Texas Education Agency

Options and Procedures for Districts with Local Revenue in Excess of Entitlement

2022–2023 School Year

School Finance Department
Spring 2021

Texas Education Agency

Options and Procedures for Districts with Local Revenue in Excess of Entitlement

2022–2023 School Year

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Notes on This Manual

Although this manual provides information to anyone with an interest in districts with local revenue levels in excess of entitlement (a.k.a. "excess local revenue" or "recapture") as defined by the Texas Education Code (TEC), Section 48.257, it is designed primarily for school districts that are subject to the provisions of TEC, Chapter 49. It reflects the procedures the agency uses in administering Chapter 49's provisions.

Disclaimer: Although this manual provides information to anyone with an interest in Chapter 49 of the TEC, it was designed primarily to reflect the processes and procedures to be used in the administration of the provisions of Chapter 49 and to outline the fiscal, procedural, and administrative requirements that districts with local revenue levels in excess of entitlement must meet. This manual does not calculate excess local revenue (recapture). Recapture reports are available through the TEA School District State Aid Reports web page at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx.

Unless stated otherwise, in this manual, *your district* refers to a district with local revenue levels in excess of entitlement.

The manual provides the following:

- an annual calendar with critical deadlines
- background information on recapture
- the specific actions that your district must take to reduce the district's local revenue levels in excess of entitlement
- information about tax-rate setting that is specific to a district with local revenue levels in excess of entitlement
- sample contracts that your district can use to reduce the district's local revenue levels in excess of entitlement

The italicized terms in Sections 1 through 5 of the manual are defined in the glossary in Appendix E.

No school district official or any other person in your district has the authority, either implied or actual, to change any rules or requirements specified in this manual.

Your district will need to access the online Foundation School Program (FSP) System to comply with reporting requirements described in this manual. The FSP System is one of the applications in the Texas Education Agency Login (TEAL). Instructions on how to apply for access to the FSP System through the TEAL are available at https://tea.texas.gov/About_TEA/Other_Services/Secure_Applications/TEA__Secure_Applications_Information.

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Significant Changes

The following table briefly describes the significant changes from the 2021–2022 manual. The table does not include all changes made to the manual.

Significant Changes in the
Options and Procedures for Districts with Local Revenue in Excess of Entitlement
2022–2023 School Year

Change	Section Affected

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Excess Local Revenue Calendar for School Year 2022–2023

If the calendar date falls on a weekend, federal or state holiday, the effective date is the business day preceding the weekend or holiday.

July 15, 2022	The agency provides official notification to districts with local revenue level in excess of entitlement for the 2022–2023 school year, using the estimates prescribed under §48.269.
July 15, 2022	July 15 is the approximate date for preliminary 2022–2023 *Cost of Recapture Report*s to be made available through the TEA School District State Aid Reports web page at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx.
August 22, 2022	**August 22 is the last date for a new district with a local revenue level in excess of entitlement to call an election for voter approval to purchase attendance credit from the state (Option 3), to contract for the education of nonresident students (Option 4), or to consolidate its tax base with another district's (Option 5) if the district wishes to hold the election on November 8, 2022 (the uniform election date).** Successful elections conducted under TEC former Chapter 41, satisfies the requirements of TEC, Chapter 49. Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against Chapter 48 funds. All districts will have the option to use state aid calculated under, Chapter 48, Education Code, that is not described by TEC, §48.266(a)(3) as an offset to their attendance credit for purposes of reducing their local revenue level. Districts using this option are required to submit the district intent/choice selection form and complete an Option 3 netting contract. All districts notified as having a local revenue level in excess of entitlement that cannot offset with Chapter 48 funds, must hold an election authorizing the purchase of attendance credit under Section 49.156, Education Code. **Important: A district that is required to hold an election for voter approval of a selected option for reducing the district's local revenue level in excess of entitlement is not required to hold the election on the uniform election date. The district may hold the election on any Tuesday or Saturday that is no more than 45 days after the date of the contract. See Texas Education Code §§49.156, 49.012 and 13.003(d)-(g).**
September 1, 2022	**District Intent/Choice Selection form deadline:** A district must complete and submit the *2022–2023*District Intent/Choice Selection form via the Excess Local Revenue subsystem of the online FSP System. A complete form must be in "submitted" or "approved" status by this deadline.

A district notified that has a local revenue in excess of entitlement may not adopt a tax rate for a tax year in which the district receives the notice until the Commissioner certifies that the district has reduced the district's local revenue level to the level established under §48.257. The agency will notify a school district by letter through the Excess Local Revenue subsystem once the district may proceed with tax rate adoption. The Office of the Attorney General requires this letter for any district seeking certification of a bond issuance.

September 1, 2022

If the commissioner determines that a school district will not be able to reduce local revenue levels for the current year due to failing to call an election to authorize one or more options under Chapter 49, or does not provide the agency with notification of its intent to reduce the district's local revenue level, the commissioner may order the detachment and annexation of property under Chapter 49, Subchapter G or consolidation under Subchapter H. The commissioner will notify the affected school districts and appraisal districts of this decision as soon as practicable after this date, but by May 31.

See details, "What happens if the default is related to a prior school year", First Evaluation for possible actions regarding failure to reduce local revenue levels for a prior year.

Approximate date the agency notifies each district with a balance due for the prior year as the result of updates to the *Cost of Recapture Report* made at near-final settle-up. The balance due must be paid by October 15, 2022.

September 1, 2022

The Agreement for the Purchase of Attendance Credits (Netting Chapter 48 Funding) must be submitted *via the Excess Local Revenue subsystem of the online FSP System* or mailed and postmarked by this deadline.

October 14, 2022

Near-final balances are due for recapture payments owed by districts for the prior year based on updates to the *Cost of Recapture Report* made at near-final settle-up.

See details, "What happens if the default is related to a prior school year," First Evaluation for possible actions regarding failure to reduce local revenue levels for a prior year.

November 8, 2022

November 8 is the date of the election to obtain voter approval for Option(s) 3, 4, and/or 5 if a district opted to hold the election on the uniform election date. Please refer to the Texas Secretary of State's website at https://www.sos.state.tx.us/elections/voter/2019-important-election-dates.shtml for uniform election deadlines and information (scroll to the bottom part of the page).

If the commissioner determines that a school district will not be able to reduce local revenue levels for the current year due to failing to call an election to authorize one or more options under Chapter 49, or that a district has not reduced the district's local revenue level for a prior year, the

	commissioner will order the detachment of property under Chapter 49, Subchapter G, specifying the portion of the taxable value of the property to be detached or annexed or the commissioner will order consolidation under Subchapter H. The commissioner will notify the affected school districts and appraisal districts of this decision as soon as practicable after this date, but by May 31, 2023.
December 1, 2022	**December 1 is the deadline for reporting election results for a district with local revenue levels in excess of entitlement that held an election during fall 2022:** The district must notify the State Funding Division of the option(s) selected by voters by sending a certified copy of the school board minutes showing a canvass of election results. **The certified copy must be postmarked and mailed by this deadline.** **The commissioner will order detachment and annexation under Chapter 49, Subchapter G or consolidation Subchapter H, for a district whose election did not pass as soon as practicable after this date, but by May 31, 2023. The commissioner will begin analyses of parcel data to determine the method by which the commissioner will reduce the district's local revenue level, specifying the portion of the taxable value of the property to be detached or annexed.**
January 13, 2023	Estimated date p*reliminary* certified property values for tax year 2022 are provided by the Texas Comptroller's Property Tax Assistance Division (PTAD).
January 13. 2023	January 13 is the contract deadline* for all contracts. Contracts must be submitted *via the Excess Local Revenue subsystem of the online FSP System* or mailed and postmarked by this deadline. ***Note: A contract submitted or mailed after the deadline of January 13, 2023, will be considered delinquent.**
January 13, 2023	**Supporting documentation deadline:** A district with local revenue levels in excess of entitlement must submit all other 2022–2023 supporting documentation, including the CAD Cost, District Partner Data & Payment Options **via the Excess Local Revenue subsystem of the online FSP System.** If a district with local revenue in excess of entitlement wants to receive a reduction in its recapture cost for county appraisal district (CAD) costs for 2022–2023, the district must report CAD costs. A CAD cost reduction is granted automatically as long as a district submits CAD costs by the January 13 deadline.
January 13, 2023	A district must notify the commissioner if the district chooses to purchase attendance credit in equal monthly payments beginning February 15 through August 15 or in one lump-sum payment not later than August 15.
January 31, 2023	January 31 is the approximate date for revised *Cost of Recapture Report*s for 2022–2023 to be available to districts with local revenue levels in excess of entitlement.

