

Chapter 61. School Districts

Subchapter AA. Commissioner's Rules on School Finance

§61.1000. Maximum Compressed Tax Rate Calculation and Data Collection.

- (a) This section, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.2551.
- (b) School districts' maximum compressed maintenance and operations (M&O) tax rates, as determined by TEC, §48.2551 and §48.2552, and relevant rules, shall be calculated using locally certified property values and adjusted to estimate for exclusions under Texas Government Code, §403.302(d).
- (c) The Texas Education Agency (TEA) will open a data collection from 12:01 a.m. on July 18 through 11:59 p.m. on August 1 for school districts. School districts must submit the following data:
 - (1) the chief appraiser's July 25 certified taxable property values from the certified appraisal roll under Tax Code, §26.01(a) or (a-1), as applicable for the preceding tax year;
 - (2) the chief appraiser's July 25 certified taxable property values from the certified appraisal roll under Tax Code, §26.01(a) or (a-1), as applicable for the current tax year;
 - (3) local exemption total dollar amounts for the preceding tax year, including, but not limited to, the following exemptions:
 - (A) Tax Code, Chapter 313, Texas Economic Development Act (expiring or new);
 - (B) local option General Residence Homestead;
 - (C) local option Age 65 or Older or Disabled;
 - (D) local option Historic or Archeological Sites; and
 - (E) local option Freeport;
 - (4) local exemption total dollar amounts for the current tax year, including, but not limited to, the following exemptions:
 - (A) Tax Code, Chapter 313, Texas Economic Development Act (expiring or new);
 - (B) local option General Residence Homestead;
 - (C) local option Age 65 or Older or Disabled;
 - (D) local option Historic or Archeological Sites; and
 - (E) local option Freeport; and
 - (5) district contact information.
- (d) TEA will calculate and make available preliminary maximum compressed tier one tax rates to each school district on or before August 5.
- (e) If TEA receives an appeal of a preliminary maximum compressed tax rate (MCR), TEA will issue a final determination to the school district no later than August 31.
- (f) If TEA does not receive an appeal of a preliminary MCR, the preliminary MCR automatically becomes a final MCR 10 calendar days following TEA's approval of the district's preliminary MCR.
- (g) A school district may appeal its preliminary MCR through the following process.
 - (1) The TEA division responsible for MCRs must receive a written appeal no later than 10 calendar days after TEA's approval of the district's preliminary MCR. The appeal must include adequate evidence and additional information that supports the position of the school district. Appeals

received 11 calendar days or more after TEA approves a district's preliminary MCR will not be considered.

- (2) TEA will only consider appeals that would result in a change of the preliminary MCR.
- (h) TEA will use any available data to calculate MCR absent data collection submissions from a school district.
- (i) The commissioner of education may waive a provision of this section if necessary to ensure the appropriate MCR calculation.

Statutory Authority: The provisions of this §61.1000 issued under the Texas Education Code, §§48.2551, 48.004, and 48.011.

Source: The provisions of this §61.1000 adopted to be effective April 15, 2020, 45 TexReg 2411.

§61.1001. Prior Year Maximum Compressed Tax Rate.

- (a) This section, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.2551.
- (b) For purposes of determining a district's maximum compressed tax rate (MCR) under TEC, §48.2551(b), for the 2020-2021 school year, the value of the district's prior year MCR is \$0.93.

Statutory Authority: The provisions of this §61.1001 issued under the Texas Education Code, §§48.004, 48.011, and 48.2551.

Source: The provisions of this §61.1001 adopted to be effective March 30, 2020, 45 TexReg 2157.

§61.1002. Maximum Compressed Tax Rate Limitations.

- (a) This section, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.2551 and §48.2552.
- (b) For purposes of determining a district's maximum compressed tax rate (MCR) for a given tax year under TEC, §§48.2551(b)(1)(B), 48.2551(c), and 48.2552(b), if the calculation of a school district's maximum compressed maintenance and operations (M&O) tax rate for that year would result in an MCR less than 90% of the highest district's maximum compressed M&O tax rate, the district's maximum compressed M&O tax rate is 90% of the highest maximum compressed M&O tax rate for that year.

Statutory Authority: The provisions of this §61.1002 issued under the Texas Education Code, §§48.004, 48.011, 48.2551, and 48.2552.

Source: The provisions of this §61.1002 adopted to be effective March 30, 2020, 45 TexReg 2158.

§61.1003. Career and Technology Education Allotment for P-TECH and New Tech Network Campuses.

- (a) This rule, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.106(a)(2)(B) and (C).
- (b) In place of funding under TEC, §48.106(a)(2)(B) and (C), a district is entitled to \$50 for each student in average daily attendance enrolled in either of the following:
 - (1) a campus designated as a Pathways in Technology Early College High School (P-TECH) school under TEC, §29.556; or
 - (2) a campus that is a member of the New Tech Network and that focuses on project-based learning and work-based education.

Statutory Authority: The provisions of this §61.1003 issued under Texas Education Code, §§48.004, 48.011, and 48.106.

Source: The provisions of this §61.1003 adopted to be effective July 30, 2020, 45 TexReg 5193.

§61.1004. Special Education Funding for Open-Enrollment Charter Schools.

- (a) This rule, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §§12.106, 48.051, and 48.102.
- (b) An open-enrollment charter school shall receive additional special education funding in an amount equal to the difference, if that difference is greater than zero, between the total amount of funding the open-enrollment charter school would have received for special education purposes under former TEC, §42.151, as it existed on January 1, 2019, and the amount of total funding received for special education purposes under TEC, §48.102, for the applicable school year referenced in TEC, §48.277(b)(1).
- (c) An open-enrollment charter school's entitlement under TEC, §48.051, shall be reduced by an amount equivalent to the amount of the additional special education funding provided under subsection (b) of this section. A reduction under this section may not exceed the open-enrollment charter school's entitlement under TEC, §48.051.
- (d) This section has no application beginning with the 2024-2025 school year.

Statutory Authority: The provisions of this §61.1004 issued under Texas Education Code, §§12.106, 48.011, 48.051, and 48.102.

Source: The provisions of this §61.1004 adopted to be effective July 30, 2020, 45 TexReg 5194.

§61.1005. Additional State Aid for Staff Salary Increases at Regional Education Service Centers.

- (a) This rule, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in former TEC, §42.2513.
- (b) A regional education service center is entitled to \$500 for each full-time and \$250 for each part-time employee, other than administrators or employees subject to the minimum salary schedule, reported to Texas Education Agency through the Foundation School Program data collection system for the 2018-2019 school year.

Statutory Authority: The provisions of this §61.1005 issued under House Bill 3, §4.001(39), 86th Texas Legislature, 2019, and Texas Education Code, §48.004 and §48.011.

Source: The provisions of this §61.1005 adopted to be effective July 30, 2020, 45 TexReg 5194.

§61.1006. Foundation School Program Funding for Reimbursement of Disaster Remediation Costs.

- (a) General provisions. Subsections (a)-(m) of this section implement Texas Education Code (TEC), §48.261 (Reimbursement for Disaster Remediation Costs). The commissioner of education may provide disaster remediation cost reimbursement under subsections (a)-(m) of this section only if funds are available for that purpose from:
 - (1) amounts appropriated for that purpose, including amounts appropriated for school districts or open-enrollment charter schools for that purpose to the disaster contingency fund established under Texas Government Code, §418.073; or
 - (2) Foundation School Program (FSP) funds available for that purpose based on a determination by the commissioner that the amount appropriated for the FSP, including the facilities component as provided by TEC, Chapter 46, exceeds the amount to which school districts and open-enrollment charter schools are entitled under this subchapter and TEC, Chapter 46.
- (b) Eligibility. A school district or an open-enrollment charter school that meets the following criteria is eligible to apply:
 - (1) all or part of the school district or open-enrollment charter school must be located in an area declared a disaster area by the governor under Texas Government Code, Chapter 418;
 - (2) the school district or open-enrollment charter school must have incurred and paid disaster remediation costs during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster that the school district or open-

