

The Texas Education Agency (TEA) adopts an amendment to §61.1016, concerning hazardous transportation funding. The amendment is adopted without changes to the proposed text as published in the October 2, 2020 issue of the *Texas Register* (45 TexReg 6864) and will not be republished. The adopted amendment reflects statutory changes resulting from House Bill (HB) 3, 86th Texas Legislature, 2019, by updating a cross reference and lowering the rate for high-risk-of-violence walking areas from \$1.08 to \$1.00 per mile.

REASONED JUSTIFICATION: Texas Education Code (TEC), §48.151, allows a school district to apply for up to 10% of its regular transportation allotment in additional funding to transport children who live within two miles of their campus but are subject to hazardous traffic conditions or a high risk for violence when walking to and from school. To be eligible for funding under the statute, districts must adopt a board policy that identifies specific hazardous or high-risk-of-violence areas for which the allocation is requested. In determining these areas, districts are to consult with local law enforcement agencies and must obtain law enforcement records that document a high incidence of violent crimes. Districts may use all or part of additional funds to support community walking transportation programs.

The adopted amendment to §61.1016 updates the rule to implement statutory changes resulting from HB 3, 86th Texas Legislature, 2019.

In subsection (a), the reference to TEC, §42.155, has been updated to §48.151 to reflect recodification by HB 3.

In subsection (e), the rate for high-risk-of-violence walking areas has been changed from \$1.08 to \$1.00 per mile, and the subsection specifies that the rate aligns with regular route services rather than special education route services. The amendment aligns with HB 3 changes to the regular transportation program allotment and the current General Appropriations Act, which set the allotment at \$1.00 per mile.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began October 2, 2020, and ended November 2, 2020. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §48.004, as transferred, redesignated, and amended by House Bill (HB) 3, 86th Texas Legislature, 2019, which specifies that the commissioner shall adopt rules that are necessary to implement and administer the Foundation School Program; TEC, §48.151(d), as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, which authorizes hazardous transportation funding for areas within two miles of a campus where students would be subject to hazardous traffic conditions or a high risk of violence when walking to and from school; TEC, §48.151(d-1), as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, which requires the school district board of trustees to provide an explanation of the hazardous traffic conditions or areas presenting a high risk of violence applicable to that district and to identify the specific hazardous or high-risk areas for which the allocation is requested by consulting with local law enforcement agencies and obtaining law enforcement records that document a high incidence of violent crimes; and TEC, §48.151(d-2), as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, which allows school districts to use all or part of additional funds to support community walking transportation programs and requires the commissioner to adopt rules for the administration of TEC, §48.151.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §48.004 and §48.151, as transferred, redesignated, and amended by House Bill 3, 86th Texas Legislature, 2019.

<rule>

§61.1016. Hazardous Transportation Funding.

- (a) General provisions. This section implements the Texas Education Code (TEC), §48.151(d)-(d-2) (Transportation Allotment), which allows a school district to apply for up to an additional 10% of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions or a high risk of violence if they walked to school.

- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) School district--For the purposes of this section, the definition of a school district includes an open-enrollment charter school.
 - (2) Hazardous traffic condition--An area within two miles of a campus where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.
 - (3) Area presenting a high risk of violence--An area within two miles of a campus that law enforcement records indicate presents a high incidence of violent crimes.
- (c) Eligibility. A school district or county is eligible to report Hazardous Area Service Annual Mileage in the Foundation School Program (FSP) Transportation application if the school district submits to the Texas Education Agency (TEA) a policy adopted by the local board of trustees that:
- (1) explains the specific hazardous traffic conditions or areas presenting high risk for violence that apply to the district and exist within two miles of its campuses; and
 - (2) if a school district elects to implement community walking transportation programs or innovative school safety projects, requires such district-supported community walking transportation programs or innovative school safety projects to:
 - (A) utilize trained adults with current background checks to either walk students to their home or school or to stand guard along safe routes; and
 - (B) provide financial reports to the district each semester.
- (d) Reporting. School districts are required to submit a Hazardous Area Policy prior to the start of the school year and to report annual Hazardous Area Service mileage by August 1 of each school year on the Home-to-School/School-to-Home section of the FSP Transportation Route Services Report. School districts requesting funds for an area presenting a high risk of violence must provide to TEA, contemporaneously with the explanation required by subsection (c) of this section, consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction.
- (e) Funding formula. Funding for hazardous traffic and high-risk-of-violence routes is limited to 10% of the district's two or more mile only service. Hazardous transportation funding for students riding the bus will be calculated at the standard rate for regular transportation services. Funding for high-risk-of-violence walking areas will be calculated at the regular route services rate of \$1.00 per mile.