

The Texas Education Agency (TEA) proposes the repeal of §105.1011 and new §105.1011, concerning additional state aid for open-enrollment charter school facilities. The proposed repeal and new section would implement changes made by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025, by defining eligibility criteria and implementing an annual certification provision to receive funding.

**BACKGROUND INFORMATION AND JUSTIFICATION:** HB 2, 89th Texas Legislature, Regular Session, 2025, amended Texas Education Code (TEC), §12.106(d), to repeal the \$60 million appropriation cap and amend the formula for the allotment to be either the lesser of the state average interest and sinking tax rate imposed by school districts for the current school year multiplied by the guaranteed level of state and local funds per student per cent of tax effort or the basic allotment multiplied by \$0.06.

HB 2 amended TEC, §12.106(e), to expand the criteria under which a charter holder is not eligible to receive facilities funding. As amended, a charter holder is ineligible for funding if it has been assigned an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C; a financial accountability performance rating lower than satisfactory under TEC, Chapter 39, Subchapter D; or any combination of these ratings during the two preceding school years. Additionally, HB 2 added new TEC, §12.106(e-2), which requires charter holders to annually certify that no individual associated with the charter school, including administrators, governing body members, or their close relatives, receives a financial benefit from a real estate transaction with the school.

To implement HB 2, the proposed repeal would remove the previous requirements and proposed new §105.1011 would establish eligibility criteria and funding determination processes for open-enrollment charter schools under TEC, §12.106(d), accountability rating standards, funding timelines, and the requirement for an annual certification.

**FISCAL IMPACT:** Amy Copeland, 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 repeal an existing regulation and create a new regulation to implement the requirements in HB 2.

It 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:** Ms. Copeland 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 the rule aligns with TEC, §12.106, as amended by HB 2, which provides eligible open-enrollment charter schools with additional funding for facilities to assist with leasing, maintaining, or constructing campuses. 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: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins April 24, 2026, and ends May 26, 2026. 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 April 24, 2026. 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), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

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**§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.**

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STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

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**§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.**

- (a) For the purpose of determining a Texas Education Code (TEC), Chapter 12, Subchapter D open-enrollment charter school's eligibility to receive funding as provided under TEC, §12.106(d), the following apply under TEC, §12.106(e):
  - (1) an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C, is defined as an overall score below 60, an overall "F" rating, or an overall "D" rating that is considered an unacceptable rating under TEC, §39.0543; and
  - (2) a financial accountability rating lower than satisfactory under TEC, Chapter 39, Subchapter D, is defined as a score below 70 or substandard achievement.
- (b) If ratings under TEC, Chapter 39, Subchapter C or D, were not issued for prior school years due to a declared natural disaster affecting the charter school's county, the most recent two available final accountability ratings from preceding school years will be used to determine eligibility.
- (c) For charter schools that operated during the previous school year, the estimated funding under TEC, §12.106(d), for the current school year will be based on the school's eligibility status from the immediate prior year.
- (d) During the school year for which funding under TEC, §12.106(d), is provided, the charter holder will provide an annual certification, in a manner prescribed by the commissioner of education, that no individual covered under TEC, §12.106(e-2)(1), (2), or (3), derives any financial benefit from a real estate transaction with the charter school.
- (e) At settle up, for which funding under TEC, §12.106(d), would be provided, the Texas Education Agency will use the two most recent preceding school years' final accountability ratings assigned under TEC, Chapter 39, Subchapters C and D, and the applicable annual certification to determine eligibility for funding under TEC, §12.106(e).