January 31, 2023	January 31 is the approximate date for the Option 3 Payment Report to be available to districts with a local revenue levels in excess of entitlement.
February 15, 2023	For districts selecting the monthly payment option, the first payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
March 1, 2023	A district must submit any revised CAD costs for 2021–2022 by this date. A district that does not submit its 2021–2022 CAD costs by this date will not receive a CAD cost reduction for 2021–2022.
March 15, 2023	For districts selecting the monthly payment option, the second payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
April 14, 2023	For districts selecting the monthly payment option, the third payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
April 14, 2023	April 15 is the approximate date for the 2021–2022 final *Summary of Finances* report to be made available through the TEA School District State Aid Reports web page at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx. Districts with Option 4 contracts for 2021–2022 must submit changes to the amount of prior-year (2021–2022) attendance credit purchased via **the Excess Local Revenue subsystem of the online FSP System** within 30 days after the report is made available. Assuming the report is posted April 15, the projected due date for submitting changes is May 15, 2023.
May 1, 2023	The agency notifies each district that is delinquent in recapture payments for a prior year as the result of updates to the *Cost of Recapture Report* made at final settle-up of the balance due. The balance due must be paid by May 31, 2023.
May 15, 2023	For districts selecting the monthly payment option, the fourth payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
May 15, 2023	The agency notifies each district with local revenue in excess of entitlement that is delinquent in recapture payments for the current year as a result of data submitted through the FSP System of the balance due. The balance due must be paid by May 31, 2023.
May 31, 2023	**Balances are due** for recapture payments owed by districts for a prior year based on the notices provided to districts on May 1. See details in Section 3: Options for Reducing Local Revenue Level in Excess of Entitlement, "What happens if the default is related to a prior school year", Second Evaluation for possible actions regarding failure to reduce local revenue levels for a prior year.

May 31, 2023	**Balances are due** for recapture payments owed by districts with local revenue in excess of entitlement for the current year based on the notices provided to districts on May 15. See details in Section 3: Options for Reducing Local Revenue in excess of Entitlement, What happens if the default is related to a current school year for possible actions regarding failure to reduce the districts revenue level.
June 15, 2023	For districts selecting this payment option, the fifth payment for 2022-2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
June 30, 2023	June 30 is the effective date of the implementation of the commissioner's actions under Chapter 49, Subchapter G.
July 14, 2023	For districts selecting the monthly payment option, the sixth payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
August 15, 2023	For districts selecting the monthly payment option, the seventh (final) payment for 2022–2023 is due from districts with excess local revenue to the state (Option 3) and/or to the partner district(s) for districts exercising Option 4.
August 15, 2023	Payment is due from districts with excess local revenue that elected to pay for attendance credit purchased in one lump-sum payment to the state (Option 3) and/or to the partner districts(s) (Option 4).
August 15, 2023	As soon as practicable after this date, but before August 31, the agency notifies any district with excess local revenue that is delinquent in making recapture payments for the current year of the balance due. Balances are due upon receipt of notification.

At his or her discretion, the commissioner may modify dates in this timeline to ensure the effective and efficient administration of Chapter 49, in accordance with TEC 49.006(b).

Section 1: Background Information

This section provides background information about Chapter 49 of the Texas Education Code (TEC) and how school districts are affected by this chapter.

What is Excess Local Revenue (Recapture)?

TEC makes provisions for certain districts with excess local revenue to pay funds into the Foundation School Program for distribution to other districts. Districts with local revenue that exceed the levels provided by Section 48.257 are subject to the provisions in TEC, Chapter 49. The funds that are distributed by districts with local revenue in excess of entitlement are "recaptured" by the school finance system to assist with the financing of public education for all school districts.

History and Relevant Background Information

In 1971, *Rodriguez v. San Antonio Independent School District* focused attention on inequalities in funding among districts. The *Rodriguez* case initiated a series of efforts at school finance reform that has continued to influence the development of school finance policy in Texas.

During the 1980s, equity litigation was strongly pursued by a group of school districts, led by the Edgewood Independent School District, resulting in four major state supreme court decisions. The *Edgewood* litigation prompted a number of attempts by the state legislature to address the equity problem. These included Senate Bill 1019 in 1989, Senate Bill 1 in 1990, and Senate Bill 351 in 1991; all were overturned by the courts as unconstitutional. In 1993, the Texas Legislature passed Senate Bill 7, which was based on the premise of providing all school districts with "substantially equal access to similar revenue per student at similar tax effort." Providing districts with this equal access was achieved through a system that provides a *guaranteed yield* on each penny of M&O tax effort levied by districts and recaptures revenue on the tax collections of districts whose wealth per student exceeds the equalized wealth level. This system passed constitutional muster with the Texas Supreme Court, and its recapture provisions are found in the current version of the TEC, Chapter 49.

In 2019, the 86th Legislature passed House Bill 3, amending the calculation of recapture as prescribed by Section 48.257 to be based on local revenue in excess of entitlement instead of equalized wealth levels and transferred the provisions for districts with excess local revenue from TEC, Chapter 41 to Chapter 49. Recapture is calculated by subtracting a district's Tier One entitlement from its available school fund (ASF) distribution and local fund assignment and then subtracting a credit for appraisal costs.

What is local revenue in excess of entitlement?

A district with local revenue in excess of entitlement is subject to the provisions of TEC, Chapter 49. The determination that a school district is subject to these provisions is based on the provisions in TEC, §48.257. If a school district's Tier One revenue level exceeds the district's entitlement under Section 48.266(a)(1) less the district's distribution from the state available school fund, the district is required to

reduce its revenue level in accordance with TEC, Chapter 49 to a level not to exceed the district's entitlement under Section 48.266(a)(1) less the district's distribution from the state available school fund. **On or before approximately July 15 of each year, the TEA officially notifies school districts that will be subject to these provisions in the following school year**. If is it determined that a district has a local revenue level in excess of entitlement after the date of notification for the current school year under TEC, §49.004, the amount of the district's local revenue level that exceeds the level established under TEC, §48.257, for that school year will be included in the annual review for the following school year of the district's local revenue levels under TEC, §49.004(a).

What is weighted average daily attendance (WADA)?

The term *WADA* refers to a specialized calculation of the number of students that is used in calculations involving the Foundation School Program (FSP)[1]. In general, the number of WADA is calculated by summing a district's Tier One allotments under TEC, Chapter 48, Subchapters B and C, and dividing that sum by the amount of the basic allotment. This results in an attendance number that takes the special allotments into account. The calculation of WADA is described in the TEC, §48.202(a), as follows:

> "WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, by the basic allotment for the applicable year.

In the context of Chapter 49, students served under an agreement are counted only in the weighted average daily attendance of the district providing the services, except that students served under an agreement authorized by Section 49.205 are counted in a manner determined by the commissioner.

How is a district with excess local revenue identified?

Annually, **on or before approximately July 15**, the TEA notifies school districts with local revenue estimated to exceed the Tier Two (Level Two) guaranteed yield of $49.28. As established in TEC, §48.269, determinations of excess local revenue are based on estimates of enrollment for school year 2022–2023 and estimated property values for tax year 2022.

The final determination regarding the payment of excess local revenue (recapture) is based on the district's final enrollment, entitlement and local share under Chapter 48, final state certified property values for tax year 2022, adopted M&O tax rate for tax year 2022, and M&O taxes collections for school year 2022–2023.

In calculating funding under the FSP, if a district's adopted M&O tax rate exceeds the districts maximum allowable tax rate, state aid will be reduced or recapture adjusted in an amount equal to the amount of revenue generated by a school district's tax effort that is in excess of the district's max allowable tax rate.

[1] The FSP is the state program that establishes the amount of state and local funding due to school districts under Texas school finance law and that provides the state share of this funding to districts. The program is administered by the TEA.

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Section 2: Administrative Procedures

This section discusses administrative procedures that districts subject to the provisions of Chapter 49 must follow. **Please see the calendar at the beginning of this manual for dates associated with these procedures.**

Unless otherwise noted, *your district* refers to a district with local revenue level in excess of entitlement.

What actions must our district take following official notification of its Excess Local Revenue status in the summer?

Once your school district is notified in the summer (**on or before approximately July 15**) of its status as a district subject to the provisions of Chapter 49, it must take the following actions.

1. Complete and submit the 2022–2023 Excess Local Revenue District Intent/Choice Selection form via the Excess Local Revenue subsystem of the online FSP System to inform the state:
   a) which option(s) the district intends to exercise to reduce the district's local revenue level, and
   b) whether your district is using the offset provision or will make recapture payments to the state (please refer to the District Intent/Choice Selection form on page 41).

   Your district must submit this information to proceed with its tax rate adoption process (please refer to the TEC, §49.004(c), and Section 5 of this manual for further information).

2. Complete and submit the contract via the Excess Local Revenue subsystem of the online FSP System that informs the state which option(s) your district has chosen to reduce the district's local revenue level in excess of entitlement or sign and mail a contract that informs the state which option your district has chosen to reduce the district's local revenue level to a level equal to or less than the level established under Section 48.257 for the 2022–2023 school year.

   ***Note:** If your district chooses to submit the Option 3 Contract via the Excess Local Revenue subsystem, each school year the district's school board must delegate the authority to obligate the school district under chapter 49 to the superintendent. The following language is required to be recorded in the board minutes, and the board minutes must be uploaded via the Excess Local Revenue subsystem of the online FSP System:

   "For the 2022–2023 school year, we delegated contractual authority to obligate the school district under Texas Education Code (TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, §48.257 and TEC, Chapter 49, Subchapters A and D, and the rules adopted by the commissioner of education as authorized under TEC, 49.006. This included approval of the *Agreement for the Purchase of Attendance Credit* or the *Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)*."

   If your school board chooses not to delegate contractual authority to the superintendent or if your board has designated the Alternate Approver role in TEAL to someone other than the

superintendent and your superintendent is not the district approver on behalf of your district, then your district must submit the contract in original paper form.

Please note that a contract submitted or mailed after the January 13, 2023, deadline will be considered delinquent.

Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against Chapter 48 funds. All districts will have the option to use state aid calculated under Chapter 48, Education Code, that is not described by TEC, §48.266(a)(3) as an offset to their attendance credit for purposes of reducing their local revenue level. Districts using this option are required to submit the district intent/choice selection form and complete an Option 3 netting contract by September 1.

If your district qualifies to offset the reduction of excess local revenue against its state aid and your district intends to exercise Option 3 to reduce the district's local revenue level, the district must execute the **Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)** contract on page 54.

If your district does not qualify for the offset provision under TEC, §48.257(c), and has not previously received voter authorization to purchase attendance credits, your district must conduct an election.

See Appendix D, on election procedures, for detailed information about the election process. Your district needs to conduct this type of election only once. **If your district has conducted an election in the past, it need not conduct additional elections upon subsequent notifications.** If your district elects to pay its cost of attendance credit separately, your district must sign the **Agreement for the Purchase of Attendance Credit** contract on page 52 or the **Agreement for the Education of Nonresident Students** contract on page 56.

3. Submit the remaining FSP System form (refer to Appendix B for more information):

   CAD Cost, District Partner Data & Payment Options:

   This form is used to submit estimated values for county appraisal district (CAD) costs, district partner data, and payment options.

What procedures must our district follow in selecting a particular option?

Once your district is officially notified that the district is subject to the provision of Chapter 49 in the summer (on or before approximately July 15), it must abide by all fiscal, procedural, and administrative requirements adopted by the commissioner, which include taking the following steps:

- Complete and submit your district's Excess Local Revenue District Intent/Choice Selection form via the Excess Local Revenue subsystem of the online FSP System. This form informs the state:
  - which option the district intends to exercise to reduce the district's local revenue level
  - whether your district is using the offset provision:

- Choice 1—for a district that will offset the reduction of excess local revenue against Chapter 48 funds, will have its state aid reduced by the amount owed for the total cost of attendance credit and will not be responsible for making recapture payments.
- Choice 2—for a district that will not use the offset provision, will receive full state funding under Chapter 48, and will be responsible for making recapture payments from February 2023 through August 2023 or one lump-sum payment in August 2023.

- Complete and submit the Option 3 Contract via the Excess Local Revenue subsystem of the online FSP System or send only **one original** of each contract by **certified mail** to the address shown at the end of these requirements. **Do not send your district's contract to the commissioner's office or any other address**. **Do not send your contract by fax. Do not send duplicates.** The commissioner or his or her designee will approve or sign only one original of each contract. The signed contract will be available via a link at the bottom of the Contracts page of *the Excess Local Revenue subsystem of the online FSP System or* the agency will return a copy of the signed contract to your district if an original paper contract was sent.

- To the extent possible, submit multiple contracts (such as an Option 3 combined with the technology consortium form of Option 4) or arrangements with multiple partners **at the same time as one package**.

  *Note: The Option 4 contracts are not submitted through the Excess Local Revenue subsystem online; they are mailed in original paper form.

- Ensure that corresponding contracts are submitted or **postmarked by the deadlines** specified in the calendar for the given year (see the **Excess Local Revenue Calendar for School Year 2022–2023** at the beginning of this manual).

- Submit all other data via the Excess Local Revenue subsystem of the online FSP System. Please be sure to edit and successfully submit the remaining required Excess Local Revenue subsystem forms: the CAD Cost, District Partner Data & Payment Options. **Contract deadlines apply regardless of actions in previous years or continuing arrangements.** The TEA encourages early submissions.

- Send all documents and correspondence pertaining to Local Revenue in Excess of Entitlement to the following address. Note that this address does not include the name of the commissioner or any other specific individual.

  Texas Education Agency
  State Funding Division
  ATTENTION: Excess Local Revenue Actions
  1701 N. Congress Ave.
  Austin, TX 78701-1494

Please direct questions about Excess Local Revenue to the Excess Local Revenue (Recapture) administrator in the TEA State Funding Division by email at recapture@tea.texas.gov or by phone at (512) 463-9238.

When does the TEA provide estimates of the cost of recapture?

The TEA typically produces five estimates of the cost of recapture in a series of *Cost of Recapture Report*s during the course of the school year. These reports are referred to as the *preliminary, payment, revised, near-final,* and *final* reports.

The TEA provides the **preliminary** *Cost of Recapture Report* in the early fall of the applicable year. If no information is available about your district's choice of options when this report is produced, the TEA assumes that Option 3 will be exercised. Because current-year data are not yet available, the TEA may use prior-year data or estimates of current-year data for estimating recapture costs. These data include, enrollment, Chapter 48 WADA, property values, and tax collections.

The TEA provides the **payment** *Cost of Recapture Report* before the first payment due date in February. This version of the report reflects your district's choice of option(s) and updated district data for CAD costs. This version of the report will also incorporate preliminary 2022 tax year property values.

The TEA may provide a **revised** *Cost of Recapture Report* in the spring, the summer, or both. This version of the report incorporates any corrections to district data and, if applicable, property values adjusted for declines using the preliminary values for the applicable tax year certified by the Texas Comptroller at the end of January. This version of the report incorporates current-year PEIMS data collected in the fall data submission, which are used to recompute recapture costs.

The TEA provides the **near-final** *Cost of Recapture Report* in the fall of the subsequent school year. For example, the agency will generate the 2022–2023 near-final *Cost of Recapture Report* in the fall of 2023. This version of the report incorporates any other corrections or updates that are necessary, including the final Available School Fund allocation used in the calculation of the hold harmless tax base.

The TEA provides the **final** *Cost of Recapture Report* in April of the subsequent school year. For example, the agency will generate the 2022–2023 final *Cost of Recapture Report* in April 2024. This version of the report incorporates any necessary corrections to other data elements and your district's M&O tax collections from the schedule of delinquent taxes receivable. Once the report becomes final by incorporating the tax collections, changes are limited to corrections of erroneous or inaccurate data elements that affect the excess local revenue. Districts that request changes to this report must provide sufficient documentation. Requests for changes to the report affecting any fiscal year that occurs more than three years after the end of the state fiscal year for which the change is requested will not be accepted.

How does our district estimate the local revenue in excess of entitlement?

Your district can determine excess local revenue using a state aid Excel template. The TEA's state aid template is located at https://tea.texas.gov/Finance_and_Grants/State_Funding . The state aid template provided by the Region 13 Education Service Center is available at http://www5.esc13.net/finance/index.html. The TEA strongly encourages districts to compare their own estimates of recapture with those found in the *Cost of Recapture Report*. Your district can access the

current *Cost of Recapture Report* on the TEA School District State Aid Reports web page at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx.

How does our district make its recapture payments if it does not qualify for the netting option and chooses to pay some or all recapture costs under Option 3?

If your district is exercising Option 3 or a combination of Options 3 and 4, districts have two options for making recapture payments. Option 1 is to make seven equal monthly payments and Option 2 is one lump-sum payment. Both payment options require an **Agreement for the Purchase of Attendance Credit**. Beginning in February of the applicable school year, recapture payments are due by the fifteenth of each month (unless the fifteenth falls on a weekend or a banking holiday, in which case payment is due the prior business day). The last payment for 2022–2023 is due on August 15. Your district must make recapture payments electronically from your district's depository to the Texas Comptroller's Funds Transfer Division, providing the depository with the following information:

Routing Number:	114900164
Fed Account Name:	TX COMP AUSTIN
Account Number:	463600701
Account Name:	CPA / Texas Education Agency
Reference:	([Name of District] ISD)
Attention:	TEA / Excess Local Revenue

If your district is exercising Option 4, your district must begin making payments to its partner district(s) in February or in one payment for the total amount required to be paid by the district no later than August 15 of the school year for which the agreement is in effect. Your district may negotiate the payment schedule with its partner(s), as long as your district makes its last payment no later than August 15, 2023. Any differences between the estimated and actual costs of recapture will be handled in the settle-up process described in the following subsection.

Reductions in state aid payments to the partner districts that sell attendance credit to your district begin in February of each year. The state aid payment reductions occur with each payment received by the partner district in accordance with the FSP payment schedule, available at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx.

What is settle-up?

Settle-up is a process of reconciling your district's estimated costs of recapture with its actual costs of recapture.

There are two rounds of settle-up, each associated with a *Cost of Recapture Report* (see **When does the TEA provide estimates of the cost of recapture?**).

The first round of settle-up is associated with the near-final *Cost of Recapture Report*. The TEA typically generates this report in September, following the school year that has just ended. At this "near-final"

stage of settle-up, all data elements except final tax collections (from the schedule of delinquent taxes receivable) are incorporated in the near-final *Cost of Recapture Report*.

The second round of settle-up is associated with the final *Cost of Recapture Report*. The TEA generates this report in April of the following school year. This report incorporates the tax collections reported in the PEIMS submission that reflects data reported in the annual financial audit (as required by the TEC, §44.008, and the *Financial Accountability System Resource Guide*) and any other updates that are available.

Settle-Up: For Districts Exercising Option 3 or Option 3 in Combination with the Technology Consortium Form of Option 4

If your district exercises Option 3 or Option 3 in combination with the technology consortium form of Option 4, each *Cost of Recapture Report* will show your district's near-final or final Option 3 cost compared to the amount your district paid. If your district's near-final or final cost is more than the total amount paid, your district must pay the additional amount owed upon receipt of the report that shows the underpayment. Your district must make any payment owed electronically from your district's depository to the Texas Comptroller's Funds Transfer Division according to the instructions detailed in **How does our district make its recapture payments if it does not qualify for the netting option and chooses to pay some or all recapture costs under Option 3?** If your district's near-final or final cost is less than the total amount paid, the TEA arranges for the overpayment to be refunded as soon as possible.