- enrollment charter school does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source for reimbursement; and
- (3) in accordance with TEC, §48.261, the school district or open-enrollment charter school must apply for reimbursement during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster. The school district or open-enrollment charter school must submit a completed application by the application deadline. A school district or an open-enrollment charter school that submits an incomplete application or submits an application after the application deadline may be deemed ineligible for funds.
- (c) Definitions. The following terms have the following meanings when used in this section.
- (1) Disaster remediation costs--Costs incurred by a school district or an open-enrollment charter school for replacing school facilities; equipment, including, but not limited to, the cost to repair or replace vehicles or computers damaged in the disaster; and supplies needed to provide instruction at a location where students eligible for FSP funding regularly attend classes.
 - (2) Paid disaster remediation costs--Disaster remediation costs that are paid or remitted resulting in an outflow of cash in exchange for goods or services evidenced by an invoice, receipt, voucher, or other such document, and in accordance with standards found in the Financial Accountability System Resource Guide adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide) and TEC, §48.261, that the school district or open-enrollment charter school does not anticipate recovering through insurance proceeds, federal disaster relief payment, or another similar source of reimbursement in accordance with TEC, §48.261, and that were paid during the two-year period following the governor's initial proclamation or executive order declaring a state of disaster.
- (d) Application process. A school district or an open-enrollment charter school seeking disaster reimbursement must submit a new application each time Texas Education Agency (TEA) opens a disaster reimbursement application process on a form prescribed by TEA. The application shall contain, at a minimum, the following:
- (1) identification of the governor's initial proclamation or executive order declaring a state of disaster and evidence that all or part of the school district or open-enrollment charter school is in the area subject to the disaster declaration;
 - (2) the total dollar amount of paid disaster remediation costs during the two-year period following the governor's proclamation or executive order declaring a state of disaster;
 - (3) the total dollar amount of paid disaster remediation costs paid during the two-year period following the governor's proclamation or executive order declaring a state of disaster that the school district or open-enrollment charter school anticipates to be reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement;
 - (4) the total difference between the amounts of paid disaster remediation costs specified in paragraphs (2) and (3) of this subsection and, of the total difference, the specific paid disaster remediation costs for which the school district or open-enrollment charter school is seeking reimbursement under TEC, §48.261;
 - (5) an explanation as to why the school district or open-enrollment charter school does not anticipate being reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement for each paid disaster remediation cost identified in paragraph (4) of this subsection;
 - (6) a certification from the school district or open-enrollment charter school board and superintendent or chief executive officer that all paid disaster remediation costs for which the school district or open-enrollment charter school is seeking reimbursement under paragraph (4) of this subsection qualify as paid disaster remediation costs and that the school district or open-enrollment charter school board and superintendent or chief executive officer do not anticipate recovering these payments through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement; and

- (7) a certification from the school district or open-enrollment charter school board and superintendent or chief executive officer that the school district or open-enrollment charter school, for any paid disaster remediation costs for which the school district or open-enrollment charter school is seeking reimbursement under paragraph (4) of this subsection, has made and will continue to make efforts to seek reimbursement from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement as allowable or appropriate.
- (e) Updates for new payments. If a school district or open-enrollment charter school makes more paid disaster remediation cost payments after submission of its initial application to the TEA and prior to the deadline announced for disaster reimbursement application submission, the TEA will prescribe a form allowing the school district or open-enrollment charter school to submit additional paid disaster remediation cost payments and information consistent with the application process in subsection (d) of this section and will increase the amount of reimbursement as available and appropriate.
- (f) Reporting requirement. Annually after the date of the award under this disaster reimbursement program, the awarded school district or open-enrollment charter school board and superintendent or chief executive officer shall provide a certified report on a form prescribed by TEA until all insurance proceeds, federal disaster relief, or other similar sources of reimbursements related to the disaster are finalized. On the report, the school district or open-enrollment charter school shall identify any insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district or open-enrollment charter school received for which the school district or open-enrollment charter school previously received reimbursement payment from TEA. TEA will adjust funding for any overpayments made to the school district or open-enrollment charter school based on the final report made under this subsection of the school district or open-enrollment charter school out of the school district's or open-enrollment charter school's future FSP payments or will require a refund from the school district or open-enrollment charter school.
- (g) Finality of award. Awards of assistance under this section will be made based only on paid disaster remediation costs. Prior to making an award, TEA may request additional documentation, including, but not limited to, evidence described in subsection (c)(2) of this section and evidence supporting the certifications required by subsection (d)(6) and (7) of this section. A school district or an open-enrollment charter school is not entitled to any requested reimbursement, and a decision by the commissioner is final and may not be appealed.
- (h) Deadlines. The commissioner will announce a deadline for disaster reimbursement applications in conjunction with making a determination of the amount of funds available for the disaster reimbursement program cycle. All applications received by the announced deadline will be reviewed. Applications will be funded if sufficient funds are available to fully fund each application. If sufficient funds are not available to fully fund each application, funding will be prorated proportionately so that every funded application receives the same percentage of requested funding.
- (i) Distribution of funds. Funds will be allocated through the FSP and will appear on the school district or open-enrollment charter school payment ledger and be delivered as soon as is practicable after award amounts have been determined.
- (j) Finalization of award. When the school district or open-enrollment charter school determines that all insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district or open-enrollment charter school anticipates receiving are finalized and there are no pending claims, the school district or open-enrollment charter school board and superintendent or chief executive officer shall certify to TEA in writing that the annual report required by subsection (f) of this section is no longer necessary and disaster reporting is finalized.
- (k) Record retention and audit. The school district or open-enrollment charter school shall maintain all documents necessary to substantiate payment and certifications made in subsections (c)(2), (d), (g), and (h) of this section, and the school district or open-enrollment charter school is subject to audit by TEA until two years after the school district or open-enrollment charter school certifies to TEA in writing that the disaster is finalized and closed in accordance with subsection (j) of this section.
- (l) Replacement of school facilities damaged in the disaster. In accordance with TEC, §48.261, a school district or an open-enrollment charter school is permitted to elect to replace a facility damaged in a disaster instead of repairing that facility, provided that the state funds provided under this section do not exceed the

lesser of the amount that would be provided to the district or charter school if the facility were repaired or the amount necessary to replace the facility.

- (1) Construction plans and budgeted costs to rebuild the facility must be reasonable and appropriate, as follows.
 - (A) Construction plans should follow current TEA facility guidelines and physical plant requirements as prescribed in applicable provisions of Chapter 61, Subchapter CC, of this title (relating to Commissioner's Rules Concerning School Facilities) without significant add-ons or upgrades, noting that:
 - (i) pre-disaster square footage in temporary buildings may be replaced with square footage in permanent buildings;
 - (ii) pre-disaster square footage amounts may be adjusted to account for additional square footage specifically required by TEA guidelines, if applicable; and
 - (iii) except where specifically identified, the provisions of Chapter 61, Subchapter CC, of this title do not apply to open-enrollment charter schools.
 - (B) Budgeted cost per square foot may not be significantly higher than recent comparable construction costs within the region where the facility will be constructed.
 - (C) Enrollment capacity of the facility may not vary significantly from current common practice for new facilities of a like purpose.
 - (D) The facility's square footage per unit of enrollment capacity may not significantly exceed current best practice guidelines for new facilities of like purpose.
 - (E) The requesting school district or open-enrollment charter school is responsible for demonstrating that construction plans and budgeted costs conform to the requirements in this paragraph.
 - (2) The cost to replace a facility shall be based on the average of the following two methodologies:
 - (A) replacement cost based on square footage, which is an amount equal to the product of the reasonable and appropriate budgeted costs and the quotient of the square footage of the pre-disaster facility and the square footage of the planned facility, where the replacement cost may not exceed the budgeted cost; and
 - (B) replacement cost based on enrollment capacity, which is an amount equal to the product of the reasonable and appropriate budgeted costs and the quotient of the pre-disaster facility enrollment capacity and the planned facility enrollment capacity, where the replacement cost may not exceed the budgeted cost.
 - (3) The commissioner may grant a waiver of one or more of the requirements in paragraph (1) of this subsection if the school district or open-enrollment charter school provides sufficient justification why the requirement should not apply in a particular instance.
 - (4) The school district or open-enrollment charter school may request an initial reimbursement based on anticipated insurance proceeds, federal disaster relief payments, or other similar sources of reimbursements. When this occurs, TEA will determine at a later date the appropriate reimbursement when actual insurance proceeds, federal disaster relief payments, or other similar sources of reimbursements are known.
- (m) Applicability. Notwithstanding subsection (n) of this section, this section applies to disasters that occur on or after September 1, 2019. Reimbursement requests for disaster remediation costs for disasters that occurred prior to September 1, 2019, are governed by §61.1013 of this title (relating to Foundation School Program Funding for Reimbursement of Disaster Remediation Costs) and §61.1014 of this title (relating to Credit Against Recapture for Reimbursement of Disaster Remediation Costs).
- (n) Provisions related to Winter Storm Uri. This subsection implements TEC, §48.2611 (One-Time Reimbursement for Winter Storm Uri). TEA shall provide reimbursement to school districts for costs incurred as a result of the 2021 North American winter storm (Winter Storm Uri), including any resulting

electricity price increases, using the process outlined in subsections (a)-(l) of this section. This subsection expires September 1, 2023.

