

July 15, 2020

To the Administrator Addressed:

Subject: Notification of Local Revenue Level in Excess of Entitlement for School Year 2020–2021

### **Background**

Pursuant to Texas Education Code (TEC),<sup>1</sup> §§48.257 and 49.004, this letter notifies your district of the determination by the Texas Education Agency (TEA or agency) that your district's Tier One local share under TEC, §48.256, will exceed the district's entitlement under TEC, §48.266(a)(1), less the district's distribution from the state available school fund, and/or that the district's Tier Two local share described by TEC, §48.266(a)(5)(B), will exceed the amount described by TEC, §48.202(a-1)(2), for school year 2020–2021. It allows your district to move forward with preparation for an election under TEC, Chapter 49, if necessary.

### **Estimates**

Prior to House Bill (HB) 3, determinations for districts subject to recapture provisions were based on final state certified property values for the prior tax year. HB 3 now requires the use of current year property values in these determinations.

As established in TEC, §48.269, this determination is based on estimates of enrollment for school year 2020–2021 and estimated property values for tax year 2020. Because the agency does not yet have final state certified property values for tax year 2020, the agency is using 2019 state certified property values increased by 4.01%, in accordance with the 2020–2021 General Appropriations Act, as a proxy for tax year 2020.

### **Determination**

Based on these estimates, your district's estimated local yield per penny per student in weighted average daily attendance (WADA) exceeds the Tier Two (level two) guaranteed yield of \$49.28. Your district will be required to reduce its excess local revenue level for the 2020–2021 school year using one or more of the statutory options available.

The enclosed printout provides information about the calculations affecting your district. The printout calculates Tier One excess local revenue and Tier Two (level two) excess local revenue, as established in TEC, §48.257.

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<sup>1</sup> Except as noted, statutory citations refer to the Texas Education Code, as amended by House Bill 3 and other acts of the 86<sup>th</sup> Texas Legislature, Regular Session (2019).

## **Options to Reduce Local Revenue in Excess of Entitlement**

A district with local revenue in excess of entitlement has the following five options available to reduce the district's revenue level under TEC, Chapter 49:

- 1) Consolidation with another district as provided by Subchapter B;
- 2) Detachment of territory as provided by Subchapter C;
- 3) Purchase of average daily attendance credit as provided by Subchapter D ("Option 3");
- 4) Education of nonresident students as provided by Subchapter E ("Option 4"); and/or
- 5) Tax base consolidation with another district as provided by Subchapter F.

Districts have historically selected Option 3. A voter election is required when exercising any form of Option 3 or Option 4. All districts notified as having a local revenue level in excess of entitlement must hold an election authorizing the purchase of attendance credit under TEC, §49.156. Successful elections conducted under TEC, former Chapter 41, carry over into TEC, Chapter 49.

TEC, §41.0041, which provided certain districts the option of authorizing the Commissioner to withhold state aid in lieu of holding an election, was repealed by HB 3 in 2019. However, provisions in TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against TEC, Chapter 48, funds provided in Subchapter F. All districts will have the option to use state aid calculated under TEC, Subchapter F, Chapter 48, as an offset to their attendance credit for purposes of reducing their local revenue level. Districts using this option are required to submit the district intent/choice selection form and complete an Option 3 netting contract, which can be found in the *Options and Procedures for Local Revenue in Excess of Entitlement 2020–2021 School Year* and on the *Excess Local Revenue* webpage at <http://tea.texas.gov/index2.aspx?id=25769817562>.

To alleviate any delays in the approval of the Agreement for the Purchase of Attendance Credit or the Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding), it is recommended that your district's school board delegate authority to obligate the school district under TEC, Chapter 49, to the superintendent, and the superintendent would then submit the contract via the Excess Local Revenue subsystem of the online Foundation School Program (FSP) system in Texas Education Agency Login ([TEAL](#)). Please do not mail the original hard copy contract to TEA.

Additional information about elections, as well as sample ballot proposition language, is provided in the *Options and Procedures for Local Revenue in Excess of Entitlement 2020–2021 School Year*. You may also wish to call the Office of the Texas Secretary of State at 1-800-252-8683 or visit that office's website at <http://www.sos.state.tx.us/> for assistance with election calendars and procedures.

### **Action Required**

On receipt of this letter, your district must submit the district intent/choice selection form through the Excess Local Revenue subsystem of the online FSP system to TEA indicating which option

the district intends to use to reduce local revenue in excess of entitlement for school year 2020–2021. According to the TEC, §49.004(c), as a district that has been notified of local revenue in excess of entitlement, your district may not adopt a tax rate for tax year 2020 until the Commissioner of Education certifies that your district has reduced the district's local revenue level in excess of entitlement to the level established under TEC, §48.257. The agency will certify your district's compliance upon review of your district's intent/choice selection form, and **approval is contingent upon** TEA's determination of the district's maximum compressed tax rate via the Local Property Value Survey subsystem.

The Local Property Value Survey subsystem of the FSP system in TEAL is scheduled to open July 18 and close August 1. The agency will use the locally estimated property growth rates to calculate estimates of comptroller-certified property values used for state funding purposes (i.e. "T2" property values) and then calculate and make available the maximum compressed Tier One tax rates (MCRs) in August of 2020. **Districts must wait until receiving both the agency's approval of the district intent and the agency's determination of the district's MCR before proceeding with tax rate adoption.**

For detailed information on all the procedures your district is required to follow to reduce local revenue in excess of entitlement, the *Options and Procedures for Local Revenue in Excess of Entitlement 2020–2021 School Year*, will be available on the TEA Excess Local Revenue webpage at <http://tea.texas.gov/index2.aspx?id=25769817562> in the coming months.

#### **Final Determination Regarding Payment of Excess Local Revenue**

TEA will make a final determination regarding the payment of excess local revenue using the district's final enrollment, entitlement and local share under TEC, Chapter 48, final state certified property values for tax year 2020, adopted maintenance and operations (M&O) tax rate for tax year 2020, and M&O taxes collected by your district in 2020–2021.

For more information, please see the Excess Local Revenue webpage, or contact Kim Wall in the State Funding Division at (512) 463-4809 or [kim.wall@tea.texas.gov](mailto:kim.wall@tea.texas.gov).

Sincerely,



Leo Lopez, RTSBA  
Associate Commissioner for School Finance  
& Chief School Finance Officer

LL/kw  
Enclosures