If your district still has a balance due as a result of final settle-up as of May 1, 2024, the TEA will notify your district of the balance, which must be paid by May 31, 2024. If your district does not pay the amount owed by May 31, 2024, the TEA will not provide the approval necessary for the district to adopt a tax rate applicable to the upcoming school year and may take other actions as permitted by Chapter 49.

Settle-Up: For Districts Exercising Option 4

If your district exercises Option 4, it is your district's responsibility to settle up with its partner(s). This settle-up process includes paying any amount due to your district's partner(s) and arranging for the payment of any amount due to your district from its partner(s). The near-final *Cost of Recapture Report* will compare the near-final amount of attendance credit needed to be purchased with the amount of attendance credit purchased. The final *Cost of Recapture Reports* will compare the final amount of attendance credit needed to be purchased with the amount of attendance credit purchased. After receiving the near-final and final *Cost of Recapture Report*s, your district must update the information about the amount of attendance credit purchased from each partner in the Excess Local Revenue subsystem of the online FSP System. Submitting updated information enables the TEA to make the appropriate adjustment to each partner's state aid.

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Section 3: Options for Reducing Local Revenue in Excess of Entitlement

This section discusses options for districts to reduce local revenue in excess of entitlement.

Unless otherwise noted, *your district* refers to a district with local revenue in excess of entitlement (excess local revenue).

What options are available to Reduce Local Revenue in Excess of Entitlement?

Your district has five options available to reduce the district's local revenue level in excess of entitlement. Your district may choose to:

Option 1: Consolidate with another district (TEC, §§49.051–49.054)
Option 2: Detach property (TEC, §§49.101–49.105)
Option 3: Purchase attendance credits from the state (TEC, §§49.151–49.158)
Option 4: Contract to educate nonresident students from a partner district (TEC, §§49.201–49.205)
Option 5: Consolidate tax bases with another district (TEC, §§49.254–49.260)

Districts have historically selected Option 3. A voter election is required when exercising any form of Option 3 or Option 4. Successful elections conducted under TEC former Chapter 41, carry over into TEC, Chapter 49.

If your district considers any other option, consult the Excess Local Revenue program administrator in the TEA State Funding Division at (512) 463-9238.

Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against Chapter 48 funds. All districts will have the option to use state aid calculated under Chapter 48, Education Code, that is not described by TEC, §48.266(a)(3) as an offset to their attendance credit for purposes of reducing their local revenue level. If your district selects Option 3, it will pay recapture to the state each month beginning in February 2023, or in one payment for the total amount required to be paid by the district not later than August 15 of the school year for which the agreement is in effect. The TEA advises your district to check its payment ledger, available at https://tealprod.tea.state.tx.us/fsp/Reports/ReportSelection.aspx, to verify payments and adjustments to its 2022–2023 recapture.

Option 4 requires your district to reduce its local revenue level by agreeing to educate students in one or more partner districts by sending money directly to those districts. The cost for your district is based on

the amount of attendance credit your district pays to a partner district to educate in order to reduce the district's local revenue level. The practice of paying for the education of students in other districts is referred to as the "purchase" of attendance credit. Partner districts that participate in these partnerships are described as "selling" attendance credit. The FSP (state aid) payments from the state to the partner districts are reduced to reflect the receipt of this revenue from your district.

The local revenue in excess of entitlement for a district that is exercising Option 3 or 4 is based on the cost of an attendance credit. The cost of attendance credit is established by the TEC, §49.153(a), which states that the total cost of the credit is the amount of:

1) the district's maintenance and operations tax revenue that exceeds the level established under Section 48.257

Which of these options require voter approval?

Options 3, 4, and 5 require voter approval. You can find information about election procedures in Appendix D. Once authorized by voter approval, these options may be exercised at any time in the future.

What special requirements apply in choosing Option 4?

If your district exercises Option 4 and receives any service or product from an entity that receives a portion of the gain from the Option 4 arrangement, your district must pay the fair market value for the service or product. For the purposes of this requirement, fair market value is defined as the price that would be paid by any other party had the gain from the Option 4 arrangement not been applied to reduce the cost.

If your district exercises Option 4, it must disclose to the commissioner any other contractual or financial arrangement between your district and its partner(s) or between your district and any other entity that directly benefits from the distribution of the gain (see the TEC, §49.151). Any business transaction between your district and other entities must be at a fair market price. Your district must be prepared to document that any product or service it provides as part of a financial arrangement with its partner(s) has an open marketplace that can establish a fair market price. For example, your district could document this by providing evidence of previous sales of the product or service to unrelated parties. Your district may not demand or negotiate a discounted purchase price from a partner district or other related entity for products or services provided to your district that is a lower price than would be paid by an unrelated party. Your district may not make an Option 4 partnership agreement subject to any separate financial agreement between the districts that is not contained in the Chapter 49 agreement.

The TEC, §49.151, limits the amount of attendance credit a district may sell. The district must ensure that the partner or partners do not exceed their respective limits on the amount of attendance credit available for purchase. If one or more partners sell attendance credit in excess of limit, the district will not receive credit for the purchase of attendance credit. The attendance credit purchased is sufficient in combination with any other actions taken under this chapter to reduce the district's local revenue to a level that is equal to or less than the level established under TEC, §49.153. A list of potential partner

districts and the respective limits on the amount of credit available to purchase is available on the TEA Excess Local Revenue webpage at https://tea.texas.gov/Finance_and_Grants/State_Funding/Excess_Local_Revenue/. The agreement is not effective unless the commissioner certifies that the transfer of attendance credit under TEC, §49.153 will not result in any of the contracting districts' local revenue level being greater than the level established under TEC, §48.257.

How does our district participate in an Option 4 technology consortium?

A technology consortium must be made up of at least three partner districts. Each partner district must be located, at least in part, in a county with a population of less than 40,000. Your district may be a member of the consortium, but it must pay full market value for all services received. The gain from the sale of attendance credit (for all partners combined) must be limited to 10 percent of your district's cost of purchasing attendance credit. Your district must exercise the technology consortium form of Option 4 in combination with Option 3 in order to be eligible for the equalized wealth transition grant (discussed in Section 4).

What happens if our district does not make Excess Local Revenue (Recapture) payments?

If a district with local revenue in excess of entitlement fails to fully comply with all the requirements to reduce the district's local revenue in excess of entitlement in accordance with a contract submitted to and approved by the commissioner for a school year in which the district is required to reduce the district's local revenue level is required, the commissioner is required to take steps to ensure that district's local revenue level is reduced to a level equal to or less that the level established under Section 48.257. These steps are prescribed by the TEC, Chapter 49, Subchapter G or Subchapter H. They include the detachment and annexation of property and school district consolidation.

According to the TEC, §49.302, the commissioner will analyze the parcel data related to taxable property in the school district to determine whether the district's local revenue level can be reduced through the detachment of the following types of property:

1) a mineral property;

2) real property used in the operation of a public utility, including a pipeline, pipeline gathering system, or railroad or other rail system; and

3) real property used primarily for industrial or other commercial purposes, other than property used primarily for agriculture or for residential purposes.

If a final judgment of a court determines that a mineral interest may not be annexed and detached without an attendant annexation and detachment of the surface estate or any other interest in the

same land, the detachment and annexation of a mineral interest includes the surface estate and each other interest in the land covered by the mineral interest.

If detachment of these categories of taxable property would not reduce the district' local revenue level in excess of entitlement, then the commissioner must consolidate the school district with one or more school districts to reduce the district's local revenue level in excess of entitlement.

What happens if the default is related to a prior school year?

The commissioner will evaluate the status of all recapture payments owed from prior school years two times annually. Districts with unpaid balances from prior school years will be considered delinquent.

First Evaluation

The first evaluation of the status of recapture payments owed from prior school years will occur in September of each year following near-final settle-up calculations. The commissioner will notify delinquent districts of the amounts due on approximately October 15. A district that fails to make the recapture payments identified in this notice in full by October 15, will be considered to have defaulted on its recapture payments for a prior school year.

If a school district is considered to be in default on its recapture payments as of October 15, the commissioner will notify the school district that it has defaulted on its recapture payments and that the commissioner will not certify the district to adopt a tax rate until the district's local revenue has been reduced. The commissioner will also notify the district in default of the commissioner's authorization to reduce the district's revenue level under the TEC, Chapter 49, Subchapter G or Subchapter H. The notice of default will be sent to each district in default as soon as practicable but before the May 31 following the October 15 default. The agency also notifies the affected school districts and county appraisal districts in which the affected property is located of the determination.

Analyses of parcel data for districts with delinquent balances due for recapture payments for a prior year will begin as soon as practicable following the October 15 default. The analyses will be used to determine the method by which the commissioner will reduce the district's revenue level. The commissioner will first seek to reduce the districts revenue level through the detachment of property from each district that is in default. Detached property will be annexed to one or more districts that before any detachments or annexations are made in a year, the district's taxable value of property does not exceed the value necessary to generate M&O tax revenue in the amount equal to the district's entitlement under TEC 48.202(a-1)(2). If the districts local revenue level cannot be reduced for a district by detaching nonresidential property, then the district must be consolidated with one or more districts to reduce the districts local revenue level. Property may not be annexed to another district if the annexation would result in local revenue levels that exceed the levels provided by Section 48.257.

