

The Texas Education Agency (TEA) proposes the repeal of §§61.1091-61.1099, concerning the high school allotment. The proposed repeal is necessary because the statutory authority for the subchapter was repealed by House Bill (HB) 3, 86th Texas Legislature, 2019, effective September 1, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §42.2516(b)(3), added by the 79th Texas Legislature, Third Called Session, 2006, and amended by the 80th Texas Legislature, 2007, provided for an allotment of \$275 for each student in average daily attendance in Grades 9-12 in a school district. This allotment is known as the high school allotment. Statutory authority for the high school allotment was later codified in TEC, §42.160.

Additional legislation from the 79th Texas Legislature, Third Called Session, 2006, authorized the commissioner to adopt rules related to the recognition of high school completion and success and college readiness programs and required the commissioner to adopt rules related to permissible uses of the high school allotment.

HB 3, 81st Texas Legislature, Regular Session, 2009, revised the criteria a district must meet to be able to use high school allotment funds on any instructional program in Grades 6-12 other than an athletic program.

The commissioner exercised rulemaking authority to implement the high school allotment by adopting Chapter 61, Subchapter II, effective November 9, 2006. Amendments to the rules were adopted effective March 3, 2010, and April 26, 2016.

HB 3, §4.001, 86th Texas Legislature, 2019, removed the statutory authority for the high school allotment by repealing TEC, §§39.233, 39.234, and 42.160, effective September 1, 2019. The repeal of Chapter 61, Subchapter II, is necessary since there is no longer statutory authority for the rules.

FISCAL IMPACT: Lily Laux, deputy commissioner for school programs, 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 rulemaking. During the first five years the rulemaking would be in effect, it would repeal an existing regulation. Rules in 19 TAC Chapter 61, Subchapter II, would be repealed since HB 3, 86th Texas Legislature, 2019, removed the statutory authority for the rules.

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 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. Laux 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 removing rules for which TEA no longer has statutory authority. 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: The 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 July 12, 2019, and ends August 12, 2019. 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 July 12, 2019. 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/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §39.233, which permits the commissioner of education to adopt rules to recognize high school completion and success and college readiness programs; TEC, §39.234, which requires the commissioner to adopt rules related to the permissible use of funds allocated under the annual high school allotment; TEC, §42.160, which requires the commissioner to adopt rules to administer the annual high school allotment; and House Bill 3, §4.001, 86th Texas Legislature, 2019, which repealed TEC, §§39.233, 39.234, and 42.160.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §§39.233, 39.234, and 42.160, repealed by House Bill 3, §4.001, 86th Texas Legislature, 2019.

<rule>

§61.1091. Definitions.

§61.1092. Payment of the High School Allotment.

§61.1093. Use of Funds.

§61.1094. Exceptions for Alternative Uses of Funds.

§61.1095. Allowable Expenditures.

§61.1096. Unallowable Expenditures.

§61.1097. Additional High School Completion and Success Initiatives Approved by the Commissioner.

§61.1098. Policy Advisory Group.

§61.1099. School District Annual Performance Review.