Statutory Authority: The provisions of this §61.1006 issued under Texas Education Code, §48.261 and §48.2611.

Source: The provisions of this §61.1006 adopted to be effective October 27, 2020, 45 TexReg 7584; amended to be effective November 23, 2021, 46 TexReg 7875.

§61.1007. Rules for the Definition of Tax Levy and Tax Collection.

- (a) General provisions. For the purpose of determining state aid and excess local revenue under the Texas Education Code (TEC), Chapter 46 and Chapter 48, calculations that include tax collections as a data element shall reference subsection (b) of this section.
- (b) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Total levy. The sum of the maintenance and operation and debt service levies generated by applying a school district's adopted tax rates to its locally assessed valuation of property for the current tax year.
 - (2) Tax collection.
 - (A) For school districts with a fiscal year that begins on July 1, total taxes collected between July 1 and June 30 for the current and all prior years' levies.
 - (B) For school districts with a fiscal year that begins on September 1, total taxes collected between September 1 and August 31 for the current and all prior years' levies.
 - (C) For a school district that has been awarded a property value adjustment for a major taxpayer protest pursuant to TEC, §48.267, the district may petition the commissioner of education to attribute taxes that had been withheld due to the protest of valuation to the year in which the taxes were originally levied.
 - (3) Types of tax collections.
 - (A) Maintenance and operations taxes are those taxes collected during the fiscal year that are associated with the levy of local maintenance and operations tax rates, including current and delinquent taxes and any delinquent taxes related to former county education districts, but not including penalties and interest that accrue on delinquent maintenance and operations tax levies or the tax credits authorized by the Texas Tax Code, Chapter 313.
 - (B) Interest and sinking fund taxes are those associated with the levy of local interest and sinking fund taxes, not including penalties and interest that accrue on delinquent interest and sinking funds tax levies.

Statutory Authority: The provisions of this §61.1007 issued under Texas Education Code, §48.004.

Source: The provisions of this §61.1007 adopted to be effective July 27, 2021, 46 TexReg 4451.

§61.1008. School Safety Allotment.

The school safety allotment calculated under Texas Education Code (TEC), §42.168, is treated as an allotment under TEC, Chapter 48, Subchapter C.

Statutory Authority: The provisions of this §61.1008 issued under Texas Education Code, §42.168.

Source: The provisions of this §61.1008 adopted to be effective August 25, 2020, 45 TexReg 5909.

§61.1009. Fast Growth Allotment.

- (a) Definitions. The following definitions apply to the fast growth allotment in accordance with the Texas Education Code (TEC), §48.111.

- (1) Fast growth district--A school district with total enrollment growth, based on a prior six-year period, that exceeds 250.
 - (2) Enrollment--The number of students reported by the school district in the fall submission to the Texas Student Data System Public Education Information Management System (TSDS PEIMS).
 - (3) Applicable school year--The school year in which the Texas Education Agency (TEA) will deliver the fast growth allotment to the district.
- (b) Eligibility. School districts are eligible for this allotment. TEC, §12.106(a), excludes charter holders from eligibility for the fast growth allotment.
- (c) Determination of allotment. The commissioner of education will determine a district's eligibility and calculate the allotment to which a district is entitled in the following manner.
- (1) Prior to the start of the applicable school year, each school district's enrollment for the preceding school year, and for the six school years prior to the applicable school year, will be obtained from TSDS PEIMS.
 - (2) The student enrollment growth value as defined by TEC, §48.111(a), for each district will be calculated by subtracting 250 from the difference in the number of students enrolled in the district during the school year preceding the current school year and the number of students enrolled in the district six years prior to the current school year, excluding from the comparison students enrolled in a full-time accredited virtual campus through the Texas Virtual School Network under TEC, Chapter 30A.
 - (3) The cumulative growth value over 250 for each district will be the sum of all current year growth values that are sorted in the order of lowest to highest, ending with the growth value for that district.
 - (4) The percentile of growth for each district will be calculated by dividing the district's cumulative growth value over 250 by the statewide total value of cumulative growth over 250.
 - (5) For the 2021-2022 school year, TEA will freeze the hold harmless comparison between the district's fast growth allotment for the 2019-2020 school year and the district's fast growth allotment for the 2021-2022 school year on January 1, 2022, and the fast growth allotment hold harmless amount that a district receives for the 2021-2022 school year under TEC, §48.111(d) and (d-1), will not change after that date.
 - (6) Using the sorting methodology described in paragraphs (3) and (4) of this subsection:
 - (A) school districts whose percentile of growth is greater than or includes 60.00% are determined to be in the tier with the highest funding weight;
 - (B) school districts whose percentile of growth is greater than or includes 30.00% and less than 60.00% are determined to be in the tier with the middle funding weight; and
 - (C) school districts whose percentile of growth is less than 30.00% are determined to be in the tier with the lowest funding weight.
 - (7) A determination of the commissioner made under this section is final and not subject to appeal.

Statutory Authority: The provisions of this §61.1009 issued under the Texas Education Code, §§12.106(a), 48.004, and 48.111.

Source: The provisions of this §61.1009 adopted to be effective January 9, 2020, 45 TexReg 337; amended to be effective May 3, 2022, 47 TexReg 2526.

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

- (a) General provisions. This section implements Texas Education Code (TEC), §48.252 (School District Entitlement for Certain Students), which provides for additional funding for a school district that has entered into a contract to partner to operate a district campus under TEC, §11.174; a school district that has

entered into a contract with a partner to jointly operate a campus or campus program under TEC, §11.157(b); or a school district that operates a resource campus as provided by TEC, §29.934.

- (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 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).
 - (3) Resource campus--A campus designated by the commissioner of education to operate as a campus under TEC, §29.934.
- (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, contracted campus program, or resource campus:
 - (A) the entitlement for each student in average daily attendance at the contracted campus, contracted campus program, or resource campus, as if the campus, contracted campus program, or resource campus were a charter school under TEC, §12.106, using the state average basic allotment as defined under TEC, §12.106(a-1), and state average tax effort for enrichment funding as defined by TEC, §12.106(a-2);
 - (B) the entitlement for each student in average daily attendance at the contracted campus, contracted campus program, or resource campus under 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, contracted campus programs, or resource campuses 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 Career and Technology Education Allotment under TEC, §48.106(a-1), 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;
 - (5) the School Safety Allotment under TEC, §48.115; and
 - (6) the Fast Growth Allotment under TEC, §48.111.

- (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, contracted campus program, or resource campus would be entitled under 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 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), TEA will eliminate any funding provided for that campus, contracted campus program, or resource campus under TEC, §48.252, and recover any funds overallocated under the provisions of TEC, §48.272.

Statutory Authority: The provisions of this §61.1010 issued under the Texas Education Code, §29.934 and §48.252.

Source: The provisions of this §61.1010 adopted to be effective June 19, 2018, 43 TexReg 3882; amended to be effective March 30, 2021, 46 TexReg 2007; amended to be effective June 21, 2022, 47 TexReg 3533.

§61.1011. Formula Transition Grant.