Districts that are in default for a prior school year will be notified on or before May 31 of the action(s) the commissioner will take to reduce the district's local revenue level.

The commissioner's action(s) to reduce local revenue will become effective June 30 of the current school year.

Second Evaluation

The second evaluation of the status of recapture payments owed from prior school years will occur in April of each year following final settle-up calculations. The commissioner will notify delinquent districts of the amount's due no later than May 1. A district that fails to make the prior year recapture payments identified in this notice in full by May 31 will be considered to have defaulted on its recapture payments for a prior school year.

If a school district is considered to be in default on its recapture payments as of May 31, the commissioner will notify the school district that it has defaulted on its recapture payments and that the commissioner will not certify the district to adopt a tax rate for a subsequent school year until the district's revenue level has been reduced. The commissioner will also notify the district in default of the commissioner's authorization to reduce local revenue under the TEC, Chapter 49, Subchapter G or Subchapter H. The notice of default will be sent to each district in default as soon as practicable following the May 31 default. The agency also notifies the affected school districts and county appraisal districts in which the affected property is located of the determination.

Analyses of parcel data for districts with delinquent balances due for recapture payments for a prior year will begin as soon as practicable following the May 31 default. The analyses will be used to determine the method by which the commissioner will reduce the districts revenue level under the TEC, Chapter 49. The commissioner will first seek to reduce local revenue in excess of entitlement through the detachment of property from each district that is in default. Detached property will be annexed to one or more districts that are not subject to Chapter 49. If local revenue cannot be reduced to the amount under TEC, Section 48.257 by detaching nonresidential property, then the district must be consolidated with one or more districts to reduce the districts revenue level. Property may not be annexed to another district if the annexation would result in local revenue levels that exceed the levels provided by TEC, Section 48.257.

Districts that are in default for a prior school year will be notified on or before May 31 of the action(s) the commissioner will take to reduce the district's local revenue level.

The commissioner's action(s) to reduce the district's local revenue level will become effective June 30 of the current school year.

What happens if the default is related to a current school year?

First Evaluation

During May of each year, the commissioner will evaluate the status of districts with local revenue in excess of entitlement for the current school year. School districts that have not submitted the required documentation will be considered delinquent. Districts that have not complied with the payment schedules determined by statute, under Option 3, or determined by the Agreement for the Education of Nonresident Students contract between partner districts under Option 4 will also be considered delinquent. The commissioner will notify delinquent districts of the amounts due no later than May 15, each year. A district that fails to make the minimum recapture payment identified in this notice in full by May 31, will be considered to have defaulted on its recapture payments for the current year.

If a school district is considered to be in default on its recapture payments as of May 31, the commissioner will notify the school district that it has defaulted on its recapture payments and that the commissioner will not certify the district to adopt a tax rate until the district's local revenue level is reduced. The commissioner will also notify the district in default of the commissioner's authorization to reduce the district's revenue level under the TEC, Chapter 49, Subchapter G or Subchapter H. The notice of default will be sent to each district in default on or before May 31. The agency also notifies the affected school districts and county appraisal districts in which the affected property is located of the determination.

Analyses of parcel data for districts with delinquent balances due for recapture for the current year will begin no later than May 31. The analyses will be used to determine the method by which the commissioner will reduce the district's local revenue level. The commissioner will first seek to reduce the district's local revenue level through the detachment of property from each district that is in default. Detached property will be annexed to one or more districts that are not subject to Chapter 49 provisions. If the district's local revenue level cannot be reduced for a district to the amount under TEC, 48.257 by detaching nonresidential property, then the district must be consolidated with one or more districts in order to reduce the district's local revenue level. Property may not be annexed to another district if the annexation would result in local revenue that exceed the levels provided by Section 48.257.

Districts that are in default for the current school year will be notified on or before May 31 of the action(s) the commissioner will take to reduce the district's local revenue level.

The commissioner's action(s) to reduce the district's local revenue level will become effective June 30 of the same school year.

Second Evaluation

The second evaluation of the status of recapture payments owed for the current school year will occur in August. A district that fails to make the recapture payments in full by August 15 will be considered to have defaulted on its recapture payments for a current school year.

If a school district is considered to be in default on its recapture payments as of the specified August date, the commissioner will notify the school district that it has defaulted on its recapture payments and that the commissioner will not certify the district to adopt a tax rate until the district has reduced the district's local revenue level in excess of entitlement. The commissioner will also notify the district in default of the commissioner's authorization to reduce the district's local revenue level under the TEC, Chapter 49, Subchapter G or Subchapter H. The notice of default will be sent to each district in default as soon as practicable but before May 31, following the August default. The agency also notifies the affected school districts and county appraisal districts in which the affected property is located of the determination.

Analyses of parcel data for districts with delinquent balances due for recapture for the current school year will begin as soon as practicable following the August default. The analyses will be used to determine the method by which the commissioner will reduce the district's local revenue level. The commissioner will first seek to reduce the district's local revenue level through the detachment of property from each district that is in default. Detached property will be annexed to one or more districts

that are not subject to Chapter 49 provisions. If the district's local revenue level cannot be reduced for the district by detaching nonresidential property, then the district must be consolidated with one or more districts to reduce the district's local revenue level in excess of entitlement. Property may not be annexed to another district if the annexation would result in local revenue that exceed the levels provided by Section 48.257.

Districts that are in default for the current school year will be notified as soon as practicable after the default but before May 31, of the action(s) the commissioner will take to reduce the districts local revenue level.

The commissioner's action(s) to reduce the district's local revenue level will become effective June 30, of the same school year.

What happens if our district does not call an election?

If by September 1, the commissioner determines that a school district will not be able to reduce the district's local revenue level for the current year due to failing to call an election to authorize one or more options under Section 49.002, the commissioner will order the detachment and annexation of property under Chapter 49, Subchapter G or consolidation under Subchapter H. The commissioner will notify the affected school districts and appraisal districts of this decision as soon as practicable, but by May 31.

What happens if our district calls an election but the voters don't authorize an option to reduce the districts' local revenue level?

If the commissioner determines that a school district will not be able to reduce the district's local revenue level for the current year, because the voters did not authorize an option(s) to reduce the district's local revenue level, the commissioner will order the detachment and annexation of property under Chapter 49, Subchapter G or consolidation under Subchapter H, specifying the portion of the taxable value of the property to be detached or annexed. The commissioner will notify the affected school districts and appraisal districts of this decision as soon as practicable after receiving the canvassed results, but by May 31.

Section 4: Options for Reducing Costs

This section discusses options for a district with local revenue in excess of entitlement to reduce the district's revenue level.

Unless otherwise noted, *your district* refers to a district with local revenue in excess of entitlement.

Is our district eligible to receive a CAD cost reduction?

If your district exercises Option 3 or a combination of Options 3 and 4 and pays *appraisal costs* charged by a CAD, your district is eligible for a reduction in its recapture costs ("CAD cost reduction"), as authorized in the TEC, §49.157. The reduction applies to appraisal costs **only** and not to costs that may be incurred for tax collections.

The cost reduction is based on your district's CAD cost and a percentage of your district's total M&O tax revenue:

CAD cost × {[Option 3 portion of recapture] / [Total M&O collections]} = Cost reduction

If your district is exercising Option 4, your district and your partner district can negotiate a credit. Your partner district may agree to give your district the same level of discount as in Option 3 by agreeing to pay that portion of your district's CAD cost as part of the Option 4 agreement. If multiple partners are involved, each partner may agree to pay a share proportional to the attendance credit being purchased from the partner.

Your district reports CAD costs on the CAD Cost, District Partner Data & Payment Options, which is due January 13 of the current school year. The TEA will grant a CAD cost reduction automatically as long as your district submits its CAD costs by the January 13 deadline. Your district must submit any revisions to CAD costs for a given school year by March 1 (or the first business day of March if March 1 falls on a weekend) of the following school year (in other words, before final settle-up is completed for the relevant school year). See the **Excess Local Revenue Calendar for School Year 2022–2023** at the beginning of this manual for more information on these deadlines.

What is the Equalized Wealth Transition Grant?

A school district is entitled to receive an annual allotment prescribed by Section 48.278, Education Code, in an amount equal to the amount of additional revenue a school district received for the 2018–2019 school year under former TEC, §§41.002(e) – 41.002(g). For the purposes of calculating a district's allotment under TEC, §48.278(a), and in accordance with TEC, §48.278(b), the commissioner shall reduce the amount to which a district is entitled.

Is our district eligible for the Equalized Wealth Transition Grant?

A school district is entitled to receive an annual allotment in an amount equal to the amount of additional revenue a school district received for the 2018–2019 school year under former TEC, §§41.002(e) – 41.002(g). Consult with the Excess Local Revenue program administrator in the TEA State Funding Division at (512) 463-9238 for assistance with cost calculations (also, see Section 2, on administrative procedures, for more information).

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Section 5: Taxation

This section discusses taxation as it relates to Chapter 49.

Unless otherwise noted, *your district* refers to a district with local revenue in excess of entitlement.

