

The Texas Education Agency (TEA) proposes an amendment to §66.1307, concerning the instructional materials allotment. The proposed amendment is necessary to align the rule for allowable instructional materials allotment expenditures with statute amended by House Bill (HB) 396, 86th Texas Legislature, 2019.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Education Code (TEC), §31.0211, establishes the instructional materials allotment and gives the commissioner rulemaking authority over the allotment. HB 3526, 85th Texas Legislature, Regular Session, 2017, changed the name of the allotment to technology and instructional materials allotment. HB 396, 86th Texas Legislature, 2019, expands the allowable use of allotment funds to include inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials.

The proposed amendment to 19 TAC §61.1307, Instructional Materials Allotment, would update the rule to reflect these statutory changes, including renaming the subchapter and section titles.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and support services, 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 expanding the allowable uses of the technology and instructional materials fund. 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:** Ms. Martinez 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 increased flexibility for school districts in how they spend technology and instructional materials allotment funds. 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 or 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 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 amendment is proposed under Texas Education Code (TEC), §31.0211(c), as amended by House Bill 396, 86th Texas Legislature, 2019, which identifies allowable uses of instructional materials allotment fund; and TEC, §31.0211(f), which authorizes the commissioner to adopt rules to implement the technology and instructional materials allotment.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §31.0211, as amended by House Bill 396, 86th Texas Legislature, 2019.

<rule>

**§66.1307. Technology and Instructional Materials Allotment.**

- (a) The commissioner of education shall determine the amount of the technology and instructional materials allotment ~~[(IMA)]~~ for a school district or an open-enrollment charter school based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) student enrollment data from the fall snapshot collection of the school year preceding the first year of each biennium.
- (b) The commissioner shall determine the amount of the allotment ~~[(IMA)]~~ for Texas Juvenile Justice Department facilities.
- (c) The commissioner shall determine the amount of the allotment ~~[(IMA)]~~ for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium.
- (d) The amount of the allotment ~~[(IMA)]~~ determined by the commissioner is final and may not be appealed.
- (e) Each school district's or open-enrollment charter school's allotment funds ~~[(IMA)]~~ must be expended according to the following priorities established in the Texas Education Code (TEC), §31.0211:
  - (1) first, instructional materials necessary to permit the school district or open-enrollment charter school to certify that the school district or open-enrollment charter school has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level as required by the TEC, §28.002; and
  - (2) then, any other instructional materials or allowed technological equipment.
- (f) Maintaining the priorities provided in subsection (e) of this section, the allotment funds ~~[(IMA)]~~ may be used to pay for:
  - (1) instructional materials on the list adopted by the commissioner under the TEC, §31.0231;
  - (2) instructional materials on the list adopted by the State Board of Education under the TEC, §31.024;
  - (3) non-adopted instructional materials;
  - (4) consumable instructional materials;
  - (5) instructional materials for use in bilingual education classes, as provided by the TEC, §31.029;
  - (6) versions of non-adopted instructional materials that are fully accessible to students with disabilities;
  - (7) instructional materials for use in college preparatory courses under the TEC, §28.014, as provided by the TEC, §31.031;

- (8) supplemental instructional materials, as provided by the TEC, §31.035;
  - (9) state-developed open-source instructional materials, as provided by the TEC, Chapter 31, Subchapter B-1;
  - (10) instructional materials and technological equipment under any continuing contracts of the school district or open-enrollment charter school in effect on September 1, 2011;
  - (11) activities related to the local review and adoption of instructional materials;
  - (12) technological equipment that contributes to student learning, including equipment that supports the use of instructional materials;
  - (13) training educational personnel directly involved in student learning in the appropriate use of instructional materials;
  - (14) providing access to technological equipment for instructional use; ~~and~~
  - (15) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning ; ~~;~~
  - ~~(16) inventory software or systems for storing, managing, and accessing instructional materials; and~~
  - ~~(17) software for analyzing the use and effectiveness of instructional materials.~~
- (g) The allotment funds ~~[IMA]~~ may not be used to pay for:
- (1) services for installation;
  - (2) the physical conduit that transmits data such as cabling and wiring or electricity;
  - (3) office and school supplies;
  - (4) items that are not directly related to student instruction such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;
  - (5) travel expenses; or
  - (6) equipment ~~[or software]~~ used for moving ~~or~~ ~~;~~ storing ~~[-tracking- or taking inventory of]~~ instructional materials.
- (h) The allotments ~~[IMA]~~ for each biennium will be made available for school district and open-enrollment charter school use through the state's online instructional materials ordering system (EMAT) as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated.
- (i) A school district or an open-enrollment charter school may access its allotment ~~[IMA]~~ funds for any upcoming school year upon completion of all of the following:
- (1) submission to the commissioner certification that:
    - (A) the school district or open-enrollment charter school has instructional materials that cover all the required Texas essential knowledge and skills (TEKS), except those for physical education, as required by the TEC, §31.004; and
    - (B) the school district or open-enrollment charter school has used its allotment ~~[IMA]~~ for only the allowable expenditures provided in subsection (f) of this section; and
  - (2) preparation by the agency of EMAT for the new school year with the new allotment amounts.
- (j) Upon completion of the requirements listed in subsection (i) of this section, school districts and open-enrollment charter schools may access their allotment ~~[IMA]~~ funds by correctly providing all the information required in EMAT.
- (k) Information required in EMAT may include verification of TEKS coverage for certain disbursement requests.