- (a) General provisions. This section implements Texas Education Code (TEC), §48.277 (Formula Transition Grant), which provides for additional funding for school districts with new funding levels that did not exceed certain thresholds as a result of the passage of House Bill (HB) 3, 86th Texas Legislature, 2019. In accordance with TEC, §48.277, this section defines the data sources that Texas Education Agency (TEA) will use in calculating the prior law funding available to school districts.
- (b) Definitions. The following terms have the following meanings when used in this section.
 - (1) Average daily attendance (ADA)--Average daily attendance as defined by TEC, §48.005(a).
 - (2) Foundation School Program (FSP)--The program established under TEC, Chapters 46, 48, and 49, or any successor program of state-appropriated funding for school districts in this state.
 - (3) Local maintenance and operations (M&O) tax collections--The amount of local M&O taxes collected by a school district.
 - (4) Maintenance and operations revenue--The total M&O revenue available to a school district for maintenance and operations under the FSP, including state aid and M&O tax collections net of any required recapture payments.
 - (5) Public Education Information Management System (PEIMS)--The system that encompasses all data requested and received by TEA about public education, also known as the Texas Student Data System (TSDS) or TSDS PEIMS.
- (c) Data sources for calculating M&O revenue under TEC, Chapters 41 and 42, as those chapters existed on January 1, 2019.
 - (1) M&O tax rate. TEA will use a district's tax year 2018 adopted M&O tax rate, minus any pennies of tax effort adopted in response to a disaster under Texas Tax Code, §26.08(a-1).
 - (2) M&O tax collections. For the 2019-2020 and 2020-2021 school years, the M&O tax collections under prior law are equal to the product of:
 - (A) the quotient of:
 - (i) the actual M&O tax collections for the school year submitted to TEA for FSP purposes; and
 - (ii) the actual adopted M&O tax rate for the school year; and
 - (B) the adopted M&O tax rate for the 2018 tax year.
 - (3) Total tax levy. For purposes of calculating a district's support of students enrolled in the Texas School for the Blind and Visually Impaired and Texas School for the Deaf under TEC, §30.003, TEA will calculate the total tax levy by adding the district's interest and sinking (I&S) tax collections to the M&O tax collections calculated in paragraph (2) of this subsection.

- (4) Average daily attendance. In calculating the ADA of a school district under former TEC, §42.005, TEA will exclude any attendance submitted to TEA under TEC, §48.0051 (Incentive for Additional Instructional Days).

For the 2019-2020 and 2020-2021 school years, the calculation of ADA of a school district under former TEC, §42.005, will include adjustments related to the ADA hold harmless provided for that school year but will exclude any reduction in ADA arising from the application of the Elementary and Secondary School Emergency Relief funding toward the ADA hold harmless.
- (5) State compensatory education full-time equivalent (FTE) student counts. To calculate the number of students eligible for the compensatory education allotment under former TEC, §42.152, TEA will continue to average the best six months number of students eligible for enrollment in the National School Lunch Program from the preceding federal fiscal year submitted to TEA from the Texas Department of Agriculture. Districts that used alternative reporting of these students through the FSP will be able to continue to submit alternative reporting data through the FSP system for purposes of calculating prior law revenue under the formula transition grant.
- (6) Career and technical education (CTE) FTE student counts. To calculate the number of student FTEs eligible for the career and technology education allotment under former TEC, §42.153, TEA will use CTE FTEs submitted to TEA in the summer PEIMS submission for each year and exclude any CTE FTEs in Grade 7 or 8 that were authorized for FSP funding starting with the 2019-2020 school year under TEC, §48.106 (Career and Technology Education Allotment). TEA will also exclude any new CTE funding related to Pathways in Technology Early College High School (P-TECH) schools and the New Tech Network.
- (7) Bilingual education. To calculate the bilingual education allotment under former TEC, §42.153, TEA will use data submitted to PEIMS for emergent bilingual students in bilingual or special language programs under TEC, Chapter 29, Subchapter B (Bilingual Education and Special Language Programs).
- (8) High school allotment. To calculate the high school allotment under former TEC, §42.260, TEA will continue to use PEIMS ADA for students in Grades 9-12.
- (9) Staff salary allotment. To calculate the additional state aid for staff salary increases under former TEC, §42.2513, TEA will use the numbers of full-time and part-time employees other than administrators or employees subject to the minimum salary schedule submitted to TEA through the FSP system for the 2018-2019 school year.
- (10) Additional state aid for homestead exemption. To calculate the additional state aid for homestead exemption under former TEC, §42.2518, TEA will use the values calculated for districts for the 2018-2019 school year.
- (11) Guaranteed yield. To calculate the guaranteed yield allotment under former TEC, §42.302(a-1)(1), TEA will use the amounts per student in weighted average daily attendance (WADA) per penny of tax effort established in the General Appropriations Act, Rider 3, Article III, 86th Texas Legislature, 2019, of \$126.88 for the 2019-2020 school year and \$135.92 for the 2020-2021 school year.
- (12) Chapter 41 status. For purposes of determining a district's status under former TEC, Chapter 41, TEA will calculate districts' recapture costs under the law as it existed on January 1, 2019, by assuming all districts with a final wealth per WADA in excess of the equalized wealth level(s) were notified of the requirement to pay recapture and that all districts would have exercised the option to purchase ADA credits under former TEC, Chapter 41, Subchapter D. TEA will further assume that all affected districts would have qualified for the early agreement credit as it existed under former TEC, §41.098.
- (13) School district entitlement for certain students. TEA will exclude calculations of state aid under former TEC, §42.2511, and TEC, §48.252 (School District Entitlement for Certain Students) in calculations for the formula transition grant.

- (14) Maintenance of effort and equity for federal money related to Covid-19 pandemic. TEA will exclude increases in entitlements under TEC, §48.281 (Maintenance of Effort and Equity for Federal Money Related to Covid-19 Pandemic) in calculations for the formula transition grant.
- (15) Limitation on old law calculations.
 - (A) TEA will stop running prior law calculations for the 2019-2020 school year after June 30, 2021, and the amounts that a district would have received for the 2019-2020 school year under TEC, §48.277(a) and (d-1), will not be changed after that date.
 - (B) TEA will stop running prior law calculations for the 2020-2021 school year after June 30, 2022, and the amounts that a district would have received for the 2020-2021 school year under TEC, §48.277(a) and (d-1), will not be changed after that date.

Statutory Authority: The provisions of this §61.1011 issued under the Texas Education Code, §48.004 and §48.277.

Source: The provisions of this §61.1011 adopted to be effective May 17, 2020, 45 TexReg 3052; amended to be effective May 18, 2021, 46 TexReg 3125; amended to be effective August 16, 2022, 47 Texreg 4852.

§61.1012. Contracts and Tuition for Education Outside District.

- (a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
 - (1) Home district--District of residence of a transferring student.
 - (2) Receiving district--District to which a student is transferring for the purpose of obtaining an education.
 - (3) Tuition--Amount charged to the home district by the receiving district to educate the transfer student.
- (b) Tuition charge for transfer students. For the purposes of calculating the tuition allotment of the home district as authorized by the Texas Education Code (TEC), §48.154, the amount of tuition that may be attributed to a home district for a transfer student in payment for that student's education may not exceed an amount per enrollee calculated for each receiving district. The calculated limit applies only to tuition paid to a receiving district for the education of a student at a grade level not offered in the home district. Tuition may be set at a rate higher than the calculated limit if both districts enter a written agreement, but the calculated tuition limit will be used in the calculation of the tuition allotment for the home district. The calculation will use the most currently available data in an ongoing school year to determine the limit that applies to the subsequent school year. For purposes of this section, the number of students enrolled in a district will be appropriately adjusted to account for students ineligible for the Foundation School Program funding and those eligible for half-day attendance.
 - (1) Calculated tuition limit. Beginning with the limit for the 2012-2013 school year, the calculated tuition limit is the sum of the excess maintenance and operations (M&O) revenue per enrollee and the excess debt revenue per enrollee, as calculated in paragraphs (2) and (3) of this subsection, respectively.
 - (2) Excess M&O revenue per enrollee. A district's excess M&O revenue per enrollee is defined as the sum of state aid in accordance with the TEC, Chapter 48, Subchapters B, C, D, and E. These state aid amounts are added to M&O tax collections, and the sum is divided by enrollment to determine the amount of total state and local revenue per enrolled student. The amount of state aid gained by the addition of one transfer student is subtracted from the total amount of state and local revenue per student to determine the revenue shortfall created by the addition of one student. M&O taxes exclude the local share of any lease purchases funded in the Instructional Facilities Allotment (IFA) as referenced in the TEC, Chapter 46, Subchapter A, and taxes paid to a tax increment fund authorized by the Texas Tax Code, Chapter 311.
 - (A) The data for this calculation are derived from the Public Education Information Management System (PEIMS) fall data submission (budgeted M&O tax collections and