How does being a district with local revenue in excess of entitlement affect tax rate adoption?

The TEC, §49.004(c), **prohibits a district that has been identified by the commission that it has local revenue in excess of entitlement from adopting a tax rate until the commissioner has certified that the district has reduced the district's local revenue level equal to or less than the level established under Section 48.257. Certification that the district has reduced the district's local revenue in excess of entitlement will take into account any outstanding balances from prior school years.** As a district with excess local revenue, your district is required to submit a District Intent/Choice Selection form via the Excess Local Revenue subsystem of the online FSP System before adopting a tax rate. This form indicates which option your district intends to use to reduce the district's local revenue level equal to or less than the level established under Section 48.257.

After receiving the District Intent/Choice Selection form, the commissioner provides a letter authorizing your district to proceed with adopting a tax rate. **Tax rate adoption may not proceed until your district has received the letter certifying that the district has reduced the district's local revenue level**. If your district is in default for recapture payments, the commissioner will not certify that the district has reduced the district's local revenue level, and your district will not be permitted to adopt a tax rate.

The commissioner will begin analyses of parcel data to determine the method by which the commissioner will reduce the district's local revenue level for a district that does not provide the Agency with notification of its intent to reduce the districts local revenue level equal to or less than the level established under Section 48.257**.**

Your district must submit the Option 3 Contract via the Excess Local Revenue subsystem of the online FSP System or mail its signed contract by the January 13, 2023, deadline, or the contract will be considered delinquent. A request for approval of a delinquent contract will not be honored.

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Appendix A: Applicable Statutes

Texas Education Code, Section 48.257: https://statutes.capitol.texas.gov/Docs/ED/htm/ED.48.htm

Texas Education Code, Chapter 49: https://statutes.capitol.texas.gov/Docs/ED/htm/ED.49.htm

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Appendix B: Forms

This appendix includes information on the forms your district is required to submit. Your district should submit only those forms applicable to the option(s) it is exercising.

For the 2022–2023 school year, your district may mail in its contract or contracts with original signatures or submit the Option 3 Contract online via the Excess Local Revenue subsystem of the online FSP System. All other information, including the District Intent/Choice Selection Form, CAD Cost, District Partner Data & Payment Options, must be submitted online via the FSP System, which is accessed through the Texas Education Agency Login (TEAL). Instructions on how to apply for access to the online FSP System can be found at https://tea.texas.gov/About_TEA/Other_Services/Secure_Applications/TEA__Secure_Applications_Information.

Forms to be submitted via the Excess Local Revenue subsystem of the online FSP System:

- **District Intent/Choice Selection**: Use this form to indicate which option your district intends to use to reduce its local revenue in excess of entitlement, and whether your district is using the offset provision during the current school year

- **Contracts**: Use this form to indicate which option your district has chosen to reduce your district's local revenue in excess of entitlement. The contract may be completed and submitted via the online FSP System.

- **CAD Cost, District Partner Data & Payment Options**: Use this form to provide information on the option(s) chosen and associated contracts. This part of the Excess Local Revenue subsystem allows submission of CAD costs paid by your district and Option 4 districts and also allows for submission of records on amount of credits purchased from an Option 4 partner.

Form to be submitted by mail only:

- **Original Contract**: Submit a signed **Agreement for the Education of Nonresident Students** for Option 4.

Please see the **Excess Local Revenue Calendar for School Year 2022–2023** at the beginning of this manual for deadlines associated with these forms.

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2022–2023 Excess Local Revenue District Intent/Choice Selection Form

Use this form to indicate which option your district intends to use to reduce its local revenue in excess of entitlement, and whether your district is using the offset provision during the current school year. The form must be completed and submitted via the online FSP System. A screen shot of the form as it appears in the FSP System is shown on the following page.

Instructions and Notes

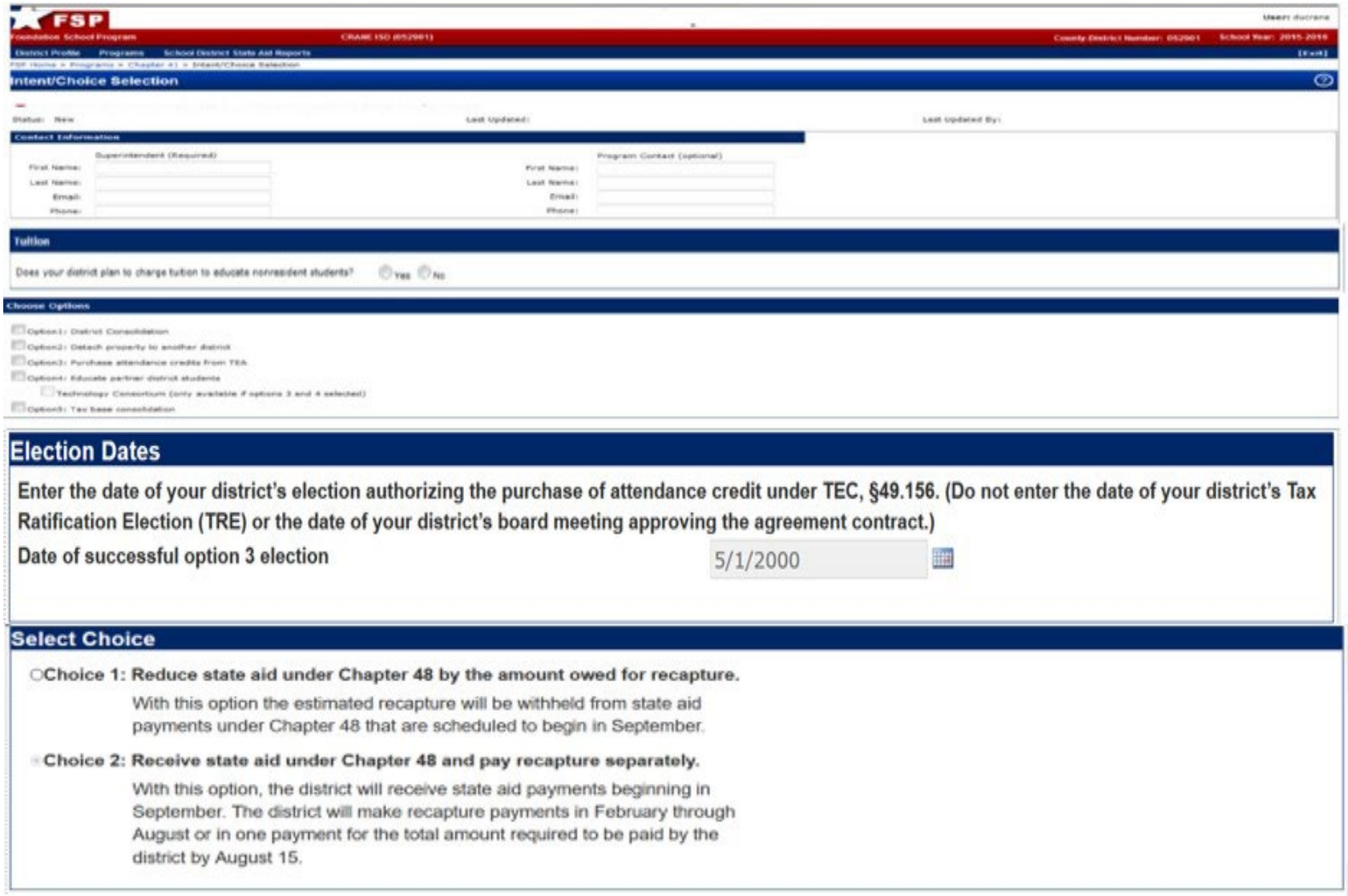
Your district may qualify to select Choice 1 if:

1. the recapture cost is equal to or less than the district's Chapter 48 funds for the same school year.

If your district qualifies for the offset provision, the district signs the **Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)** on page 54. The contract must be submitted by September 1, 2022.

All other districts must select Choice 2 and sign the **Agreement for the Purchase of Attendance Credit** on page 52 or the **Agreement for the Education of Nonresident Students** on page 56. The contract must be submitted by January 13, 2023.

Screen shot of 2022–2023 Excess Local Revenue District Intent/Choice Selection form:



2022–2023 Contracts

Use this form to inform the state which option your district has chosen to reduce the district's local revenue level in excess of entitlement. The contract must be completed and submitted via the online FSP System (or the district may mail the original signed contract to TEA). A screen shot of the contract as it appears in the FSP System is shown on the following page.

