

The Texas Education Agency (TEA) adopts new §150.1012 and §150.1013, concerning teacher appraisal. The new rules are adopted with changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2635) and will be republished. The adopted new rules implement Texas Education Code (TEC), §21.3521 and §48.112, by establishing rules for teacher designation.

REASONED JUSTIFICATION: House Bill (HB) 3, 86th Texas Legislature, 2019, added TEC, §21.3521, which established a local optional teacher designation system, and TEC, §48.112, which established a teacher incentive allotment. Adopted new §150.1012 and §150.1013 implement the new statutes by specifying the requirements for school districts and charter schools to implement local teacher designation systems and the requirements for teachers with certification by the National Board for Professional Teaching Standards to be designated as recognized.

Following is a description of adopted new §150.1012 and §150.1013.

§150.1012. Local Optional Teacher Designation System

Adopted new subsection (a) defines terms used in the section. The subsection also establishes fees for teacher incentive allotment teacher designation and system renewal, as allowable under TEC, §21.3521(i).

Based on public comment, a change was made at adoption to §150.1012(a)(1)(C) to include reference to TEC, §5.001, to ensure alignment of the definition of educator.

Based on public comment, a change was made at adoption to the definition of *rural* in §150.1012(a)(1)(J) to include a campus within a school district with fewer than 5,000 enrolled students that is categorized as a "non-metropolitan: stable" or "non-metropolitan: fast growing" district type by TEA.

Based on public comment, a change was made at adoption to §150.1012(a)(1)(L) to replace the term "standards-aligned" with the phrase "aligned to the standards of the course" for clarity.

Adopted new subsection (b) specifies the eligibility requirements for teachers to receive designations under an approved local optional teacher designation system and generate teacher incentive allotment funds for designation.

Based on public comment, §150.1012(b)(1)(B) has been revised at adoption to clarify the eligible role codes for teachers to earn or receive designations. In addition, a correction was made to reference the Texas Education Data Standards (TEDS) rather than the Public Education Information Management System (PEIMS).

Adopted new subsection (c) outlines the application and approval requirements for school districts to be approved to designate teachers through a local teacher designation system.

Based on public comment, a change was made at adoption to §150.1012(c)(1)(B) to specify that TEA shall permit certain applicants to resubmit their applications. The change from "may" to "shall" will ensure standardization of the application process.

Based on public comment, a change was made at adoption to §150.1012(c)(2) to replace the term "teacher group" with the phrase "eligible teaching assignment."

Based on public comment, changes were made at adoption to §150.1012(c)(2)(A)(ii)(I)-(III) to replace the term "standards-aligned" with the phrase "aligned to the standards of the course" for clarity.

Adopted new subsection (d) addresses the process for districts to be approved to expand or amend their local designation systems.

Based on public comment, a change was made at adoption to §150.1012(d)(1) to clarify that school districts must apply for approval of new eligible teaching assignments with previously unapproved student growth or teacher observation components, new student growth components, or new teacher observation components. Also in response to public comment, a change was made at adoption to §150.1012(d)(2) to specify that amendments for other application components will be due at the time of annual submission.

Adopted new subsection (e) specifies the monitoring and program evaluation process for approved local designation systems, which includes an annual data collection.

Based on public comment, a change was made at adoption to §150.1012(e)(2) to add that school districts must submit to TEA an implementation plan related to annual surveys administered to teachers, campus principals, and human resources personnel. Also in response to public comment, language was added to clarify that the annual surveys are developed by TEA.

Adopted new subsection (f) outlines the reasons a teacher's designation may be revoked or a district's approval to designate teachers through their local designation system may be revoked.

Adopted new subsection (g) establishes how a school district must use the funds received through the teacher incentive allotment.

Based on public comment, a change was made at adoption to §150.1012(g)(1)(B) to add that school districts are eligible to earn the base allotment for each designated teacher assigned to campuses with fewer than 20 students, juvenile justice alternative education program (JJAEP) campuses, disciplinary alternative education program (DAEP) campuses, and residential facilities. This change will ensure stability and predictability of annual allotments at those campus types.

Based on public comment, §150.1012(g)(1)(C) has been revised at adoption to correctly reference TEDS rather than PEIMS.

§150.1013. National Board for Professional Teaching Standards

Adopted new subsection (a) defines terms used in the section.

Adopted new subsection (b) specifies the requirements for teachers to be eligible for designation.

Based on public comment, changes were made at adoption to §150.1013(b)(1)(A), (2)(A), and (6)(A) to remove the cross reference to §150.1012(b)(1)(A) and instead include the allowable types of teacher certifications.

Based on public comment, §150.1013(b)(6)(B) has been revised at adoption to clarify the eligible role code.

Adopted new subsection (c) establishes the process for school districts to be reimbursed for fees paid to the National Board for Professional Teaching Standards. If National Board fees were paid by a teacher, the district must establish a process to ensure the teacher is reimbursed prior to the district being reimbursed by TEA.

