

The Texas Education Agency (TEA) proposes an amendment to §105.1001, concerning optional extended year programs. The proposed amendment would implement House Bill (HB) 3, 86th Texas Legislature, 2019, by removing an outdated provision related to the school finance system.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §29.082, authorizes the commissioner of education to adopt rules for the administration of an extended year program provided by school districts and open-enrollment charter schools for certain eligible students.

The proposed amendment would eliminate subsection (f), which references Option 4 wealth equalization agreements under TEC, Chapter 41. Because of changes to the school finance system by HB 3, 86th Texas Legislature, 2019, districts no longer exercise Option 4 agreements. Removing the outdated provision would align the rule with current practice and eliminate concerns of duplicate funding.

FISCAL IMPACT: Kristen Hole, associate commissioner for instructional strategy, 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the first five years the proposed rulemaking would be in effect, it would limit an existing regulation by removing an outdated provision.

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 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. Hole 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 to ensure rule language is based on current law and provide school districts with clarifications by removing outdated provisions in alignment with HB 3, 86th Texas Legislature, 2019. 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 August 5, 2022, and ends September 5, 2022. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner not more than 14 calendar days after notice of the proposal has been published in the

Texas Register on August 5, 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/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code, §29.082, which authorizes an optional extended year program to allow a school district to apply to the Texas Education Agency for funding of an extended year program for a period not to exceed 30 instructional days for students in Kindergarten-Grade 11 who are identified as likely not to be promoted to the next grade level for the succeeding school year or for students in Grade 12 who are identified as likely not to graduate from high school before the beginning of the succeeding school year. TEC, §29.082(b), authorizes the commissioner of education to adopt rules for the administration of an optional extended year program.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §29.082.

<rule>

§105.1001. Optional Extended Year Program.

- (a) Each school district seeking funding for an optional extended year program under the Texas Education Code, §29.082, must submit an application in a format prescribed by the commissioner of education. Once funded, the program shall comply with the provisions of the Texas Education Code, §29.082.
- (b) An optional extended year program may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional days, which may include intercessions for year-round programs.
- (c) A student is eligible for services in accordance with the Texas Education Code, §29.082(a)(1)-(2). A student who does not demonstrate proficiency in a subject area as determined by the district is also eligible for services.
- (d) School districts shall be funded annually based on the most recent district data available to the Texas Education Agency through the Public Education Information Management System (PEIMS). Funding shall be based on the following:
 - (1) Eligibility. School districts in which at least 40% of the students in Kindergarten through Grade 12 are from economically disadvantaged families will be eligible for funding.
 - (2) Maximum entitlement. Funding for an eligible school district under this section shall be based on the amount necessary to provide extended year instructional services to at least 5.0% of the at-risk student population in Kindergarten through Grade 12.
 - (3) Per capita amount. The per capita amount will be determined by dividing the total program allocation by the sum of the maximum entitlement populations in Kindergarten through Grade 12 in eligible school districts.
 - (4) Reallocation. Program funds not requested by eligible school districts will be reallocated to school districts identified in paragraph (1) of this subsection that requested funding.
- (e) At a minimum, school districts will be required to provide services to the number of students identified on the school district's entitlement notice used for funding. School districts that have fewer students participating in the optional extended year program than identified for calculating the school district's maximum entitlement (including reallocation, if applicable) will have their entitlement reduced on a per-capita basis.

~~[(f) A school district receiving funds under the Texas Education Code, §29.082, that is also receiving funds for an optional extended year program for students in Kindergarten through Grade 12 under the Option 4 wealth equalization agreement authorized under the Texas Education Code, Chapter 41, must adjust its Option 4 equalization agreement. The district must adjust the agreement to redirect the use of funds to a~~

~~qualifying activity other than an optional extended year program for students in Kindergarten through Grade 12 to the extent necessary to avoid duplicate funding of optional extended year programs.]~~

- (f) ~~(e)~~ A school district receiving funds for the accelerated reading instruction program authorized under the Texas Education Code, §28.006(g), is eligible to use funds authorized under the Texas Education Code, §29.082, to serve students in Kindergarten through Grade 2. Each optional extended year program must have auditable funding documentation linking direct service expenditures and optional extended year program funds used to identify eligible students.
- (g) ~~(h)~~ All costs under the optional extended year program must be necessary and reasonable for carrying out the objectives of the program and for the proper and efficient performance and administration of the program.
- (h) ~~(i)~~ Teacher training required under the Texas Education Code, §29.082(d), shall address the provisions set forth in this subsection. Training is to occur prior to the implementation of the program. Additional training may be provided throughout the implementation of the program. The required training shall provide teachers with the following:
- (1) knowledge and skills needed to help students in the program meet challenging state content and student performance standards; and
 - (2) innovative instructional practices suitable for accelerating the academic performance of at-risk students.
- (i) ~~(j)~~ A school district shall incorporate effective instructional strategies into the design of the program to ensure students are provided with the skills needed to be successful in the following school year. An extended day program must be implemented beyond the regular seven-hour day and may not include tutorials or extended in-school day-care services. A program with the basic design to complete homework is not an acceptable instructional design for the program. A tutorial program using pre- and post-testing with each student working on a sequenced and focused program over time to enable the student to attain greater academic success is acceptable.
- (j) ~~(k)~~ A school district shall submit an annual report evaluating the program in the time and format required by the commissioner. A school district shall also submit, in a manner determined by the commissioner, a complete list of students who participated in the program for at least one day.
- (k) ~~(l)~~ For audit purposes, a school district shall maintain documentation to support each of the requirements of this section.