

The Texas Education Agency (TEA) adopts an amendment to §61.1010, concerning additional state aid for school districts that contract to partner to operate a district campus. The amendment is adopted without changes to the proposed text as published in the December 18, 2020 issue of the *Texas Register* (45 TexReg 8954) and will not be republished. The adopted amendment reflects changes made by Senate Bill (SB) 2117 and House Bill (HB) 3, 86th Texas Legislature, 2019, and revises the list of allotments to be excluded from the entitlement.

REASONED JUSTIFICATION: Section 61.1010 provides an additional entitlement through the Foundation School Program for school districts that enter into contracts to partner to operate a district campus under Texas Education Code (TEC), §11.174. The rule also provides for additional funding to the school district in the amount of any positive difference between the amount to which a charter school would be entitled under TEC, §12.106, and the amount to which the school district would be entitled under the TEC, Chapter 42, Subchapters B, C, and E, for the district's students attending the contracted campus.

SB 2117, 86th Texas Legislature, 2019, amended TEC, §42.2511, to expand the entitlement to a school district that contracts with an open-enrollment charter school to jointly operate a campus or campus program as provided by TEC, §11.157(b). HB 3, 86th Texas Legislature, 2019, further amended TEC, §42.2511, by recodifying it as §48.252.

To align with SB 2117, the adopted amendment to §61.1010 adds language throughout the rule referencing campus programs under TEC, §11.157(b). In addition, a definition for "contracted campus program" is added in subsection (b)(2), and a new provision in subsection (c)(2) sets forth the method to calculate the additional state aid by requiring the program contact hours to be reported on a separate track.

Subsection (c)(1) is amended to update one of the data sources used as part of the settle-up process for the entitlement. Instead of using data from the Texas Department of Agriculture on the number of students eligible for free and reduced-price meals, TEA will use data from the Texas Student Data System Public Education Information Management System fall submission regarding the number of students eligible for compensatory education funding under TEC, §48.104.

Subsection (e) is amended to update the list of allotments to be excluded from the entitlement.

Finally, due to the recodification of TEC, Chapters 41 and 42, by HB 3, cross references to statute are updated throughout the rule.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 18, 2020, and ended January 25, 2021. Following is a summary of the public comments received and agency responses.

Comment: The Texas District Charter Alliance (TDCA) commented in support of the proposed changes to §61.1010 and stated that they accurately provide for the implementation of legislative changes in HB 3 and SB 2117.

Response: The agency agrees.

Comment: With respect to implementation of SB 2117, TDCA requested conforming changes to 19 TAC §97.1075, Contracting to Partner to Operate a Campus under Texas Education Code, §11.174, to clarify requirements under which contracted campus programs operate. TCDA recommended amending §97.1075(c) to clarify that the staffing and other authorities applicable to campuses also apply to contracted campus programs. TCDA also recommended revising §97.1075(d) to address the performance contract requirements applicable to contracted campus programs.

Response: This comment is outside the scope of the proposed rulemaking. The comment addresses accountability requirements under 19 TAC Chapter 97.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §48.252, which authorizes the commissioner of education to adopt rules necessary for the implementation of an entitlement for school districts that enter into a contract to operate a district campus under the TEC, §11.174.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §48.252.

<rule>

§61.1010. Additional State Aid for School Districts that Contract to Partner to Operate a District Campus.

- (a) General provisions. This section implements the Texas Education Code (TEC), §48.252 (School District Entitlement for Certain Students), which provides for additional funding for school districts that have entered into a contract to partner to operate a district campus under the TEC, §11.174, and for districts that entered into a contract with a partner to jointly operate a campus or campus program under TEC, §11.157(b).
- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings.
 - (1) Contracted campus--A campus for which the board of trustees of a school district has contracted to partner to operate a campus under the TEC, §11.174 or §11.157(b).
 - (2) Contracted campus program--A program on a campus operated by a charter school under TEC, Chapter 12, Subchapter D, for which the board of trustees of a school district has contracted to jointly operate the program under TEC, §11.157(b).
- (c) Entitlement.
 - (1) In the fall of each school year, as part of the settle-up process for the preceding school year, the Texas Education Agency (TEA) will use the attendance reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) summer data submission, as well as campus-level data regarding the number of students eligible for compensatory education funding under TEC, §48.104, from the TSDS PEIMS fall submission, to calculate the following for a contracted campus or contracted campus program:
 - (A) the entitlement for each student in average daily attendance at the contracted campus or contracted campus program, as if the campus or contracted campus program were a charter school under the TEC, §12.106, using the state average basic allotment as defined under the TEC, §12.106(a-1), and state average tax effort for enrichment funding as defined by the TEC, §12.106(a-2);
 - (B) the entitlement for each student in average daily attendance at the contracted campus or contracted campus program under the TEC, Chapter 48, Subchapters B, C, and E, as adjusted by subsection (d) of this section, using the district's basic allotment and enrichment tax effort without a local share component for those entitlements; and
 - (C) any positive difference that results from subtracting the amount calculated under subparagraph (B) of this paragraph from the amount calculated under subparagraph (A) of this paragraph, which shall be added to the district's Foundation School Fund Allotment.
 - (2) Campus program attendance must be reported on a separate track to receive funding.
- (d) Estimates. School districts will be provided with estimated funding during a school year for eligible contracted campuses or contracted campus programs based on the prior year's attendance data using the same methodology used in subsection (c)(1) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c)(1) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §48.272.
- (e) Exclusions. For purposes of the calculation in subsection (c) of this section, the following allotments shall be excluded from the entitlement:
 - (1) the Advanced Career and Technology Education Allotment under the TEC, §48.106(a)(2), for students enrolled in P-TECH or New Tech Network campuses;
 - (2) the College, Career, or Military Readiness Outcomes Bonus under TEC, §48.110;

- (3) the Teacher Incentive Allotment under TEC, §48.112;
 - (4) the Mentor Program Allotment under TEC, §48.114; and
 - (5) the School Safety Allotment under TEC, §42.168.
- (f) Funding for instructional facilities for charter schools. Effective September 1, 2018, for purposes of the calculation in subsection (c)(1)(A) of this section, any funding to which the contracted campus or contracted campus program would be entitled under the TEC, §12.106(d), will be included in the calculation.
- (g) Recovery of funds. If a contract is found to be out of compliance with the TEC, §11.157 or §11.174, or §97.1075 of this title (relating to Contracting to Partner to Operate a Campus under Texas Education Code, §11.174), the TEA will eliminate any funding provided for that campus or contracted campus program under the TEC, §48.252, and recover any funds overallocated under the provisions of the TEC, §48.272.