Adopted new subsection (d) addresses the use of funds received through the teacher incentive allotment.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began April 24, 2020, and ended May 26, 2020. Following is a summary of the comments received and corresponding responses.

Comment: Whitesboro Independent School District (ISD) and Brooks County ISD expressed concern about the equitability of the definition of rural schools.

Agency Response: The agency disagrees that the proposed definition of *rural* was inequitable. The proposed rule implemented the definition in TEC, §48.112(a)(1), and also included additional schools labeled as rural by TEA and/or The United States Census Bureau. However, in response to other comments, the definition of *rural* was modified at adoption to include school districts categorized by TEA as non-metropolitan: stable and non-metropolitan: fast growing.

Comment: Good Reason Houston, Frisco ISD, Denton ISD, Keller ISD, the Association of Texas Professional Educators (ATPE), and one individual expressed concern about the designation fee and suggested reducing the fee or imposing a fee cap.

Agency Response: The agency disagrees. TEC, §21.3521(i), allows the agency to adopt fees to implement the approval of district designation systems. The agency considers the fee amount to be reasonable.

Comment: Frisco ISD, Denton ISD, and Keller ISD expressed concern about the receipt of the allotment after district payout to teachers.

Agency Response: The agency disagrees. TEC, §48.112(i)(1)(A), requires that districts utilize the allotment received to provide compensation to teachers employed at the campus at which the teacher for whom the district received the allotment is employed. For subsequent payouts, it is recommended that a district only pay teachers based on designations after receiving official notice that its local designation system has been fully approved, thus ensuring the district will receive an allotment to support funds already dispersed to teachers.

Comment: Frisco ISD, Denton ISD, and Keller ISD expressed concern about DAEP campuses receiving the school district's average point value and suggested using the average point value of students currently enrolled at a DAEP.

Agency Response: The agency disagrees. DAEP campuses receiving the school district's average point value will ensure stability and predictability of annual allotments at those campuses.

Comment: The Texas Classroom Teachers Association (TCTA) noted that the term "standards-aligned" was not defined in §150.1012(a)(1)(L).

Agency Response: The agency agrees and has modified §150.1012(a)(1)(L) at adoption to replace the term "standards-aligned" with the phrase "aligned to the standards of the course."

Comment: TCTA noted that the standards established under TEC, §21.3521, should be defined in §150.1012(c)(1)(B).

Agency Response: The agency disagrees and has determined it is sufficient to include a reference to TEC, §21.3521, rather than include the standards found in the statute.

Comment: TCTA noted that the phrase "each teacher group" needs to be defined in §150.1012(c)(2).

Agency Response: The agency agrees that clarification is needed. Section 150.1012(c)(2) was revised at adoption to replace the phrase "teacher group" with the phrase "eligible teaching assignment."

Comment: TCTA noted that the phrase "calibration, congruence, and review of teacher observation data" was not defined in §150.1012(c)(2)(A).

Agency Response: The agency disagrees that the phrase needs to be defined. The definitions include normed terms that need not be defined in rule to clarify the application process.

Comment: TCTA noted that proposed §150.1012(c)(2)(A)(i)(II) would conflict with TEC, §26.009, regarding parental consent for videotaping.

Agency Response: The agency disagrees. TEC, §21.3521(h), allows the agency to collect information necessary to implement the provisions in the statute. Per the statute, information otherwise confidential remains confidential and is not subject to Texas Government Code, Chapter 552.

Comment: TCTA noted that the term "standards-aligned" was not defined in §150.1012(c)(2)(A)(ii)(I)-(III).

Agency Response: The agency agrees and has revised §150.1012(c)(2)(A)(ii)(I)-(III) at adoption to replace the term "standards-aligned" with the phrase "aligned to the standards of the course."

Comment: TCTA noted that the term "eligible teaching assignments" in §150.1012(c)(2)(C) and (d)(1) are in conflict with eligible teachers.

Agency Response: The agency disagrees. The eligible teaching assignments are defined by the district submitting a local optional designation system, and the eligibility requirements ensure that current teachers are receiving the designation and subsequently generating the allotment.

Comment: TCTA noted that proposed §150.1012(c)(2) would not be workable for teachers of special student populations and recommended the requirements be workable for all teachers.

Agency Response: The agency disagrees. The rule reflects TEC, §21.3521(b)(2), and references multiple forms of possible measures of student growth.

Comment: TCTA and Educate Texas suggested that §150.1012(g)(1)(A)(i) include reference to the 90%/10% spending requirement.

Agency Response: The agency disagrees that the proposed rule requires modification. Section 150.1012(g)(1)(A)(i) specifies that at least 90% of each allotment received must be spent on compensation of teachers, and §150.1012(g)(2) references TEC, §48.112, which identifies how funds must be used.

Comment: TCTA suggested additional rule text to clarify that the allotment will be generated for the employing district of the designated teacher.

Agency Response: The agency disagrees that the additional language needs to be included in rule since TEC, §48.112(c), states that the district where the classroom teacher with a teacher designation is employed will receive the allotment.