- student enrollment) and the legislative payment estimate (LPE) data (Foundation School Program student counts and property value).
- (B) The state aid gained by the receiving district from the addition of one transfer student is computed by the commissioner of education. The calculation assumes that the transfer student participates in the special programs at the average rate of other students in the receiving district.
- (3) Excess debt revenue per enrollee. A district's excess debt revenue per enrollee is defined as interest and sinking fund taxes budgeted to be collected that surpass the taxes equalized by the IFA pursuant to the TEC, Chapter 46, Subchapter A, and the Existing Debt Allotment (EDA) pursuant to the TEC, Chapter 46, Subchapter B, divided by enrollment.
- (A) The local share of the IFA for bonds is subtracted from debt taxes budgeted to be collected as reported through the PEIMS. The local share of the EDA is subtracted from debt taxes budgeted to be collected as reported through the PEIMS only if the district receives a payment for the state share of the EDA.
- (B) The estimate of enrollment includes transfer students.
- (4) Notification and appeal process. In the spring of each school year, the commissioner will provide each district with its calculated tuition limit and a worksheet with a description of the derivation process. A district may appeal to the commissioner if it can provide evidence that the use of projected student counts from the LPE in making the calculation is so inaccurate as to result in an inappropriately low authorized tuition charge and undue financial hardship. A district that used significant nontax sources to make any of its debt service payments during the base year for the computation may appeal to the commissioner to use projections of its tax collections for the year for which the tuition limit will apply. The commissioner's decision regarding an appeal is final.

Statutory Authority: The provisions of this §61.1012 issued under the Texas Education Code, §§25.039, 48.003, and 48.154.

Source: The provisions of this §61.1012 adopted to be effective September 7, 2000, 25 TexReg 8641; amended to be effective March 28, 2004, 29 TexReg 2881; amended to be effective May 4, 2008, 33 TexReg 3410; amended to be effective April 22, 2012, 37 TexReg 2627; amended to be effective December 30, 2020, 45 TexReg 9510.

§61.1013. Foundation School Program Funding for Reimbursement of Disaster Remediation Costs.

- (a) General provisions. This section implements the Texas Education Code (TEC), §42.2524 (Reimbursement for Disaster Remediation Costs). The commissioner of education may make a grant application available and announce the amount of funds available and the due date for applications for that grant cycle for a school district or charter school to apply for an amount of Foundation School Program (FSP) funds determined by the commissioner if the commissioner determines that:
- (1) amounts for this purpose have been appropriated in accordance with Texas Government Code, §418.073; or
- (2) appropriated FSP funds are highly likely to exceed the amount to which school districts or charter schools are entitled under the TEC, Chapter 42 and Chapter 46, under the FSP for the biennium, after accounting for all critical FSP data required to make FSP expenditure estimates and all other required FSP grants or FSP awards are fulfilled in accordance with Texas law, and there is sufficient funding remaining to provide for a grant program under the TEC, §42.2524.
- (b) Eligibility. A school district or charter school that meets the following criteria is eligible to apply:
- (1) in accordance with TEC, §42.2524(a), all or part of the school district or charter school must be located in an area declared a disaster by the governor under Texas Government Code, Chapter 418;
- (2) in accordance with TEC, §42.2524(b), the school district or charter school must have incurred and paid disaster remediation costs during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster that the school district or

charter school does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source for reimbursement; and

- (3) in accordance with TEC, §42.2524(b), the school district or charter school must apply for reimbursement during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster. The school district or charter school must submit a completed application by the application deadline. A school district or charter school that submits an incomplete application or submits an application after the application deadline may be deemed ineligible for funds.
- (c) Definitions. The following terms have the following meanings when used in this section.
- (1) Disaster remediation costs--Costs incurred by a school district or charter school for replacing school facilities, equipment, and supplies needed to provide instruction at a location where students eligible for FSP funding regularly attend classes.
 - (2) Paid disaster remediation costs--Costs that are paid or remitted resulting in an outflow of cash in exchange for goods or services evidenced by an invoice, receipt, voucher, or other such document, and in accordance with standards found in the Financial Accountability System Resource Guide adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide) and TEC, §42.2524(b), (e), and (h), that the school district or charter school does not anticipate recovering through insurance proceeds, federal disaster relief payment, or another similar source of reimbursement in accordance with TEC, §42.2524(b), and that were paid during the two-year period following the governor's initial proclamation or executive order declaring a state of disaster.
- (d) Application process. A school district or charter school must submit a new application each time funds are made available under subsection (a) of this section on a form prescribed by the Texas Education Agency (TEA). The application shall contain, at a minimum, the following:
- (1) identification of the governor's initial proclamation or executive order declaring a state of disaster and evidence that all or part of the school district or charter school is in the area declared a disaster;
 - (2) the total dollar amount of paid disaster remediation costs;
 - (3) the total dollar amount of paid disaster remediation costs paid during the two-year period following the governor's proclamation or executive order declaring a state of disaster that the school district or charter school anticipates to be reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement;
 - (4) the total difference between the amounts of paid disaster remediation costs specified in paragraphs (2) and (3) of this subsection and, of the total difference, the specific paid disaster remediation costs for which the school district or charter school is seeking reimbursement as part of the grant program supported by evidence of payment pursuant to subsection (c)(2) of this section;
 - (5) an explanation as to why the school district or charter school does not anticipate to be reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement for each specific paid disaster remediation cost identified in paragraph (4) of this subsection for which the school district or charter school is seeking reimbursement as part of the grant program;
 - (6) a certification from the school district or charter school board and school district superintendent or charter school chief executive officer that all paid disaster remediation costs for which the school district or charter school is seeking reimbursement under paragraph (4) of this subsection qualify as paid disaster remediation costs that the school district or charter school paid during the two-year period following the governor's initial disaster proclamation or executive order declaring a disaster and that the school district or charter school board and school district superintendent or charter school chief executive officer do not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement; and

- (7) a certification from the school district or charter school board and school district superintendent or charter school chief executive officer that the school district or charter school, for any paid disaster remediation costs for which the school district or charter school is seeking reimbursement under paragraph (4) of this subsection, the school district or charter school has made and will continue to make efforts to seek reimbursement from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement as allowable or appropriate.
- (e) Finality of award. Awards of assistance under this section will be made based only on paid disaster remediation costs. Prior to making an award, TEA may request additional documentation including, but not limited to, evidence described in subsection (c)(2) of this section and evidence supporting the certifications required by subsections (d)(6) and (7) of this section. A school district or charter school is not entitled to any requested reimbursement, and a decision by the commissioner is final and may not be appealed.
- (f) Deadlines. The commissioner will announce a deadline for grant applications in conjunction with making a determination of the amount of funds available for the grant program cycle. All applications received by the announced deadline will be reviewed. Applications will be funded if sufficient funds are available to fully fund each application. If sufficient funds are not available to fully fund each application, funding will be allocated in accordance with subsection (g) of this section.
- (g) Prioritization of awards. Upon close of the application cycle, all eligible applications will be awarded priority status in accordance with the criteria outlined in paragraphs (1) and (2) of this subsection. All applications within Priority 1 will be fully funded before funds are allocated to Priority 2.
- (1) Priority 1. Applications from school districts and charter schools that are not subject to the provisions of TEC, Chapter 41. If insufficient funds are available to fully fund Priority 1 eligible applications, award amounts will be reduced proportionately.
- (2) Priority 2. Applications from school districts or charter schools that are subject to the provisions of TEC, Chapter 41. If sufficient funds are not available to fully fund Priority 2 eligible applications, award amounts will be reduced proportionately. Only expenses that were not reimbursed under the TEC, §41.0931 (Disaster Remediation Costs), are eligible to be reimbursed under this section.
- (h) Distribution of funds. Funds will be allocated through the FSP and will appear on the school district or charter school payment ledger and be delivered as soon as is practicable after awards have been made.
- (i) Reporting requirement. Annually after the date of the award under this grant program, the school district or charter school board and school district superintendent or charter school chief executive officer shall provide a certified report on a form prescribed by the TEA until all insurance proceeds, federal disaster relief, or other similar sources of reimbursements related to the disaster are finalized. On the report, the school district or charter school shall identify any insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district or charter school received for which the school district or charter school previously received payment from TEA under subsection (g) of this section. TEA will adjust funding for any overpayments made to the school district or charter school based on the final report out of the school district's or charter school's future FSP payments or will require a refund from the school district or charter school.
- (j) Finalization of award. When the school district or charter school determines that all insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district or charter school anticipates receiving are finalized and there are no pending claims, the school district or charter school board and school district superintendent or charter school chief executive officer shall certify to the TEA in writing that the annual report in subsection (i) of this section is no longer necessary and disaster reporting is finalized.
- (k) Record retention and audit. The school district or charter school shall maintain all documents necessary to substantiate payment and certifications made in subsections (c)(2), (d), (e), and (f) of this section, and the school district or charter school is subject to audit by the TEA until two years after the school district or charter school certifies to the TEA in writing that the disaster is finalized and closed in accordance with subsection (j) of this section.

