

The Texas Education Agency (TEA) proposes new §61.1026, concerning statutorily required reporting through the Public Education Information Management System. The proposed new rule would implement legislation that requires school districts to report information on the availability of school counselors and expanded learning opportunities through the Texas Student Data System Public Education Information Management System (TSDS PEIMS).

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill (SB) 490, 85th Texas Legislature, Regular Session, 2017, and SB 1404, 85th Texas Legislature, Regular Session, 2017, added two versions of Texas Education Code (TEC), §42.006 (a-2), that require additional PEIMS reporting. SB 490 requires the reporting of the availability of school counselors at each campus, and SB 1404 requires reporting of the availability of expanded learning opportunities and the number of students participating in each category at each campus. House Bill (HB) 3, 86th Texas Legislature, 2019, transferred language from TEC, §42.006, to new §48.009. HB 3 amended the requirement regarding reporting of expanded learning opportunities to remove the requirement that districts report the number of students participating in each of the categories of expanded learning opportunities listed in TEC, §33.252(b).

Proposed new 19 TAC §61.1026 would require school districts and open-enrollment charter schools to annually report the availability of school counselors at each campus. The proposal would also require school districts and open-enrollment charter schools to annually report the availability of expanded learning opportunities. The proposal would define each category of expanded learning opportunity to assist districts in accurately and consistently reporting this information.

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 create a new regulation by specifying in rule certain reporting requirements.

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 expand, 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 transparency by requiring school districts and enrollment-charter schools to report the availability of school counselors and expanded learning opportunities at each campus in the state. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have data and reporting impact. School districts and open-enrollment-charter schools would be required to following new PEIMS reporting requirements as specified in statute.

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 14, 2020, and ends March 16, 2020. 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 14, 2020. 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), §33.252, which outlines the types of expanded learning opportunities that may be provided by school districts and open-enrollment charter schools and the manner in which expanded learning opportunities may be offered; and TEC, §48.009, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, which requires the commissioner to by rule require each school district and open-enrollment charter school to report through PEIMS information regarding the availability of school counselors at each campus and the availability of expanded learning opportunities as described by TEC, §33.252.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §33.252 and §48.009, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019.

<rule>

§61.1026. Statutorily Required Reporting through the Public Education Information Management System.

- (a) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the number of full-time equivalent school counselors, defined as 40 hours of counseling services a week, at each campus.
- (b) Each school district and open-enrollment charter school shall report through TSDS PEIMS for each campus:
 - (1) the availability of expanded learning opportunities that are provided during:
 - (A) an extended school day program that students are required to attend as part of the regular program of the campus at which students are enrolled to increase the academic achievement and development of participating students;
 - (B) an extended school year program that students are required to attend as part of the regular program of the campus at which students are enrolled to increase the academic achievement and development of participating students; or
 - (C) a supplemental voluntary structured learning program that:
 - (i) occurs outside of the regular school day, including before- and after-school programs and summer programs; and
 - (ii) is coordinated with and enhances the regular academic program of the campus to increase the academic achievement and development of the participating student; and

- (2) the availability of expanded learning opportunities that are provided by offering:
- (A) rigorous coursework that includes activities related to providing Texas Essential Knowledge and Skills (TEKS)-aligned credit-earning courses, including activities related to dual credit and credit recovery;
 - (B) mentoring that consists of scheduled interaction between a trained adult and an individual student in which the adult provides support and teaches life skills to help the student's personal and academic development;
 - (C) tutoring that consists of one-on-one or small group instruction, led by a certified teacher, that provides supplemental content instruction or homework help to support student mastery of academic material and that does not include academic skill-building activities;
 - (D) physical activity that consists of instructor-led activities designed to provide students with supplemental opportunities for individual or group exercise or related knowledge and skills that encourage regular physical activity;
 - (E) academic support that provides supplemental instruction related to student academic skill development, including compensatory education, test-taking skills, and related academic skill-building, and that does not include tutoring and homework help; or
 - (F) educational enrichment in one or more subjects, including fine arts, civic engagement, science, technology, engineering, and mathematics, that includes activities that engage students in actively exploring academic content introduced during the regular school day to increase the academic success of students and consists of activities that are intentionally designed to align with but not replicate the instruction.