Comment: TCTA expressed support for §150.1013(c)(2).

Agency Response: The agency agrees that this provision will ensure teachers receive appropriate, timely reimbursement from their districts.

Comment: TCTA expressed concern that the rules do not comply with the Administrative Procedure Act due to references to information outside the rules.

Agency Response: The agency disagrees. The requirements of the proposed rules are authorized by the Texas Education Code and Texas Government Code, Chapter 2001, Subchapter B.

Comment: A Texas parent asked if teachers would still be able to file appeals for current appraisals.

Agency Response: This comment is outside the scope of the proposed rulemaking.

Comment: An individual asked about future funding of National Board teachers.

Agency Response: This comment is outside the scope of the proposed rulemaking.

Comment: ATPE, Good Reason Houston, and an individual expressed concern for §150.1012(f)(2)(E) and (3)(E), which state that approval of local optional designation systems and approval of individual teacher designations are voidable at the discretion of the commissioner.

Agency Response: The agency disagrees. The proposed rule reflects the agency's authority under TEC, §21.3521(f) and (j).

Comment: The National Board for Professional Teaching Standards (NBPTS) and seven individuals expressed support for §150.1013.

Agency Response: The agency agrees and is implementing TEC, §21.3521(c).

Comment: NBPTS and four individuals expressed concern that specialist roles would not be eligible for designations.

Agency Response: The agency disagrees that specialist roles are eligible for designations. The current eligibility requirements are in line with TEC, §48.112(c), which states that classroom teachers are eligible to generate an allotment.

Comment: One individual expressed concern that the spending requirements did not require a certain amount be spent on the designated teacher's compensation.

Agency Response: The agency disagrees. Section 150.1012(g)(2) specifies that school districts that receive teacher incentive allotment funding must comply with TEC, §48.112. TEC, §48.112(i)(1)(A) identifies how funds must be used.

Comment: One individual expressed concern that National Board teachers were not receiving the fee reimbursement directly.

Agency Response: The agency disagrees. Section 150.1013 is implementing TEC, §48.112(i)(1)(B), which specifies that school districts must use allotment funds for costs associated with implementing TEC, §21.3521, including efforts to support teachers in obtaining designations.

Comment: TASB expressed concern that school districts with fewer than 5,000 enrolled students categorized as non-metropolitan: stable or non-metropolitan: fast growing were not included in the definition of *rural*.

Agency Response: The agency agrees and has revised §150.1012(a)(1)(J) at adoption to include school districts categorized by TEA as non-metropolitan: stable and non-metropolitan: fast growing in the definition of *rural*.

Comment: TASB expressed concern about the stability of annual allotments at small campuses, JJAEP campuses, DAEP campuses, and residential facilities.

Agency Response: The agency agrees that clarification is needed and has revised §150.1012(g)(1)(B) at adoption to calculate teacher designations at small campuses, JJAEP campuses, DAEP campuses, and residential facilities at the district average point value.

Comment: TASB expressed concern about the clarity of §150.1012(g)(1)(A)(i) relating to how the allotment should be spent.

Agency Response: The agency disagrees that the rule requires clarification. The rule is clear that the allotment must be spent on prior year placements.

Comment: TASB expressed concern about the clarity of §150.1012(g)(1)(B) and the terms "central administration" and "zero-enrollment campus."

Agency Response: The agency disagrees that the rule requires clarification. The rule includes normed terms that need not be defined in rule.

Comment: Best in Class, TASB, and ATPE expressed concern for clarity around the eligible role code.

Agency Response: The agency agrees that clarification is needed and has revised §150.1012(b)(1)(B) and §150.1013(b)(6)(B) at adoption to include corresponding class roles.

Comment: The NBPTS and two individuals expressed concern that the description of active Texas certification was referencing the definition in §150.1012.

Agency Response: The agency agrees and has revised §150.1013(b)(1)(A), (2)(A), and (6)(A) at adoption to remove the cross reference to §150.1012(b)(1)(A) and instead include the allowable types of teacher certifications.

Comment: San Antonio ISD expressed concern about the amendment and application process for districts seeking phase-in local designation system approval.

Agency Response: The agency agrees and has revised §150.1012(d)(1) and (2) at adoption. Section 150.1012(d)(1) was modified to clarify that school districts must apply for approval of new eligible teaching assignments with previously unapproved student growth or teacher observation components, new student growth components, or new teacher observation components. Section 150.1012(d)(2) was modified to specify that amendments for other application components will be due at the time of annual submission.

Comment: The Texas State Teachers Association expressed concern about the applicability of proposed §150.1012(c)(2)(B) to assessments not adopted under TEC, §39.023.

Agency Response: The agency disagrees. The proposed rule is applicable to other types of assessments that measure student growth, including portfolios, student learning objectives, and teacher- and district-created assessments.

Comment: Best in Class and North East ISD expressed concern that the proposed rules did not contain that the fee found in §150.1012(a)(2)(A) was reimbursable upon approval.

