

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter B. Texas Education Agency Audit Functions

§109.21. Annual Audit Plan.

The commissioner of education shall submit an annual audit plan for field and independent audits for review of the designated committee of the State Board of Education. The plan may be amended as needed by the commissioner of education. The designated committee of the State Board of Education shall be informed at least annually by the commissioner of education on the progress of and amendments to the plan.

Statutory Authority: The provisions of this §109.21 issued under the Texas Education Code, §44.001.

Source: The provisions of this §109.21 adopted to be effective September 1, 1996, 21 TexReg 2076.

§109.23. School District Independent Audits and Agreed-Upon Procedures.

- (a) A school district, governmental charter school, open-enrollment charter school, nonprofit service provider, county education district, or regional education service center must file with the Texas Education Agency (TEA) an annual financial and compliance report and, if applicable, a state compensatory agreed-upon procedures report. These reports must be audited by an independent auditor, and the audit must be reviewed by the TEA, including review of auditors' working papers, in accordance with the Financial Accountability System Resource Guide, as adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide).
- (b) The annual financial audit report and state compensatory agreed-upon procedures report are due 150 days after the end of the fiscal year.
- (c) Auditors from the TEA must review independent audit reports. The commissioner's designee must resolve audit findings.
- (d) The district or other educational entity must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.
 - (1) The independent auditor must:
 - (A) be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy or a state licensing agency from another state;
 - (B) be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under the Texas Education Code, §44.008; and
 - (C) adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the US Government Accountability Office, as amended.
 - (2) The CPA firm must:
 - (A) be a member of the AICPA Governmental Audit Quality Center (GAQC);
 - (B) adhere to GAQC's membership requirements; and
 - (C) collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:
 - (i) Texas public school district environment;
 - (ii) public sector; or

(iii) nonprofit sector.

- (e) If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the standards required as stated in subsection (d) of this section, the division may require the district or other educational entity to change its audit firm.
- (f) To the extent that this section conflicts with any other rule regarding audits of school districts and other educational entities by independent auditors and the TEA, this section controls.

Statutory Authority: The provisions of this §109.23 issued under the Texas Education Code, §§7.102(c)(32), 44.001, 44.007, 44.008, and 44.010.

Source: The provisions of this §109.23 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective October 13, 2002, 27 TexReg 9317; amended to be effective March 10, 2015, 40 TexReg 1084; amended to be effective August 31, 2020, 45 TexReg 5345.

§109.25. State Compensatory Education Program Reporting and Auditing System.

- (a) Each school district and charter school shall report financial information relating to expenditure of the state compensatory education allotment under the Foundation School Program to the Texas Education Agency (TEA). Each school district and charter school shall report the information according to standards for financial accounting provided in §109.41 of this title (relating to Financial Accountability System Resource Guide.) The financial data will be reported annually through the Public Education Information Management System. The commissioner of education shall ensure that districts follow guidelines contained in the "Financial Accountability System Resource Guide" in attributing supplemental direct costs to state compensatory education and accelerated instruction programs and services. Costs charged to state compensatory education shall be for programs and services that supplement the regular education program.
- (b) Each school district and charter school shall ensure that supplemental direct costs and personnel attributed to compensatory education and accelerated instruction are identified in district and/or campus improvement plans at the summary level for financial units or campuses. Each school district and charter school shall maintain documentation that supports the attribution of supplemental costs and personnel to compensatory education. School districts and charter schools must also maintain sufficient documentation supporting the appropriate identification of students in at-risk situations, under criteria established in Texas Education Code (TEC), §29.081.
- (c) The TEA shall conduct risk assessment and desk audit processes to identify the school districts, charter schools, or campuses most at risk of inappropriate allocation and/or underexpenditure of the compensatory education allotment. In the risk assessment and desk audit processes, the TEA shall consider the following factors:
- (1) aggregate performance of students in at-risk situations on the state assessment instruments that is below the standards for the "acceptable" rating, as defined in the state accountability system;
 - (2) the financial management of compensatory education funds; and/or
 - (3) the quality of data related to compensatory education submitted by a school district or charter school.
- (d) The TEA shall use the results of risk assessment and desk audit processes to prioritize school districts or charter schools for the purpose of on-site visits and may conduct on-site visits.
- (e) The TEA shall issue a preliminary report resulting from a desk audit or an on-site visit before submitting a final report to the school district or charter school. After issuance of a preliminary report, a school district or charter school must file with the TEA the following:
- (1) a response to the preliminary report within 20 calendar days from the date of the preliminary report outlining steps the school district or charter school will take to resolve the issues identified in the preliminary report; and

- (2) a corrective action plan within 60 calendar days from the date of the preliminary report if the school district's or charter school's response to the preliminary report does not resolve issues identified in the preliminary report.
- (f) The TEA shall issue a final report that indicates whether the school district or charter school has resolved the findings in the preliminary report and whether the corrective action plan filed under subsection (e)(2) of this section is adequate.
 - (1) If the final report contains a finding of noncompliance with TEC, §48.104(k), the report shall include a financial penalty authorized under TEC, §48.104(o).
 - (2) If the school district or charter school responds with an appropriate corrective action plan, the TEA shall rescind the financial penalty and release the amount of the penalty to the school district or charter school.
- (g) The TEA may conduct an on-site visit to verify the implementation of a school district's or charter school's corrective action plan.

Statutory Authority: The provisions of this §109.25 issued under the Texas Education Code, §48.104.

Source: The provisions of this §109.25 adopted to be effective September 1, 1998, 24 TexReg 7781; amended to be effective October 13, 2002, 27 TexReg 9317; amended to be effective October 26, 2021, 46 TexReg 7213.