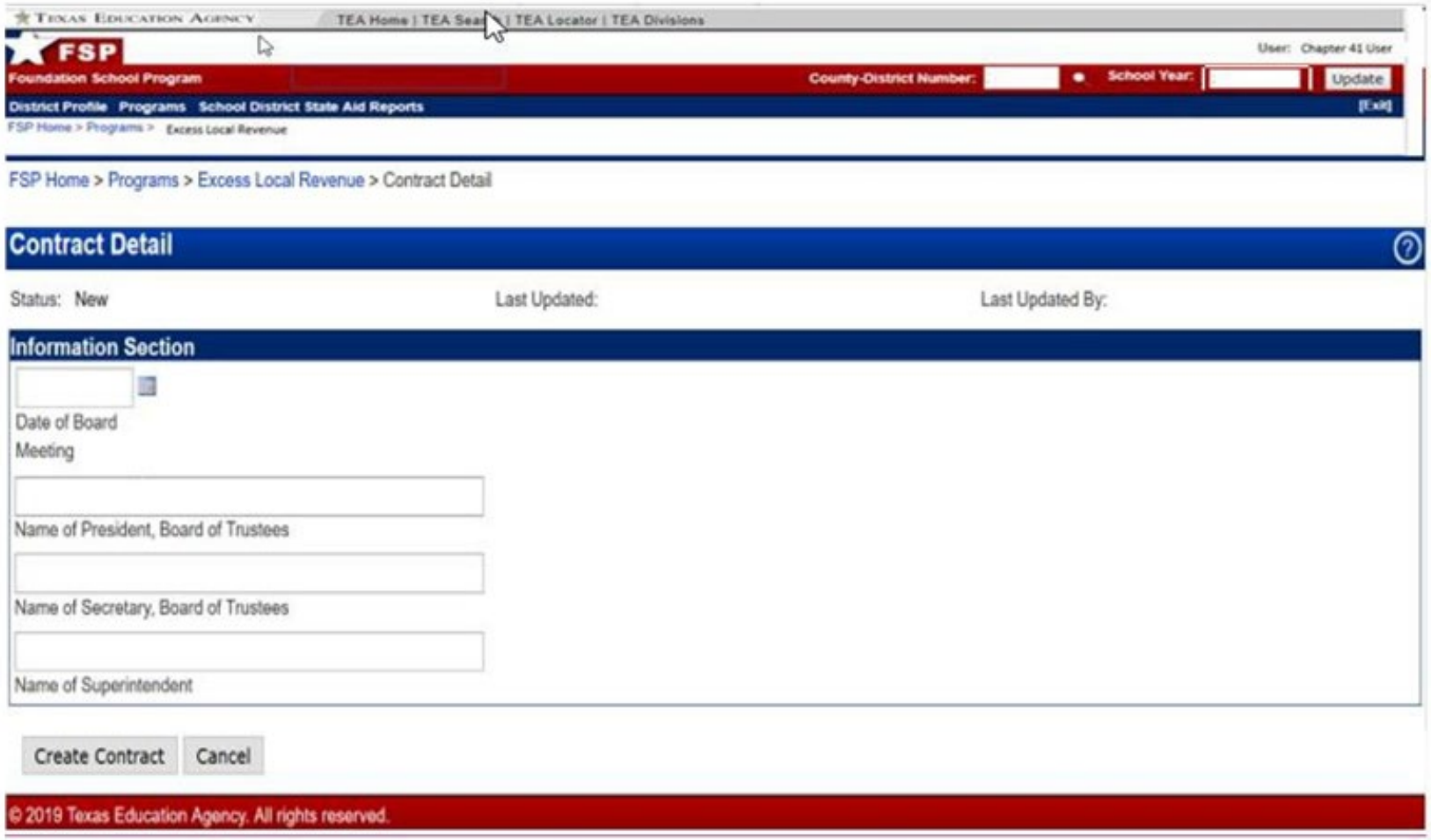
Instructions and Notes

If your district chooses to submit the Option 3 Contract via the Excess Local Revenue subsystem, each year the district school board must delegate the authority to obligate the school district under chapter 49 to the superintendent. The following language is required to be recorded in the board minutes and the board minutes must be uploaded via the Excess Local Revenue subsystem of the online FSP System:

For the 2022–2023 school year, we delegated contractual authority to obligate the school district under Texas Education Code (TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, §48.257, and TEC, Chapter 49, Subchapters A and D, and the rules adopted by the commissioner of education as authorized under TEC, 49.006. This included approval of the *Agreement for the Purchase of Attendance Credit* or the *Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)*.

If your school board chooses not to delegate contractual authority to the superintendent or if your board has designated the Alternative Approver role in TEAL to someone other than the superintendent and your superintendent is not the district approver on behalf of your district, then your district must submit the contract in original paper form. The contract must be approved annually by the board.

Screen shot of 2022–2023 Excess Local Revenue Contract Detail Information Section:



Contract Preview

Agreement for the Purchase of Attendance Credit

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level not to exceed the level established under TEC, §48.257 for the school year.

The school year to which this agreement applies is 2019-2020 (the "school year").

The agreement is for _____ ("the district"), with a county-district number of 227-901, to purchase attendance credit from the state for the school year.

This agreement is subject to the approval of the voters of the district as provided by the TEC, §49.156. The board of trustees of the district agrees to submit to the commissioner of education, on request, a certified copy of the board minutes showing the canvass of the election.

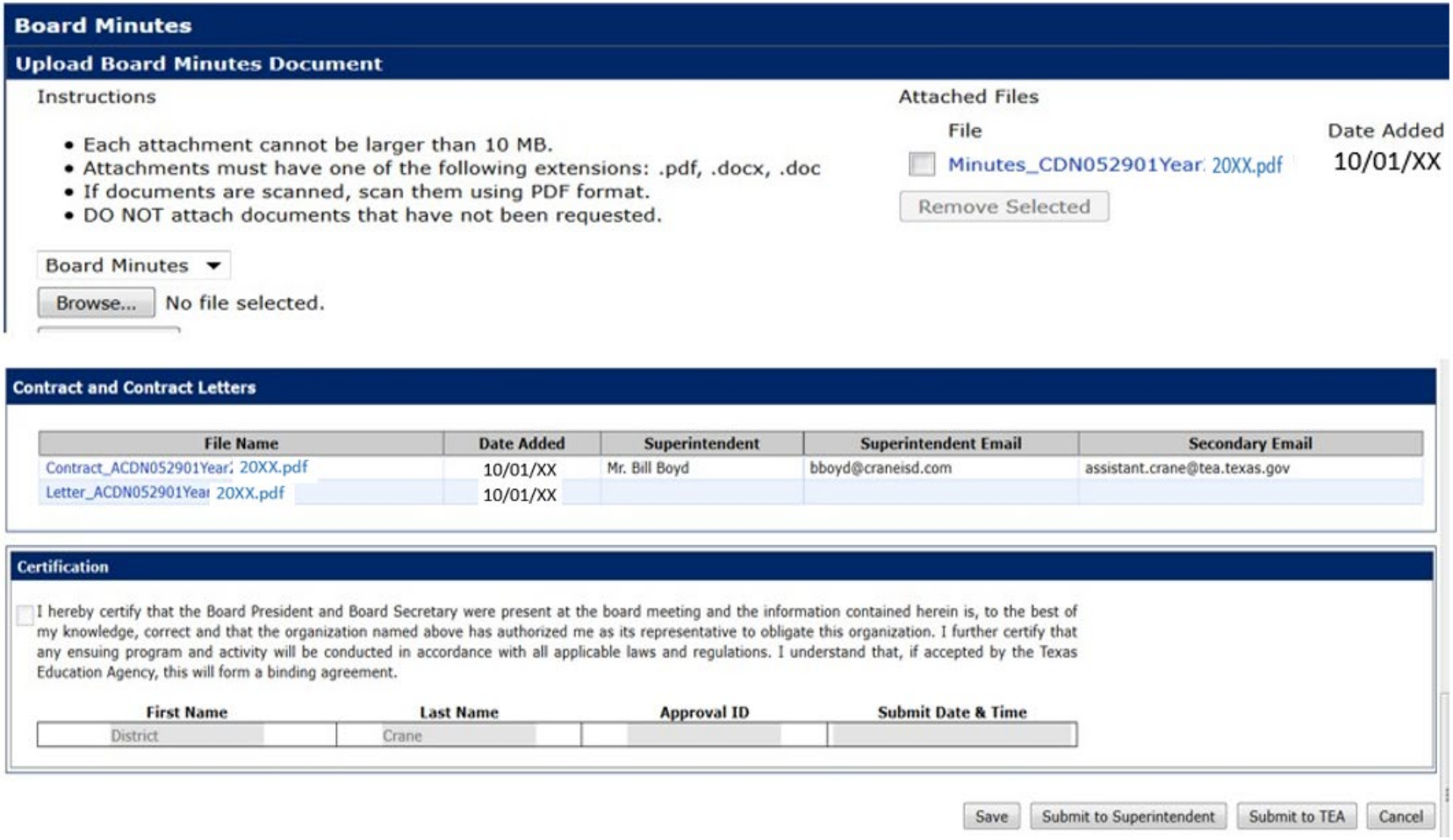
Initial payments will be based on the commissioner's estimate of the total cost of credit as determined under TEC, §49.153, using the district's projected maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year. The district agrees to make the payments in accordance with the schedule specified in the TEC, §49.154.

The total cost of credit will be determined by the commissioner in accordance with the TEC, §49.153, when final data on the district's maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year is available. If that amount is less than the amount paid by the district through August 15 of the school year, the difference will be refunded. If that amount is greater than the amount paid, the district shall remit an amount equal to the difference for deposit in the state treasury to be used for the Foundation School Program.

The cost of purchased attendance credit will be reduced for county appraisal district costs. The reduction will be computed in accordance with the TEC, §49.157. If the reduction exceeds the cost for the school year, the difference will be carried forward and applied to each subsequent year's cost until the total amount of the reduction has been exhausted.