Agency Response: The agency disagrees that the rule requires clarification since TEC, §48.112(g), states that a district is entitled to receive an increased allotment in the amount necessary for reimbursement for any fees paid under TEC, §21.3521.

Comment: North East ISD expressed concern that districts should be given more time to resubmit incomplete applications in §150.1012(c)(1)(A).

Agency Response: The agency disagrees and considers the resubmission timeline for incomplete applications to be reasonable.

Comment: North East ISD expressed concern that the annual surveys should be standardized in §150.1012(e)(2).

Agency Response: The agency agrees and has revised §150.1012(e)(2) at adoption to state that the annual surveys are developed by TEA.

Comment: Educate Texas encouraged clarity around §150.1012(c)(1)(D) and eligible teaching assignments.

Agency Response: The agency disagrees and has determined that the rule is clear.

Comment: Educate Texas encouraged clarity around §150.1012(d)(1) and starting dates of systems.

Agency Response: The agency disagrees that the rule requires clarification. New systems will apply using the designated application window.

Comment: Educate Texas encouraged clarity around §150.1012(c)(2)(A)(ii) and teachers in multiple subject areas.

Agency Response: The agency disagrees that the rule requires clarification. The student growth measure collected is at the discretion of the local education agency.

Comment: Educate Texas encouraged clarity around §150.1012(e)(2) regarding the distribution of the annual surveys.

Agency Response: The agency agrees and has revised §150.1012(e)(2) at adoption to state that the annual surveys are developed by TEA.

Comment: Educate Texas asked if districts would be required to report how they distribute funds.

Agency Response: The agency provides the following clarification. The annual reporting requirements are found in §150.1012(e).

Comment: The American Federation of Teachers (AFT) expressed concern about §150.1012(a)(1)(C), stating that the term "instructional setting" was not inclusive of virtual settings.

Agency Response: The agency disagrees. The term "instructional setting" does not exclude virtual settings.

Comment: AFT expressed concern about §150.1012(a)(1)(L), which defines the term "student growth," and §150.1013(a)(3), which defines the term "classroom teacher," and their applicability to virtual settings.

Agency Response: The agency disagrees that the rule requires modification. Student growth can still be measured in virtual settings.

Comment: AFT expressed concern about §150.1012(b)(1)(B) relating to teacher eligibility in virtual settings.

Agency Response: The agency disagrees that the rule requires modification. Teachers are eligible if they meet the eligibility requirements in a virtual setting.

Comment: AFT asked for guidance on implementing §150.1012(c)(2)(B), concerning test administration processes, in virtual settings.

Agency Response: The agency provides the following clarification. Section 150.1012 requires that a school district provide its test administration procedures in the application, but the rule does not require tests to be administered any particular way. The agency plans to provide guidance at a later date.

Comment: Good Reason Houston expressed support for §150.1012(c).

Agency Response: The agency agrees.

Comment: Best in Class and Good Reason Houston requested clarity about §150.1012(c)(1)(C) and (D) relating to how to move from provisional to regular status.

Agency Response: The agency provides the following clarification. To move from provisional to regular status, a school district will need to reapply and meet the requirements in §150.1012(c).

Comment: Good Reason Houston expressed concern for §150.1013(b)(2)(C) and recommended it be removed.

Agency Response: The agency disagrees. The proposed rule reflects the agency's authority under TEC, §21.3521(c).

Comment: Good Reason Houston requested clarity about §150.1012(g) and if the allotment will follow the designated teacher.

Agency Response: The agency provides the following clarification. TEC, §48.112, states that the allotment will be received by the district at which the teacher is employed.

Comment: Best in Class, The Texas Impact Network, 4 organizations and 18 school systems expressed support for §150.1012 and §150.1013.

Agency Response: The agency agrees that the proposed rules implement TEC, §21.3521.

Comment: Best in Class suggested adding in a percentage definition for the designations.

Agency Response: The agency disagrees that the suggested language should be added to §150.1012 or §150.1013. The designation performance standards referenced by the commenter are part of proposed new §150.1014, Teacher Designation Performance Standards.

Comment: Best in Class requested the addition of a time to correct any data deficiencies.

Agency Response: The agency disagrees that the suggested language should be included in rule. TEC, §21.3521(d)(2), requires the commissioner to enter into a memorandum of understanding with Texas Tech University (TTU) to monitor the quality and fairness of local optional teacher designation systems, and any issues related to data deficiency will be handled through TTU's process. In addition, because data is captured from the prior year, any deficiencies could not be addressed at the time of data validation.

Comment: San Antonio ISD requested additional clarity about the data validation expectations.

Agency Response: The agency provides the following clarification. TEC, §21.3521(d)(2), requires the commissioner to enter into a memorandum of understanding with TTU to monitor the quality and fairness of local optional teacher designation systems, and any issues related to data validation expectations will be handled through TTU's process.

Comment: Best in Class requested clarity about the use of other assessments in §150.1012(c)(2)(A)(ii).