Statutory Authority: The provisions of this §61.1013 issued under the Texas Education Code, §42.2524.

Source: The provisions of this §61.1013 adopted to be effective November 1, 2016, 41 TexReg 8604.

§61.1014. Credit Against Recapture for Reimbursement of Disaster Remediation Costs.

- (a) General provisions. This section implements the Texas Education Code (TEC), §41.0931 (Disaster Remediation Costs). The commissioner of education shall make an attendance credit application available. The commissioner may make a credit application available prior to a request for assistance.
- (b) Eligibility. A school district that meets the following criteria is eligible to apply:
 - (1) all or part of the school district must be located in an area declared a disaster by the governor under TEC, Chapter 418;
 - (2) the school district must have incurred and paid disaster remediation costs during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster that the district does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source for reimbursement; and
 - (3) the district purchases attendance credits under TEC, §41.091.
- (c) Definitions. The following terms have the following meanings when used in this section.
 - (1) Disaster remediation costs--Costs incurred by a school district or charter school for replacing school facilities, equipment, and supplies needed to provide instruction at a location where students eligible for FSP funding regularly attend classes.
 - (2) Paid disaster remediation costs--Costs that are paid or remitted resulting in an outflow of cash in exchange for goods or services evidenced by an invoice, receipt, voucher, or other such document, and in accordance with standards found in the Financial Accountability System Resource Guide adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide) and TEC, §42.2524(b), (e), and (h), that the school district does not anticipate recovering through insurance proceeds, federal disaster relief payment, or another similar source of reimbursement in accordance with TEC, §41.0931(b), and that were paid during the two-year period following the governor's initial proclamation or executive order declaring a state of disaster.
- (d) Application process. A school district must submit an application seeking a credit against recapture on a form prescribed by the Texas Education Agency (TEA). The application shall contain, at a minimum, the following:
 - (1) identification of the governor's initial proclamation or executive order declaring a state of disaster and evidence that all or part of the school district is in the area declared a disaster;
 - (2) the total dollar amount of paid disaster remediation costs during the two-year period following the governor's proclamation or executive order declaring a state of disaster;
 - (3) the total dollar amount of paid disaster remediation costs paid during the two-year period following the governor's proclamation or executive order declaring a state of disaster that the school district anticipates to be reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement;
 - (4) the total difference between the amounts of paid disaster remediation costs specified in paragraphs (2) and (3) of this subsection and, of the total difference, the specific paid disaster remediation costs for which the school district is seeking to reduce attendance credits under TEC, §41.093, as part of this credit program supported by evidence of payment pursuant to subsection (c)(2) of this section;
 - (5) an explanation as to why the school district does not anticipate to be reimbursed from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement for each paid disaster remediation cost identified in paragraph (4) of this subsection;
 - (6) a certification from the school district board and superintendent that all paid disaster remediation costs for which the school district is seeking reimbursement under paragraph (4) of this subsection

qualify as paid disaster remediation costs and that the school district board and superintendent do not anticipate recovering these payments through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement; and

- (7) a certification from the school district board and superintendent that the school district, for any paid disaster remediation costs for which the school district is seeking a credit under paragraph (4) of this subsection, the school district has made and will continue to make efforts to seek reimbursement from insurance proceeds, federal disaster relief payments, or another similar source of reimbursement as allowable or appropriate.
- (e) Amount of the credit. The total amount of the credit cannot exceed the total amount required to be paid by the school district for attendance credits under TEC, §41.093, during the two-year period following the date of the governor's initial proclamation or executive order declaring a disaster. This credit limit will be recalculated each May of the two school years for which the credit can apply. No changes to the size of the credit will be made for that school year after that time. The amount of credits to be paid by the school district under TEC, §41.093, will be reduced by the amount of any disaster remediation costs the school district identifies under subsection (d)(4) of this section that the school district paid during the two-year period following the governor's initial declaration of a disaster or executive order. Prior to providing a credit, TEA may request additional documentation including, but not limited to, evidence described in subsection (c)(2) of this section and evidence supporting the certifications required by subsections (d)(6) and (7) of this section.
- (f) Updates for new payments. If a school district makes more paid disaster remediation cost payments after submission of its initial application to the TEA, the TEA will prescribe a form allowing the school district to submit additional paid disaster remediation cost payments and information consistent with the application process in subsection (d) of this section and will increase the amount of credit as appropriate pursuant to subsection (e) of this section.
- (g) Reporting requirement. Annually the school district board and superintendent shall provide a certified report on a form prescribed by the TEA until all insurance proceeds, federal disaster relief, or other similar sources of reimbursements related to the disaster are finalized. On the report, the school district shall identify any insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district received for which the school district previously received a credit against student attendance credits under TEC, §41.093, and this program. The school district is required to refund the Foundation School Program the full amount for any payment received.
- (h) Finalization of award. When the school district determines that all insurance proceeds, federal disaster relief payments, or other similar sources of reimbursement that the school district anticipates receiving are finalized and there are no pending claims, the school district board and superintendent shall certify to the TEA in writing that the annual report required by subsection (g) of this section is no longer necessary and disaster reporting is finalized.
- (i) Record retention and audit. The school district shall maintain all documents necessary to substantiate expenditures and certifications made in subsections (c)(2), (d), (e), and (f) of this section, and the school district is subject to audit by the TEA until two years after the school district certifies to the TEA in writing that the disaster is finalized and closed in accordance with subsection (h) of this section.

Statutory Authority: The provisions of this §61.1014 issued under the Texas Education Code, §41.0931.

Source: The provisions of this §61.1014 adopted to be effective November 1, 2016, 41 TexReg 8604.

§61.1015. Property Value Adjustments Due to Taxpayer Protests.

- (a) A school district is eligible for a property value adjustment if a major taxpayer fails to pay all or a portion of its ad valorem taxes because of a protest regarding the valuation of its property.
 - (1) A taxpayer is considered "major" if the amount protested contributes 5.0% or more to the tax collections of the school district.
 - (2) To be eligible for the adjustment, the district must have a Maintenance and Operations (M&O) tax rate that equals or exceeds the M&O tax rate in the prior year.

- (b) The commissioner of education shall grant the adjustment at his or her discretion. If granted, the tax base of the eligible district shall be reduced by 100% of the protested value for the purpose of temporarily increasing the state aid payment to the district.
- (c) When the protest has been resolved, the district must submit the results of the settlement to the commissioner within 30 days. An appropriate form shall be supplied by the commissioner to be completed by the district documenting the results of the protest and verified by the signature of the chief appraiser.
- (d) Recovery of state aid overpayment or collection of insufficient recapture amounts due from the district as a result of the settlement shall be made by means of offsetting adjustments to current or subsequent year state aid or recapture amounts. These amounts must be repaid no later than two years after the year in which the adjustment was initially made.

Statutory Authority: The provisions of this §61.1015 issued under the Texas Education Code, §42.2531.

Source: The provisions of this §61.1015 adopted to be effective December 2, 2001, 26 TexReg 9619.

§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.

Statutory Authority: The provisions of this §61.1016 issued under the Texas Education Code, §48.004 and §48.151.

Source: The provisions of this §61.1016 adopted to be effective July 11, 2018, 43 TexReg 4557; amended to be effective March 2, 2021, 46 TexReg 1379.

§61.1018. Payment of Health Care Supplementation.

