

The Texas Education Agency (TEA) proposes new §61.1009, concerning the fast growth allotment. The proposed new section would reflect changes made by House Bill (HB) 3, 86th Texas Legislature, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §48.004, directs the commissioner to adopt rules and take action as necessary to implement and administer the Foundation School Program. TEC, §48.111, enacted by HB 3 is part of the Foundation School Program and provides additional funding for a school district in which the growth in student enrollment in the district over the preceding three school years is in the top quartile of student enrollment growth in school districts in the state. The new statute establishes that such a school district is entitled to receive an amount equal to the basic allotment multiplied by 0.04 for each student in average daily attendance. Proposed new 19 TAC §61.1009, Fast Growth Allotment, would implement the requirements of TEC, §48.111, as follows.

Proposed subsection (a) would define what a fast growth district is, explain what enrollment figures will be used to calculate enrollment growth, describe the method for calculating enrollment growth, specify what is considered as the basic allotment, and define applicable year in the context of the proposed rule.

Proposed subsection (b) would explain the eligibility criteria. Charter schools are specifically excluded from eligibility for the fast growth allotment in TEC, §12.106(a), as amended by HB 3.

Proposed subsection (c) would explain how the allotment will be calculated mathematically.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance/chief school finance officer, 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, that exceeds what the authorizing statute requires.

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 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 create a new regulation to implement the fast growth allotment. The proposed rulemaking would not create a government program and would not require an increase in future legislative appropriations to the agency, but the legislation does. The proposed rulemaking would not 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 fees paid to the agency, and would not expand, limit, or repeal an existing regulation. Since it is a new rule, the number of districts subject to its applicability would increase but it would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lopez 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 implementation of legislative changes, which helps school districts accommodate growth by providing additional funding. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal will not require anything additional from districts. Determination of eligibility and funding implications will be done by TEA staff.

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 October 4, 2019, and ends November 4, 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 October 4, 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 new section is proposed under Texas Education Code (TEC), §48.111, as added by House Bill (HB 3), 86th Texas Legislature, 2019, which authorizes the fast growth allotment; TEC, §48.004, as redesignated and amended by HB 3, 86th Texas Legislature, 2019, which authorizes the commissioner of education to adopt rules as necessary to implement and administer the Foundation School Program; and TEC, §12.106(a), as amended by HB 3, 86th Texas Legislature, 2019, which excludes charters from receiving the fast growth allotment.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §48.111, as added by HB 3, 86th Texas Legislature, 2019; §48.004, as redesignated and amended by HB 3, 86th Texas Legislature, 2019; and §12.106(a), as amended by HB 3, 86th Texas Legislature, 2019.

<rule>

§61.1009. Fast Growth Allotment.

- (a) Definitions. The following definitions apply to the fast growth allotment in accordance with the Texas Education Code (TEC), §48.111.
 - (1) Fast growth district--A school district in which the percentage growth in student enrollment in the district over the preceding three school years is in the top quartile of student enrollment growth in school districts in the state for that period.
 - (2) Enrollment--The number of students reported by the school district in the fall submission to the Texas Student Data System Public Education Information Management System (TSDS PEIMS).
 - (3) Enrollment growth--The percentage difference between the number of students enrolled in the most recent preceding school year and the number of students enrolled in the school year two years prior to the preceding school year.
 - (4) Basic allotment--The amount determined for the district under TEC, §48.051.
 - (5) Applicable school year--The school year in which the Texas Education Agency (TEA) will deliver the fast growth allotment to the district.
- (b) Eligibility. School districts are eligible for this allotment. TEC, §12.106(a), excludes charter holders from eligibility for the fast growth allotment.
- (c) Determination of allotment. The commissioner of education will determine a district's eligibility and calculate the allotment to which a district is entitled in the following manner.
 - (1) Prior to the start of the applicable school year, each school district's enrollment for the preceding school year, and for the school year three years prior to the applicable school year, will be obtained from TSDS PEIMS.

- (2) The student enrollment growth percentage for each district will be calculated by dividing the preceding year enrollment by the enrollment from three years prior to the applicable school year.
- (3) Enrollment growth percentage will be sorted from lowest-growth percentage to highest-growth percentage.
- (4) The cumulative enrollment for the preceding year will be summed in the order prescribed by paragraph (3) of this subsection. Cumulative enrollment is the sum of all preceding year enrollment values up to and including the current point in the sorted data.
- (5) The percentile for each district will be calculated by dividing the cumulative preceding year enrollment by the statewide total preceding year enrollment.
- (6) The school districts that have a percentile that is greater than or includes 75.00% are determined to be in the top quartile of student enrollment growth.
- (7) For those districts determined to be in the top quartile of student enrollment growth, the basic allotment for each student in average daily attendance will be multiplied by 0.04 to determine the allotment to which the district is entitled.
- (8) A determination of the commissioner made under this section is final and not subject to appeal.