Agency Response: The agency provides the following clarification. Other assessments can be used under §150.1012(c)(2)(A)(ii) as long as the assessments meet the criteria in the rule.

Comment: Best in Class requested clarity about §150.1012(c)(2)(C) concerning using prior year values.

Agency Response: The agency provides the following clarification. Prior year values are allowed under §150.1012(c)(2)(C) as long as they meet the criteria stated in the rule. Prior year values are only allowed if using multi-year appraisal data.

Comment: Grand Prairie ISD expressed concern about the use of TIA funds to teachers other than teachers of record.

Agency Response: The agency disagrees that the rule requires modification. The rule is implementing TEC, §48.112(i)(1)(A).

Comment: Stafford ISD expressed concern about the submission timelines due to COVID-19.

Agency Response: The agency provides the following clarification. The timelines specified in the rule are needed for the agency to determine the reliability and validity of the proposed local designation systems. Proposed new §150.1015, Local Optional Teacher Designation System Extenuating Circumstances, addresses adjustments due to the COVID-19 pandemic.

Comment: The Texas Public Charter Schools Association (TPCSA) expressed concern about including §150.1012(b)(1)(C) as it would exclude large open-enrollment charters.

Agency Response: The agency disagrees that the rule requires modification. The rule does not exclude funding for large open-enrollment charters.

Comment: TPCSA requested that uncertified teachers who work for open-enrollment charter schools be eligible for designations.

Agency Response: The agency disagrees. TEC, §21.3521 (b), requires certification for designated teachers.

Comment: TPCSA expressed concern that §150.1012(c)(2) would exclude the use of certain assessments such as MAP.

Agency Response: The agency disagrees. The rule is inclusive of all assessments that meet the requirements of the rule.

Comment: TPCSA requested that the term "standardized" be added to §150.1012(e)(3) to avoid unequal treatment of open-enrollment charter schools.

Agency Response: The agency disagrees. TEC, §21.3521(h), allows the agency to collect information necessary to implement the local designation systems.

Comment: ATPE requested that §150.1012(a)(1)(C) be amended to reflect TEC, §5.001.

Agency Response: The agency agrees and has revised §150.1012(a)(1)(C) at adoption to reference TEC, §5.001, to ensure alignment of definitions.

Comment: ATPE requested clarification of §150.1012(b)(1)(C) and the duration of the subsequent designation.

Agency Response: The agency provides the following clarification. The subsequent designation would be treated as a new designation.

Comment: ATPE expressed concern about §150.1012(c)(1)(B) related to applications that do not meet the standards under TEC, §21.3521, and requested that the language be changed from "TEA may permit the applicant to resubmit the application" to "TEA shall permit the applicant to resubmit the application."

Agency Response: The agency agrees and has revised §150.1012(c)(1)(B) at adoption to ensure standardization of the application process.

Comment: ATPE expressed concern about §150.1012(c)(1)(C) and (D) as the language may lead to unqualified approved systems.

Agency Response: The agency disagrees. Systems under provisional approval would meet the standards required by TEC, §21.3521, and §150.1012.

Comment: ATPE expressed concern about the inclusion of locally developed rubrics in §150.1012(c)(2)(A)(i)(II).

Agency Response: The agency disagrees. Locally developed rubrics will be required to meet the standards required by TEC, §21.3521, and §150.1012.

Comment: ATPE expressed concern about §150.1012(c)(2)(C) and requested the proposed rule be amended to ensure confidentiality of the teacher.

Agency Response: The agency disagrees and is implementing TEC, §21.3521(h). The agency is collecting only the data necessary to determine the validity and reliability of local designation systems. In addition, and as noted in TEC, §21.3521(h), data collected by the agency otherwise confidential remains confidential and is not subject to Texas Government Code, Chapter 552.

Comment: ATPE expressed support for §150.1012(e)(2) and requested the addition of implementation plans.

Agency Response: The agency agrees and has revised §150.1012(e)(2) at adoption to ensure implementation.

Comment: ATPE expressed concern that §150.1012 did not include a reference to high-needs campuses.

Agency Response: The agency disagrees that the rule requires modification. Section 150.1012(g)(2) references TEC, §48.112, which addresses high-needs campuses.

Comment: ATPE expressed concern about §150.1012(a)(1)(L) as it excludes absolute student achievement.

Agency Response: The agency disagrees. The rule does not exclude absolute student achievement.

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §21.3521, as added by House Bill (HB) 3, 86th Texas Legislature, 2019, which specifies that the commissioner: (1) shall ensure that local optional teacher designation systems meet the statutory requirements for the system; (2) shall prioritize high needs campuses; (3) shall enter into a memorandum of understanding with Texas Tech University regarding assessment of local iterations of the local optional teacher designation system; (4) shall periodically conduct evaluations of the effectiveness of the local optional teacher designation system; (5) may adopt fees, which are exempted from the requirements of Texas Government Code, §2001.0045 and §2001.0221, to implement the local optional teacher designation system; and (6) may adopt rules to implement the local optional teacher designation system; and TEC, §48.112, as added by HB 3, 86th Texas Legislature, 2019, which established a teacher incentive allotment and requires the commissioner to designate rural campuses and annually make available to the public a list of campuses with projected allotment amounts per teacher designation at each campus.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §21.3521 and §48.112, as added by House Bill 3, 86th Texas Legislature, 2019.

