

The Texas Education Agency (TEA) proposes the repeal of §§101.2001, 101.2003, 101.2005-101.2007, 101.2009, 101.2011, 101.2015, 101.2017, and 101.2019, concerning grade advancement and accelerated instruction. The proposed repeals would implement House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, which modified requirements related to accelerated instruction.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 4545, 87th Texas Legislature, Regular Session, 2021, amended Texas Education Code (TEC), §28.0211 and §28.0217, to remove grade advancement requirements and focus on the provision of accelerated instruction and related supports for students who have failed to perform satisfactorily on assessments required under TEC, §39.023.

Because of the significant changes to accelerated instruction by HB 4545, the rules in Chapter 101, Subchapter BB, are no longer applicable. The proposed repeal would remove the obsolete rules.

In a separate rulemaking action, TEA is proposing new 19 TAC §104.1001, Accelerated Instruction, Modified Teacher Assignment, and Accelerated Learning Committee, to clarify the statutory changes to accelerated instruction and outline new requirements related to accelerated learning committees and related student supports.

FISCAL IMPACT: Kelvey Oeser, deputy 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 repeal existing regulations to implement changes to accelerated instruction by HB 4545, 87th Texas Legislature, Regular Session, 2021.

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 create a new regulation; would not expand or limit 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. Oeser 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 HB 4545, 87th Texas Legislature, Regular Session, 2021, by removing obsolete rules related to accelerated instruction. 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 January 21, 2022, and ends February 22, 2022. 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/).

Public hearings to solicit testimony and input on the proposal will be held at 9:00 a.m. on February 3 and 4, 2022, via Zoom. The public may participate in either hearing virtually by linking to the February 3 hearing at <https://us02web.zoom.us/j/86198440744> and the February 4 hearing at <https://us02web.zoom.us/j/82460438458>. The public may attend one or both hearings. Anyone wishing to testify at one of the hearings must sign in between 8:30 a.m. and 9:00 a.m. on the day of the respective hearing. Each hearing will conclude once all who have signed in have been given the opportunity to comment. Each individual's comments are limited to three minutes, and each individual may comment only once. Both hearings will be recorded and made available publicly.

Parties who are interested in providing written comments in addition to, or in lieu of, public testimony are encouraged to send written comments to accelerated.instruction@tea.texas.gov. Questions about the hearings should be directed to accelerated.instruction@tea.texas.gov.

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §28.0211, as amended by House Bill (HB) 4545, 87th Texas Legislature, Regular Session, 2021, which provides for (1) accelerated instruction for students who do not perform satisfactorily on assessments administered under TEC, §39.023(a), in Grades 3-8; (2) accelerated learning committees for students in Grades 3, 5, or 8 who do not perform satisfactorily on reading and mathematics assessments administered under TEC, §39.023; and (3) other related requirements. TEC, §28.0211(k), allows, but does not require, the commissioner to adopt rules as necessary to implement the section; and TEC, §28.0217, as amended by HB 4545, 87th Texas Legislature, Regular Session, 2021, which provides for accelerated instruction, which must comply with the requirements for accelerated instruction under TEC, §28.0211, for students in high school who do not perform satisfactorily on assessments administered under TEC, §39.023(c), as well as related requirements.

CROSS REFERENCE TO STATUTE. The repeals implements Texas Education Code, §28.0211 and §28.0217, as amended by House Bill 4545, 87th Texas Legislature, Regular Session, 2021.

<rule>

§101.2001. Policy.

§101.2003. Grade Advancement Testing Requirements.

§101.2005. Test Administration and Schedule.

§101.2006. Accelerated Instruction.

§101.2007. Role of Grade Placement Committee.

§101.2009. Notice to Parents or Guardians.

§101.2011. Alternate Assessment.

§101.2015. Parental Waiver.

§101.2017. Scoring and Reporting.

§101.2019. Credit for High School Graduation.