- (a) Purpose. In accordance with the Texas Education Code (TEC), Chapter 22, Subchapter D, each year the Texas Education Agency (TEA) shall distribute staff salary allotment funds to eligible entities for the purpose of making payments of health care supplementation to eligible employees, as specified by the provisions delineated in this section.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.
- (1) Eligible entity--An eligible entity is defined as:
 - (A) a school district or other educational district whose employees are members of the Teacher Retirement System of Texas (TRS);
 - (B) a participating open-enrollment charter school; or
 - (C) a regional education service center.
 - (2) Full-time employee--An individual is employed as a full-time employee if the individual:
 - (A) is a participating member of the TRS;
 - (B) is employed by an eligible entity;
 - (C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;
 - (D) is not a minimum-salary-schedule employee; and
 - (E) works for an eligible entity or any combination of eligible entities for 30 or more hours each week.
 - (3) Minimum-salary-schedule employee--A classroom teacher, full-time librarian, full-time counselor, or full-time nurse subject to the minimum salary schedule under the TEC, §21.402.
 - (4) Part-time employee--An individual is employed as a part-time employee if the individual:
 - (A) is a participating member of the TRS;
 - (B) is employed by an eligible entity;
 - (C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;
 - (D) is not a minimum-salary-schedule employee; and
 - (E) works for an eligible entity or any combination of eligible entities for fewer than 30 hours each week.
 - (5) Staff salary allotment--An allotment made up of the health care supplementation funding an eligible entity is due under the TEC, Chapter 22, Subchapter D, based on the entity's number of full-time and part-time employees.
- (c) Reporting. For each designated report month, each eligible entity must report to the TEA the number of full-time and part-time employees eligible to receive health care supplementation, as determined by the eligible entity in accordance with requirements established by the TEA in this section. The TEA may

- dispute, seek verification of, or conduct an investigation regarding the reported number of employees and staff at any time after receiving the report.
- (d) Eligibility. For the purposes of this section, an individual is eligible to receive health care supplementation if the individual:
- (1) is employed by an eligible entity;
 - (2) is a full-time employee, as defined in subsection (b)(2) of this section, or a part-time employee, as defined in subsection (b)(4) of this section;
 - (3) is not a minimum-salary-schedule employee, as defined in subsection (b)(3) of this section; and
 - (4) has provided written election of whether to designate a portion of the individual's compensation to be used as health care supplementation, in accordance with the TEC, §22.105.
- (e) Funding formula. The funds for health care supplementation will comprise the staff salary allotment. Funding for the staff salary allotment is based on the number of employees who are eligible and the full- or part-time status of those employees. The staff salary allotment will be paid to the eligible entity as part of its regularly scheduled payments from the Foundation School Program (FSP). If the eligible entity is not scheduled or eligible to receive FSP payments, the staff salary allotment will be paid to the entity in a separate payment.
- (1) During the school year, the staff salary allotment will be based on the sum of:
 - (A) an amount equal to the estimated number of full-time employees multiplied by \$500; and
 - (B) an amount equal to the estimated number of part-time employees multiplied by \$250.
 - (2) The final staff salary allotment due to an eligible entity for a school year will be determined by the reports of eligible employees submitted to the division responsible for state funding during the settle-up processes as described in subsection (f) of this section.
 - (3) The formula for determining the final staff salary allotment is as follows.
 - (A) The data submitted by an eligible entity to the division responsible for state funding is used to calculate the entity's staff salary allotment.
 - (B) Each month, the count of full-time employees is multiplied by \$500/12.
 - (C) Each month, the count of part-time employees is multiplied by \$250/12.
 - (D) The final staff salary allotment is determined by summing the monthly amounts for the full-time and part-time staff for the state fiscal year beginning September 1 and ending August 31.
- (f) Settle-up. The TEA may make adjustments to previously reported numbers and may make a corresponding increase or decrease in funds that would otherwise be remitted to an eligible entity at any time after receipt of a report. A final determination of the staff salary allotment due to an eligible entity will be based on the reports of eligible employees submitted to the TEA division responsible for state funding.
- (1) Near-final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by August 31 of that school year for those adjustments to be reflected in the near-final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in the subsequent school year. Any reductions in payments will be subtracted from the staff salary allotment due to the eligible entity in the subsequent school year until the overpayment has been recovered.
 - (2) Final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by March 31 of the following school year for those adjustments to be reflected in the final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in April and subsequent months of the current school year. Any overpayments from a prior year that exceed the

amount owed to an eligible entity for health care supplementation by March 31 of the following school year will be subtracted from other FSP payments owed to that eligible entity in April and subsequent months until the full amount of overpayment has been recovered. Any overpayments that cannot be subtracted from the current staff salary allotment or other FSP payments will be due and payable on request from the TEA.

- (3) Adjustments to allotment. For a period not to exceed five years after the close of a fiscal year, the TEA may adjust the amount of an eligible entity's staff salary allotment for that year as a result of review, investigation, or audit of the eligible entity's reports of eligible employees and other data related to the staff salary allotment.

Statutory Authority: The provisions of this §61.1018 issued under the Texas Education Code, §22.102.

Source: The provisions of this §61.1018 adopted to be effective January 31, 2006, 31 TexReg 490; amended to be effective March 5, 2009, 34 TexReg 1584.

§61.1019. Additional State Aid for Ad Valorem Tax Credits under the Texas Economic Development Act.

- (a) General provisions. This section implements the Texas Education Code (TEC), §48.254 (Additional State Aid for Ad Valorem Tax Credits Under Texas Economic Development Act). In accordance with the TEC, §48.254, a school district, including a school district that is otherwise ineligible for state aid under the TEC, Chapter 48, is entitled to state aid in an amount equal to the amount of all tax credits applied against ad valorem taxes of the school district in each year that tax credits were applied pursuant to the Texas Tax Code, Chapter 313, also known as the Texas Economic Development Act. School districts eligible to receive additional state aid under the TEC, §48.254, must apply to the commissioner of education in order to receive additional state aid equal to the qualifying ad valorem tax credits issued under the Texas Tax Code, Chapter 313, Subchapter D, as that subchapter existed prior to repeal by House Bill (HB) 3390, 83rd Texas Legislature, Regular Session, 2013, subject to certain annual limitations.
- (b) Definitions. The following phrases, words, and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.
- (1) Eligible property--A term that has the meaning assigned in the Texas Tax Code, §313.024.
 - (2) Limitation on appraised value--A term that has the meaning assigned in the Texas Tax Code, Chapter 313. A school district may limit the appraised value on a qualified property for the purposes of ad valorem taxation for a period of eight tax years, beginning with the tax year that follows the applicable two-year qualifying time period. A limitation on appraised value applies only to the maintenance and operations portion of a school district's ad valorem tax rate. For each tax year in which the limitation on appraised value is in effect, the appraised value of the qualified property that is described in the written agreement between the school district and taxpayer for school district maintenance and operations ad valorem tax may not exceed the lesser of the market value of the property or the amount to which the school district has agreed, but the limited amount must be at least the minimum amount of limitation that is set for the applicable school district category in the Texas Tax Code, Chapter 313.
 - (3) Qualified property--A term that has the meaning assigned in the Texas Tax Code, §313.021(2).
 - (4) Tax credit--A credit that is made to a taxpayer who has applied for and received a limitation on appraised value under the Texas Tax Code, Chapter 313, from the school district that approved the limitation in an amount equal to the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation agreed to by the governing body of the school district under the Texas Tax Code, §313.027(a)(2), in each year in the applicable qualifying time period.
 - (5) Tax year--The calendar year beginning January 1 in which the taxpayer incurred ad valorem taxes on the qualified property for which the taxpayer is entitled to a tax credit toward ad valorem taxes paid in that tax year.
 - (6) Texas Economic Development Act--The Texas Tax Code, Chapter 313.
- (c) Eligibility for additional state aid.