<rule>

§150.1012. Local Optional Teacher Designation System.

(a) General provisions.

- (1) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
 - (A) Active Texas certification--A valid certification labeled as provisional, professional, or standard under §230.31(a) of this title (relating to Types of Certificates) or a visiting international teacher certification under §230.41 of this title (relating to Visiting International Teacher Certificates).
 - (B) Charter school--A Texas public school that meets one of the following criteria:
 - (i) is operated by a charter holder under an open-enrollment charter granted either by the State Board of Education or commissioner of education pursuant to Texas Education Code (TEC), §12.101, identified with its own county district number;
 - (ii) has a charter granted under TEC, Chapter 12, Subchapter C, and is eligible for benefits under TEC, §11.174 and §48.252; or
 - (iii) has a charter granted under TEC, §29.259, and Human Resources Code, §221.002.
 - (C) Classroom teacher--An educator, as defined by TEC, §5.001, who is employed by a school district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technical instructional setting. This term does not include an educational aide or a full-time administrator.
 - (D) Data capture year--The year in which the teacher observation and student growth measure is collected based on the proposed local teacher designation system.
 - (E) Designated teacher--An exemplary, master, or recognized teacher.
 - (F) Eligible teaching assignment--An assignment based on campus, subject taught, or grade taught.
 - (G) National Board certification--Certification issued by the National Board for Professional Teaching Standards.

- (H) Provisional approval--Conditional approval of a school district local optional teacher designation system that would require resubmission of system review and/or data validation for further approval.
 - (I) Reliability--The degree to which an instrument used to measure teacher performance and student growth produces stable and consistent results.
 - (J) Rural--A campus within a school district with fewer than 5,000 enrolled students that is categorized as a rural, non-metropolitan: stable, or non-metropolitan: fast growing district type by the Texas Education Agency (TEA); a campus within a school district with fewer than 5,000 enrolled students categorized as rural by the National Center for Education Statistics; or a campus defined in TEC, §48.112(a)(1).
 - (K) School district--The definition of a school district includes charter schools as defined in subparagraph (B) of this paragraph.
 - (L) Student growth--Student academic progress achieved in response to the pedagogical practices of teachers, as measured at the individual teacher level by one or more measures of student growth aligned to the standards of the course.
 - (M) Teacher observation--One or more observations of a teacher instructing students for a minimum of 45 minutes or multiple observations that aggregate to at least 45 minutes.
 - (N) Validity--The degree to which an instrument used to measure teacher performance and student growth measures what it is intended to measure.
- (2) Fees for teacher incentive allotment teacher designation and system renewal. A school district requesting approval of a teacher designation system or renewal of such a system shall pay the applicable fees from the following list:
- (A) a \$500 fee for each teacher submitted for designation to TEA; or
 - (B) a system renewal fee to be determined by the commissioner and established in rule.
- (b) Teacher eligibility.
- (1) Teachers eligible to earn or receive designations under an approved local optional teacher designation system must meet the following requirements:
 - (A) the teacher holds an active Texas certification under Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), a Reading Specialist Certificate under Chapter 239, Subchapter D, of this title (relating to Reading Specialist Certificate), or a Legacy Master Teacher Certificate;
 - (B) the teacher is employed or is to be employed by the recommending school district in a role ID coded as 087 (Teacher) and corresponding class roles of 01, 02, or 03, if applicable, in the Texas Student Data System Texas Education Data Standards (TEDS) for 90 days at 100% of the day (equivalent to four and one-half months or a full semester) or 180 days at 50-99% of the day and compensated for that employment; and
 - (C) the teacher is not currently designated under a local optional teacher designation system, unless the teacher is being recommended for a higher designation or is in the last year of a teacher designation.
 - (2) School districts are eligible to receive funding for each designated teacher if the teacher meets the requirements in paragraph (1)(A) and (B) of this subsection.
- (c) Application procedures and approval process.
- (1) The following provisions apply to applications submitted under this section.
 - (A) If TEA determines that an application is incomplete, TEA may provide the applicant with notice of the deficiency and an opportunity to submit missing required information. If the

missing required information is not submitted within seven calendar days after notice is provided, the application will be denied.

