

The Texas Education Agency (TEA) proposes new §150.1014 and §150.1015, concerning teacher appraisal. The proposed new rules would implement Texas Education Code (TEC), §21.3521, by establishing rules for teacher designation performance standards and addressing extenuating circumstances arising during the 2019-2020 school year.

BACKGROUND INFORMATION AND JUSTIFICATION: House Bill 3, 86th Texas Legislature, 2019, added TEC, §21.3521, which establishes a local optional teacher designation system. Proposed new §150.1014 and §150.1015 would implement the new statute by specifying performance standards for teacher designations and requirements for local optional designation systems to issue designations based on data from previous school years.

Following is a description of proposed new §150.1014 and §150.1015.

§150.1014. Teacher Designation Performance Standards

Proposed new subsection (a) would establish that teacher designations would be determined by meeting teacher appraisal scores assigned using the Texas Teacher Evaluation and Support System (T-TESS) or an equivalent score on a locally developed rubric, and student achievement on expected growth targets.

Proposed new subsection (b) would specify the standards for the recognized, exemplary, and master designation levels based on the teacher observation and student growth components established in T-TESS.

Proposed new §150.1014 would complement provisions found in proposed new §150.1012, Local Optional Teacher Designation System, that has been proposed separately. These rules are being proposed separately due to time needed to calculate the standards.

§150.1015. Local Optional Teacher Designation System Extenuating Circumstances

Proposed new subsections (a) and (b) would establish the requirements and limitation for local optional teacher designation systems to issue designations based on data from previous school years in light of extenuating circumstances arising from the COVID-19 pandemic.

Proposed new subsection (c) would establish July 31, 2021, as the expiration date of this section.

FISCAL IMPACT: Tim Regal, associate commissioner for educator support, 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 new regulations by implementing the statutory requirements of TEC, §21.3521, regarding local optional teacher designation systems.

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: Mr. Regal 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 implementation of current law by providing school districts and open-enrollment charter schools with clear performance standards and guidelines to designate teachers in a local optional teacher designation system. 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 May 15, 2020, and ends June 15, 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 May 15, 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 sections are proposed under Texas Education Code (TEC), §21.3521, as added by House Bill 3, 86th Texas Legislature, 2019, which specifies that the commissioner: (1) shall establish performance standards; (2) shall ensure that local optional teacher designation systems meet the statutory requirements for the system; (3) shall prioritize high needs campuses; (4) shall enter into a memorandum of understanding with Texas Tech University regarding assessment of local iterations of the local optional teacher designation system; (5) shall periodically conduct evaluations of the effectiveness of the local optional teacher designation system; (6) may adopt fees to implement the local optional teacher designation system; and (7) may adopt rules to implement the local optional teacher designation system.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §21.3521, as added by House Bill 3, 86th Texas Legislature, 2019.

<rule>

§150.1014. Teacher Designation Performance Standards.

(a) Teacher designations shall be determined by:

(1) a teacher meeting a minimum average appraisal score based on:

(A) Domains II and III of the Texas Teacher Evaluation and Support System (T-TESS), as specified in §150.1002 of this title (relating to Assessment of Teacher Performance), measured on a scale of 1-5 with minimum dimension scores of proficient, as specified in §150.1002(c)(3) of this title; or

(B) a locally developed rubric with a score equivalent to the score specified in subparagraph (A) of this paragraph, as determined by Texas Education Agency (TEA); and

(2) a minimum percentage of the teacher's students meeting or exceeding expected growth targets.

(b) Teacher designations shall be assigned in accordance with subsection (a) of this section using the following categories.

- (1) Recognized. A recognized designation shall be determined by:
 - (A) a teacher generally meeting a minimum average score of 3.7 across Domains II and III of the T-TESS or equivalent score on a locally developed rubric as determined by TEA; and
 - (B) generally a minimum of 55% of the teacher's students meeting or exceeding expected growth targets.
- (2) Exemplary. An exemplary designation shall be determined by:
 - (A) a teacher generally meeting a minimum average score of 3.9 across Domains II and III of the T-TESS or equivalent score on a locally developed rubric as determined by TEA; and
 - (B) generally a minimum of 60% of the teacher's students meeting or exceeding expected growth targets.
- (3) Master. A master designation shall be determined by:
 - (A) a teacher generally meeting a minimum average score of 4.5 across Domains II and III of the T-TESS or equivalent score on a locally developed rubric as determined by TEA; and
 - (B) generally a minimum of 70% of the teacher's students meeting or exceeding expected growth targets.

§150.1015. Local Optional Designation System Extenuating Circumstances.

- (a) General provisions.
 - (1) Approved local optional designation systems that have been paying teachers in the 2019-2020 school year may issue designations for the 2020-2021 school year with:
 - (A) the teacher observation component of §150.1012(c)(2)(A)(i) of this title (relating to Local Optional Teacher Designation System) or the student growth component of §150.1012(c)(2)(A)(ii) of this title for the 2019-2020 school year;
 - (B) the student growth component of §150.1012(c)(2)(A)(ii) of this title measured for mid-year growth for the 2019-2020 school year; or
 - (C) the teacher observation component of §150.1012(c)(A)(i) of this title and the student growth component of §150.1012(c)(A)(ii) of this title for the 2018-2019 school year and the requirements of subparagraph (A) or (B) of this paragraph.
 - (2) A school district that submitted a letter of intent to initially apply for a local designation system based on 2019-2020 data to the Texas Education Agency by March 23, 2020, may be issued a provisional approval of one year if its system is approved based on one of the following data options:
 - (A) the teacher observation component of §150.1012(c)(2)(A)(i) of this title or the student growth component of §150.1012(c)(2)(A)(ii) of this title for the 2019-2020 school year;
 - (B) the student growth component of §150.1012(c)(2)(A)(ii) of this title measured for mid-year growth for the 2019-2020 school year; or
 - (C) the teacher observation component of §150.1012(c)(2)(A)(i) of this title and the student growth component of §150.1012(c)(2)(A)(ii) of this title for the 2018-2019 school year and the requirements of subparagraph (A) or (B) of this paragraph.
- (b) Limitation. A school district with provisional approval status cannot add eligible teaching assignments to its local optional designation system.
- (c) Expiration. This section expires July 31, 2021.