEC, §39.082(b) and (d), which require that the FIRST system include uniform indicators that measure the financial management performance and future financial solvency of a school district or open-enrollment charter school.

Proposed new subsection (e)(8) would be added, including new Figure: 19 TAC §109.1001(e)(8) that would clarify terminology and calculations for School FIRST indicators for years subsequent to the 2022-2023 rating year.

Proposed new subsection (f)(8) would be added, including new Figure: 19 TAC §109.1001(f)(8) that would clarify terminology and calculations for Charter FIRST indicators for years subsequent to the 2022-2023 rating year.

The worksheets dated June 2024 differ from the worksheets dated June 2023 as follows.

*Figure: 19 TAC §109.1001(e)(8)*

The calculation for indicator 13 would be revised to compare administrative costs to total costs instead of instructional costs. The thresholds for indicator 13 have been adjusted to reflect the revised administrative cost ratio calculation so that school districts with lower administrative costs ratios, which suggest they are effectively managing their administrative expenses, receive the maximum points for this indicator.

A new indicator 21 would be added to read, "Did the school district receive an adjusted repayment schedule for more than one fiscal year for an over-allocation of Foundation School Program (FSP) funds because of a financial hardship?"

*Figure: 19 TAC §109.1001(f)(8)*

The calculation for indicator 14 would be revised to compare administrative costs to total costs instead of instructional costs. The thresholds for indicator 14 would be adjusted to reflect the revised administrative cost ratio calculation so that charter schools with lower administrative costs ratios, which suggest they are effectively managing their administrative expenses, receive the maximum points for this indicator.

A new indicator 21 would be added to read, "Did the charter school receive an adjusted repayment schedule for more than one fiscal year for an over-allocation of Foundation School Program (FSP) funds because of a financial hardship?"

**FISCAL IMPACT:** Mike Meyer, deputy commissioner for 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 clarifying terminology used to define FIRST indicators.

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. 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 ensure 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 system 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:** 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 February 23, 2024, and ends March 25, 2024. 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 February 23, 2024. 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 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 and special investigations under TEC, Chapter 39, Subchapters A, B, C, D, F, G, and J, and TEC, Chapter 39A; §39.082, which 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; §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; §39.085, which requires the commissioner to adopt rules to implement TEC, Chapter 39, Subchapter D, which addresses financial accountability for public schools; §39.087, as added by House Bill 1525, 87th Texas Legislature, Regular Session, 2021, and as that section existed before expiration on September 1, 2023, which required the commissioner to adjust the financial accountability rating system under TEC, §39.082, to account for the impact of financial practices necessary as a response to the coronavirus disease (COVID-19) pandemic, including adjustments required to account for federal funding and funding adjustments under TEC, Chapter 48, Subchapter F; and §39.151, which requires the commissioner to provide a process by which a school district or an open-enrollment charter school can challenge an agency decision related to academic or financial accountability under TEC, Chapter 39, including a

determination of consecutive school years of unacceptable performance ratings. 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 school districts and open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§12.104; 39.082; 39.083; 39.085; 39.087, as added by House Bill 1525, 87th Texas Legislature, Regular Session, 2021, and as that section existed before expiration on September 1, 2023; 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)-(7) (No change.)

(8) The financial accountability rating indicators for rating year 2023-2024 are based on fiscal year 2023 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated June 2024 for Rating Years 2023-2024+." The financial accountability rating indicators for rating years after 2023-2024 will use the same calculations and scoring method provided in the figure in this paragraph.

Figure: 19 TAC §109.1001(e)(8)

(9) ~~(8)~~ The specific calculations and scoring methods used in the financial accountability rating worksheets for school districts for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.

(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)-(7) (No change.)

(8) The financial accountability rating indicators for rating year 2023-2024 are based on fiscal year 2022 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated June 2024 for Rating Years 2023-2024+." The financial accountability rating indicators for rating years after 2023-2024 will use the same calculations and scoring method provided in the figure in this paragraph.

Figure: 19 TAC §109.1001(f)(8)

(9) ~~(8)~~ The specific calculations and scoring methods used in the financial accountability rating worksheets for open-enrollment charter schools for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.

(g)-(q) (No change.)