- (B) If TEA determines that an application does not meet the standards established under TEC, §21.3521, and this section, TEA shall permit the applicant to resubmit the application within three months of the original submission. If no resubmission is timely made, the application will be denied.
 - (C) An applicant that demonstrates the need for ongoing support will be required to submit additional information that may result in provisional approval for one year. A school district with this approval status cannot add eligible teaching assignments to its local optional teacher designation system.
 - (D) An applicant that has a local optional teacher designation system that has been paying teachers in the 2019-2020 school year may be issued provisional approval for two years if the system does not contain either a teacher observation component as specified in paragraph (2)(A)(i) of this subsection or a student growth component as specified in paragraph (2)(A)(ii) of this subsection. A school district with this approval status cannot add eligible teaching assignments to its local optional teacher designation system.
 - (E) Applications that are determined to meet the standards established under TEC, §21.3521 and §48.112, and this section shall be approved for an initial term of five years.
- (2) The application shall include the following for each eligible teaching assignment:
- (A) components of a local system for issuing designations, including:
 - (i) a teacher observation component that contains:
 - (I) a plan for calibration, congruence, and review of teacher observation data and implementation of next steps; and
 - (II) an approved teacher observation rubric including the Texas Teacher Evaluation and Support System, Marzano's Teacher Evaluation Model and rubric created by the National Institute for Excellence in Teacher and The Danielson Group, or another rubric that is based on observable, job-related behaviors, including teacher implementation of discipline management and the performance of teachers' students. A school district may be required to provide teacher observation videos if the ratings cannot be verified from the data submitted; and
 - (ii) a student growth component that:
 - (I) if using a student learning objective, is aligned to the standards of the course, measures the level of preparedness for each student at the beginning of the school, and measures the mastery level for each student at the end of the school year based on a body of evidence;
 - (II) if using a portfolio method, demonstrates that student work is aligned to the standards of the course, demonstrates mastery of standards, and includes criteria for scoring; or
 - (III) if using school district- or teacher-created assessments, is aligned to the standards of the course and conforms to a district rubric for district- or teacher-created assessments. A school district must approve district- or teacher-created assessments for the purpose of determining student growth by using a district process and rubric for approval of such assessments;
 - (B) test administration processes for all student growth that will lead to validity and reliability of results, including:
 - (i) test security protocols;

- (ii) testing windows;
 - (iii) testing accommodations; and
 - (iv) annual training for test administrators; and
 - (C) data for all teachers in eligible teaching assignments, including student growth, and observation data for all teachers in eligible teaching assignments for the data capture year. Multi-year data shall include student growth and observation data from the same year and teaching assignment.
- (d) System expansion and amendments.
 - (1) School districts must apply for approval for additional eligible teaching assignments with previously unapproved student growth or teacher observation components, new student growth components, or new teacher observation components.
 - (2) Proposed amendments to other components of the application will be due at the time of annual submission. Additional information and application processes may be requested.
- (e) Monitoring and program evaluation of approved local designation systems. For the annual data submission, approved school districts shall submit the following information regarding a local teacher designation system:
 - (1) the distribution of allotment funds from the previous school year in accordance with the funding provisions of subsection (g) of this section;
 - (2) a response and implementation plan to annual surveys developed by TEA administered to teachers, campus principals, and human resources personnel gauging the perception of a school district's local designation system; and
 - (3) teacher observations and student growth measure data for all teachers in eligible teaching assignments if school districts are submitting new teacher designations. TEA reserves the right request data for the purposes of performance evaluation and investigation based on data review outcomes.
- (f) Continuing approval and renewal.
 - (1) Approved local optional teacher designation systems are subject to review at least once every five years. However, a review may be conducted at any time at the discretion of TEA.
 - (2) Approval of local optional designation systems are voidable by TEA for one or more of the following reasons:
 - (A) failure to fulfill all local optional designation system requirements;
 - (B) failure to comply with annual data submission requirements;
 - (C) failure to comply with the provisions of TEC, §21.3521 and §48.112;
 - (D) failure to implement the local optional teacher designation system as approved by TEA and Texas Tech University; or
 - (E) at the discretion of the commissioner.
 - (3) Approval of individual teacher designations are voidable by TEA for one or more of the following reasons:
 - (A) a teacher has not fulfilled all designation requirements;
 - (B) the school district at which the designation was earned has had its local optional designation system voided;
 - (C) the National Board for Professional Teaching Standards revokes a National Board certification that provided the basis for a teacher's designation;

- (D) the suspension, revocation, cancellation, or surrender of a certificate issued by the State Board for Educator Certification to a designated teacher; or
 - (E) at the discretion of the commissioner.
- (g) Funding.
- (1) State funding.
 - (A) Teacher incentive allotment funds will be disbursed to school districts in the same school year for which the teacher designations are approved. The initial disbursement may occur either upon final approval of a local teacher designation system or in the school year following final approval.
 - (i) For the initial disbursement after the approval of a local teacher designation system or system expansion, at least 90% of each allotment received must be spent on compensation of teachers employed at the campus at which the teacher for whom the school district received the allotment was employed for the first year of the designation.
 - (ii) Disbursements subsequent to the initial disbursement must meet the requirements of paragraph (2) of this subsection.
 - (B) A school district is eligible to earn the base allotment for each designated teacher assigned to a zero-enrollment campus, a campus with fewer than 20 students, a juvenile justice alternative education program, a disciplinary alternative education program, a residential facility, or central administration if the designated teacher meets the requirements in subsection (b)(2) of this section, plus the multiplier based on the school district's average student point value and rural status, if applicable.
 - (C) Funding for teachers who work at multiple campuses shall be distributed proportionally by the percent of time the employee is working in a role coded as 087 (Teacher) in the Texas Student Data System TEDS at each campus.
 - (2) Status and use of state funds. A school district that receives teacher incentive allotment funding must comply with the requirements of TEC, §48.112. Allotment funding generated by a designated teacher working for multiple school districts shall be split equally among the districts that employ the teacher.

