

The Texas Education Agency (TEA) proposes new §74.2001, concerning reading practices. The proposed new rule would implement statutory requirements for a phonics curriculum as required by House Bill (HB) 3, 86th Texas Legislature, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §28.0062, as added by HB 3, 86th Texas Legislature, 2019, requires school districts and charter schools to provide for the use of a phonics curriculum that uses systematic direct instruction in Kindergarten-Grade 3 to ensure all students obtain necessary early literacy skills.

Proposed new §74.2001 would implement TEC, §28.0062, and outline the required components of a phonics curriculum.

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 implementing statutory requirements for implementation of a phonics curriculum.

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 implementing the statutory requirements for strong reading standards for Kindergarten-Grade 3. 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: 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 8, 2021, and ends November 8, 2021. 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 8, 2021. 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/).

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §28.0062, as added by House Bill 3, 86th Texas Legislature, 2019, which requires school districts and charter schools to provide for the use of a phonics curriculum that uses systematic direct instruction in Kindergarten through third grade to ensure all students obtain necessary early literacy skills. TEC, §28.0062(e), permits the commissioner to adopt rules to implement these requirements.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §28.0062.

<rule>

§74.2001. Phonics Curriculum.

- (a) The following words and terms, when used in this subchapter, shall have the following meanings.
 - (1) Systematic instruction--Instruction that is carefully planned and sequenced where simple concepts are taught first before progressing to more complex concepts. This form of instruction is broken down into manageable step-by-step pieces that are aligned to instructional goals.
 - (2) Direct instruction--Explicit, teacher-led instruction that clearly and specifically teaches a skill through concise explanation, modeling, practice, and feedback.
 - (3) Phonics--The ability to read (decode) and spell (encode) individual words. Decoding refers to the process of using letter-sound knowledge to blend sounds and word parts to read words. Encoding refers to the process of using letter-sound knowledge to spell words.
- (b) Each school district and open-enrollment charter school shall adopt a phonics curriculum for Kindergarten-Grade 3.
 - (1) A phonics curriculum must:
 - (A) align with the developing and sustaining foundational language skills portion of the Texas Essential Knowledge and Skills for English Language Arts and Reading or Texas Essential Knowledge and Skills for Spanish Language Arts and Reading for the applicable grade level in Kindergarten-Grade 3;
 - (B) align with current and confirmed research in reading and cognitive science;
 - (C) provide concise, direct, explicit, and systematic phonics instruction with cumulative review;
 - (D) provide specific daily instructional sequences and routines, which include modeling, guided practice, and application with immediate, corrective feedback;
 - (E) include ongoing practice opportunities in isolation and in connected, controlled text that follows the instructional focus;
 - (F) include assessments to measure and monitor student progress;
 - (G) provide specific guidance after monitoring progress to support students in reaching mastery of a concept or to accelerate instruction as needed; and
 - (H) include the quality components addressed in a phonics-specific rubric approved by the commissioner of education for use in the Texas Resource Review.
 - (2) The program may:
 - (A) function as a stand-alone phonics program, be part of a core language arts program, or act as a supplemental foundational literacy skills program; and
 - (B) include scaffolded application in specific daily instructional sequences and routines.

- (3) The program may not:
- (A) teach word recognition through visual memory, guessing, the shape of a word, or the use of pictures or context clues to decode words instead of explicitly teaching words that cannot be sounded out and that do not follow the rules of phonics; or
 - (B) be used solely for intervention purposes rather than for core instruction implementation.