- (1) A school district may be eligible for additional state aid under the TEC, §48.254, only pursuant to the provisions of the TEC, §48.254, and the Texas Tax Code, Chapter 313.
 - (2) A school district must file an application on a form prescribed by the commissioner in accordance with the applicable timeline as described in subsection (i) of this section. A separate application must be made for each tax year for which additional state aid is being requested. An application, including the required supporting documentation described in subsections (d)(2) and (d)(3) of this section, as applicable, must be complete in order for the Texas Education Agency (TEA) to process it.
 - (3) A school district must be in compliance with the reporting requirements set forth in 34 Texas Administrative Code Chapter 9, Subchapter F (relating to Limitation on Appraised Value on Certain Qualified Property), to be eligible for additional state aid under the TEC, §48.254.
- (d) Procedures for filing request for additional state aid for ad valorem tax credits.
- (1) Method of filing. All requests for additional state aid under the TEC, §48.254, must be filed electronically with the TEA in accordance with instructions on the application.
 - (2) Information required for first year of tax credit. A school district's initial request for additional state aid under the TEC, §48.254, must include:
 - (A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;
 - (B) a copy of the taxpayer's application to the school district for the tax credit, together with all required attachments to the application;
 - (C) a copy of the school board's resolution or other proof that the school district has approved the taxpayer's application for the tax credit;
 - (D) a copy of the tax bill sent to the taxpayer (showing the taxes imposed are net of the tax credit); and
 - (E) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.
 - (3) Information required for subsequent years of tax credit. For each year subsequent to the year in which the initial request for the tax credit was approved, the request for additional state aid under the TEC, §48.254, must include:
 - (A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;
 - (B) a copy of the tax bill sent to the taxpayer (showing the taxes imposed are net of the tax credit); and
 - (C) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.
- (e) Forms. The division of the TEA responsible for state funding will make available the application form, including the template, required under subsections (d)(2) and (d)(3) of this section.
- (f) Limitation of tax credit. In the fourth through the tenth years in which the agreement described in subsection (b)(2) of this section is in effect, the tax credit is limited to 50% of the total maintenance and operations and interest and sinking fund taxes imposed on the qualified property for the tax year for which the credit applies.
- (g) Determination of additional state aid. For any tax year for which additional state aid authorized by the TEC, §48.254, is approved, additional state aid will be limited to the amount of the tax credit due to the taxpayer

for a qualified property that is receiving a limitation on appraised value for that year as determined in the Texas Tax Code, §313.104, as that section existed prior to the repeal of the Texas Tax Code, Chapter 313, Subchapter D, by HB 3390, 83rd Texas Legislature, Regular Session, 2013.

- (h) Erroneous tax credits and recovery of state aid for erroneous tax credits. If the comptroller of public accounts or the governing body of the school district determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the school district must provide a notification of the facts to the commissioner within 30 days of the official action. If the TEA determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the commissioner will notify the school district within 30 days of the determination. Any overpayment of additional state aid provided to the school district based on issuance of an erroneous tax credit by the school district will be fully recovered by the TEA pursuant to the TEC, §48.272.
- (i) Timeline for submission of application requests. The school district must submit its application for additional state aid for ad valorem tax credits on or before May 31 each year for which the tax credit is due.
- (j) Payment to the school district. On approval of a school district's application for additional state aid for ad valorem tax credits by the commissioner, the amount of the credit will be applied to the entitlement due to the school district (as soon as practicable after the application is approved).

Statutory Authority: The provisions of this §61.1019 issued under the Texas Education Code, §48.004 and §48.254, and Texas Tax Code, Chapter 313.

Source: The provisions of this §61.1019 adopted to be effective April 23, 2009, 34 TexReg 2532; amended to be effective July 17, 2017, 42 TexReg 3540; amended to be effective December 30, 2020, 45 TexReg 9511.

§61.1020. Excess Funds for Video Surveillance of Special Education Settings.

- (a) General provisions. This section implements the Texas Education Code (TEC), §48.265 (Excess Funds for Video Surveillance of Special Education Settings). If the commissioner of education determines that appropriated funds are highly likely to exceed expenditures under the Foundation School Program (FSP) for the biennium after accounting for all critical FSP data required to make accurate expenditure estimates and there is sufficient funding remaining to provide for a grant program under the TEC, §48.265, the commissioner shall make a grant application available to apply for funds to cover the cost of purchasing video equipment for use in implementing the TEC, §29.022, and announce the amount of funds available.
- (b) Eligibility. School districts and charter schools that have purchased or that intend to purchase video equipment for the purpose of implementing the TEC, §29.022, may apply for funds necessary to reimburse the cost of such equipment. Purchases made after September 1, 2015, that have not been previously reimbursed under this grant program or through gifts, grants, or donations under the TEC, §29.022(f), are eligible to apply.
- (c) Application process. School districts and charter schools must submit a separate application request in each year that excess funds are made available. The application shall contain, at a minimum, the following:
 - (1) a description of the type of equipment to be purchased or that has been purchased using funds provided under this section;
 - (2) a description of the intended use of the equipment to be funded using funds provided under this section; and
 - (3) an itemized account of the cost of the equipment to be funded using funds provided under this section.
- (d) Finality of award. Awards of assistance under this section will be made based on the information available to the Texas Education Agency as of the deadline for receipt of applications for that application cycle.
- (e) Data sources. The maintenance and operations tax rate and the interest and sinking tax rate will be based on data from the comptroller of public accounts property tax assistance division for the current school year. Maintenance and operations tax collections and the count of students in weighted average daily attendance

(WADA) will come from the most recently published summary of finance for the most recent school year that is in Final or Near Final status.

- (f) Definitions. The following terms have the following meanings when used in this section.
- (1) State maximum compressed tax rate--The state compression percentage as defined by TEC, §48.255.
 - (2) Maintenance and operations tax collections per WADA--The maintenance and operations tax collections net of payments into a tax increment fund and net of payments for an Instructional Facilities Allotment lease purchase arrangement as reported in the most recently available school year that is in Final or Near Final status divided by the count of students in weighted average daily attendance as reported in the same summary of finance.
 - (3) Video equipment--Video equipment as described in §103.1301(b)(8) of this title (relating to Video Surveillance of Certain Special Education Settings).
 - (4) Eligible requests--An eligible request for funds is a request for video equipment that is necessary to comply with the provisions of the TEC, §29.022, and that has not received funds under this section in a prior application cycle or through a gift, grant, or donation under the TEC, §29.022(f).
- (g) Deadlines. The commissioner will announce a deadline in conjunction with making a determination that excess funds are available for the purpose of implementing the TEC, §48.265. All applications received by the announced deadline will be reviewed. Successful applications will be ranked according to the criteria in subsection (h) of this section.
- (h) Priority status. Upon close of the application cycle, all eligible applications will be awarded priority status in accordance with the criteria outlined in paragraphs (1)-(4) of this subsection. All applications within Priority 1 will be fully funded before funds are allocated to Priority 2 and Priority 3. Funds not used for Priority 1 will be allocated to Priority 2 and Priority 3 in proportion to the total funds requested by school districts in those categories. If Priority 2 and Priority 3 applications are fully funded, remaining funds will be allocated to Priority 4.
- (1) Priority 1. Applications from school districts that have current-year adopted tax rates for maintenance and operations at \$0.17 above their maximum compressed tax rates. If insufficient funds remain to fully fund all Priority 1 applications, funds will be awarded in proportion to the amount of eligible requests for each applicant compared to total available funds.
 - (2) Priority 2. Applications from school districts with maintenance and operations tax rates at least equal to the state maximum compressed tax rate. Priority 2 applications will be sorted by maintenance and operations tax collections per WADA and Priority 2 funds shall be awarded beginning with the school district with the lowest collections per WADA.
 - (3) Priority 3. Applications from school districts with interest and sinking fund tax rates of at least \$0.40 per \$100 of valuation. Priority 3 applications will be sorted by interest and sinking tax rates, and Priority 3 funds shall be awarded beginning with the school district with the highest interest and sinking tax rate. If insufficient funds remain to fully fund all Priority 3 school districts at a given interest and sinking tax rate, remaining funds will be awarded in proportion to the amount of eligible requests for each applicant compared to total available funds.
 - (4) Priority 4. All other applications. Remaining funds available for Priority 4 applications, including charter schools, shall be awarded in proportion to the amount of eligible requests compared to total available funds.
- (i) Distribution of funds. Funds will be allocated through the FSP and will appear on the school district or charter school summary of finance and be delivered as soon as is practicable after awards have been made.

Statutory Authority: The provisions of this §61.1020 issued under the Texas Education Code, §48.265 and §29.022.

Source: The provisions of this §61.1020 adopted to be effective November 6, 2016, 41 TexReg 8822; amended to be effective July 27, 2021, 46 TexReg 4451.