§150.1013. National Board for Professional Teaching Standards.

- (a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
 - (1) Active Texas certification--A valid certification labeled as one year, provisional, professional, or standard under §230.31(a) of this title (relating to Types of Certificates) or a visiting international teacher certification under §230.41 of this title (relating to Visiting International Teacher Certificates).
 - (2) Charter school--A Texas public school that meets one of the following criteria:
 - (A) is operated by a charter holder under an open-enrollment charter granted either by the State Board of Education or commissioner of education pursuant to Texas Education Code (TEC), §12.101, identified with its own county district number;
 - (B) has a charter granted under TEC, Chapter 12, Subchapter C, and is eligible for benefits under TEC, §11.174 and §48.252; or
 - (C) has a charter granted under TEC, §29.259, and Human Resources Code, §221.002.
 - (3) Classroom teacher--An educator who is employed by a school or district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and

technical instructional setting. This term does not include an educational aide or a full-time administrator.

- (4) National Board certification--Certification issued by the National Board for Professional Teaching Standards.
 - (5) School district--The definition of a school district includes charter schools as defined in paragraph (2) of this subsection.
- (b) Eligibility.
- (1) Teachers with current National Board certification are eligible for a recognized designation starting in the 2020-2021 school year if the teacher:
 - (A) holds an active Texas certification under Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), a Reading Specialist Certificate under Chapter 239, Subchapter D, of this title (relating to Reading Specialist Certificate), or a Legacy Master Teacher Certificate; and
 - (B) registers his or her National Board certification in Texas in the National Board Certified Teacher directory by the annual date set by the commissioner.
 - (2) Teachers with current National Board certification are eligible for a recognized designation starting in the 2019-2020 school year if:
 - (A) the teacher holds an active Texas certification under Chapter 233 of this title, a Reading Specialist Certificate under Chapter 239, Subchapter D, of this title, or a Legacy Master Teacher Certificate;
 - (B) the teacher registers his or her National Board certification in Texas in the National Board Certified Teacher directory by the annual date set by the commissioner; and
 - (C) the school district at which the teacher with National Board certification was employed in the 2019-2020 school year can demonstrate evidence of differentiated compensation for the teacher paid during the 2019-2020 school year.
 - (3) Teachers who are designated as recognized based on paragraphs (1) and (2) of this subsection are eligible to earn and receive designations under §150.1012 of this title.
 - (4) Beginning with the 2020-2021 school year, the first year of recognized designation will be the year in which the National Board certification was earned. For National Board certifications earned prior to the 2020-2021 school year, the first year of the recognized designation will be the 2020-2021 school year unless the 2020-2021 school year is the last year of National Board certification.
 - (5) The last valid year of the recognized designation is the last school year in which the National Board certification is valid unless the teacher earned a designation in a local optional teacher designation system under §150.1012 of this title, in which case the later of last year of designation applies.
 - (6) School districts are eligible to receive funding for a designated teacher if the teacher meets the following requirements:
 - (A) the teacher holds an active Texas certification under Chapter 233 of this title, a Reading Specialist Certificate under Chapter 239, Subchapter D, of this title, or a Legacy Master Teacher Certificate; and
 - (B) the teacher has been or will be employed by the school district receiving the funding in a role ID coded as 087 (Teacher) and corresponding class roles of 01, 02, or 03, if applicable, in the Texas Student Data System TEDS for 90 days at 100% of the day (equivalent to four and one-half months or a full semester) or 180 days at 50-99% of the day and compensated for that employment.
- (c) Reimbursement.

- (1) Beginning in the 2020-2021 school year, school districts may request reimbursement for the following eligible National Board fees paid under TEC, §21.3521, by the district or the teacher with National Board certification when National Board certification has been successfully earned:
 - (A) renewal fees up to \$1,250;
 - (B) certification fees up to \$1,900;
 - (C) maintenance of certification fees up to \$495; and
 - (D) fees for initial, renewed, or maintenance National Board certifications earned on or after the 2019-2020 school year.
 - (2) School districts requesting National Board certification reimbursement shall establish a process to ensure that teachers with National Board certification have received from the school district full reimbursement of eligible fees paid by the teacher before the school district can be reimbursed by Texas Education Agency (TEA).
 - (3) School districts are not required to apply to TEA for approval of National Board certification-based designations.
- (d) The requirements of §150.1012(g)(1) and (2) of this title apply to funding referenced in this section.