Date of Board Meeting	06/07/2019
_____	
Name of President, Board of Trustees	
_____	
Name of Secretary, Board of Trustees	
_____	07/24/2019
Name of Superintendent	Date
_____	N/A
Electronic Signature of Commissioner of Education or Designee	Date

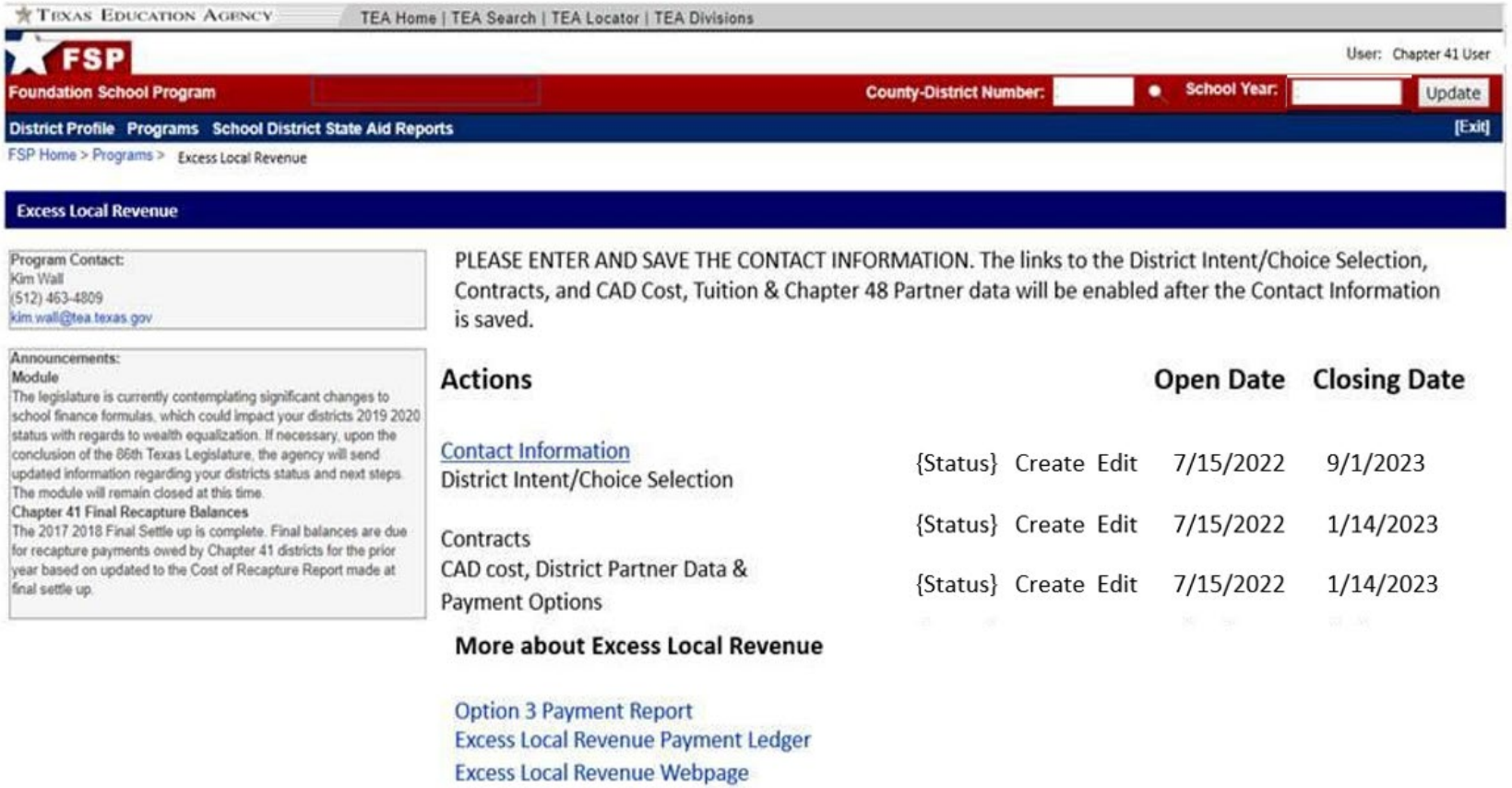
2022–2023 Contract Preview Board Minutes & Contract/Contract Letter:



2022–2023 CAD Cost, District Partner Data & Payment Options

Use this form to provide information on the option(s) chosen and associated contracts. The form must be completed and submitted via the online FSP System. Screen shots of the form as it appears in the FSP System are shown on the following pages.

Screen shots of 2022–2023 CAD Cost, District Partner Data & Payment Options screens:



Screen shots of 2022–2023 CAD Cost, District Partner Data and Payment Options:

Appendix C: Sample Contracts

This appendix includes the following sample contracts and optional contract language:

Option 3:

- **Agreement for the Purchase of Attendance Credit**—for use if your district selected Choice 2 in the Choice Selection Form in the FSP System

- **Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)**—for use if your district selected Choice 1 in the District Intent/Choice Selection Form in the FSP System

Option 4:

- **Agreement for the Education of Nonresident Students**

- Optional language to be inserted in the **Agreement for the Education of Nonresident Students**

Please note that the sample contracts require the entry of the school year to which they apply.

No school district official (or any other person in your district) has the authority, either implied or actual, to change or alter any rules, regulations, or reporting requirements specified in this manual.

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Agreement for the Purchase of Attendance Credit

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level not to exceed the level established under TEC, §48.257 for the school year

The school year to which this agreement applies is_____(the "school year").

The agreement is for_____School District ("the district"), with a county-district number of_____, to purchase attendance credit from the state for the school year.

This agreement is subject to the approval of the voters of the district as provided by the TEC, §49.156. The board of trustees of the district agrees to submit to the commissioner of education, on request, a certified copy of the board minutes showing the canvass of the election.

Initial payments will be based on the commissioner's estimate of the total cost of credit as determined under TEC, §49.153, using the district's projected maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year. The district agrees to make the payments in accordance with the schedule specified in the TEC, §49.154.

The total cost of credit will be determined by the commissioner in accordance with the TEC, §49.153, when final data on the district's maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year is available. If that amount is less than the amount paid by the district through August 15 of the school year, the difference will be refunded. If that amount is greater than the amount paid, the district shall remit an amount equal to the difference for deposit in the state treasury to be used for the Foundation School Program.

The cost of purchased attendance credit will be reduced for county appraisal district costs. The reduction will be computed in accordance with the TEC, §49.157. If the reduction exceeds the cost for the school year, the difference will be carried forward and applied to each subsequent year's cost until the total amount of the reduction has been exhausted.

_____ Date: _____

Signature of President, Board of Trustees

_____ Date: _____

Signature of Secretary, Board of Trustees

Signature of Superintendent

Date: _

Typed Name of Superintendent

Date: _

Signature of Commissioner of Education or Designee

Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level not to exceed the level established under TEC, §48.257 for the school year.

The school year to which this agreement applies is_____ (the "school year").

The agreement is for_____School District ("the district"), with a county-district number of_____, to purchase attendance credit from the state for the school year.

The local revenue level in excess of entitlement will be based on the commissioner's estimate of the cost of credit as determined under TEC, §49.153, using the district's projected maintenance and operations tax revenue that exceeds the level established under TEC, §48.257. Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against state aid under Chapter 48, Education Code, that is not described by TEC, §48.266(a)(3) for the school year. A district that is subject to the reduction in excess local revenue agrees to offset its obligations against state aid in accordance with the provisions specified in the TEC, §48.257(c).

When near-final data are available following the close of the school year to which this agreement applies, the district's entitlement under Chapter 48 will be recalculated. If the district's state aid under Chapter 48, Education Code, that is not described by TEC, §48.266(a)(3) is less than the cost of recapture as determined by the commissioner in accordance with the TEC, §49.153, using near-final data, the district will be required to have an election and the recapture balance will be recovered in accordance with TEC, §48.272, by withholding subsequent allocations of state funds or requiring and obtaining a refund.

The actual cost of credit for the school year will be determined by the commissioner in accordance with the TEC, §49.153, when final data on the district's maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 is available.

The cost of purchased attendance credit will be reduced for county appraisal district costs. The reduction will be computed in accordance with the TEC, §49.157. If the reduction exceeds the cost for the school year, the difference will be carried forward and applied to each subsequent year's cost until the total amount of the reduction has been exhausted.

Date: _

Signature of President, Board of Trustees

Date: _

Signature of Secretary, Board of Trustees

Signature of Superintendent

Date: _

Typed Name of Superintendent

Date: _

Signature of Commissioner of Education or Designee

Agreement for the Education of Nonresident Students

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 49, Subchapters A, D, and E, and rules adopted by the commissioner of education as authorized by the TEC, §49.006. The purpose of this agreement is to enable the district to reduce its local revenue level to a level equal to or less than the level established under TEC, §48.257 for the school year.

The school year to which this agreement applies is _____ (the "school year").

The agreement is for _____ School District ("the district") to educate nonresident students for the school year from _____ School District ("the partner"). The district agrees to contract for the education of nonresident students by purchasing an attendance credit in the amount of $_____ to the partner for the school year.

The estimated cost of the purchase will be determined by the commissioner in accordance with the provisions of the TEC, §49.153, using the district's projected maintenance and operations tax revenue that exceeds the level established under TEC, §48.257 for the school year. The agreement is not effective unless the commissioner certifies that the transfer of attendance credit under TEC, §49.153 will not result in any of the contracting districts' local revenue level being greater than the level established under TEC, §48.257. The initial payment will be made no later than a date in February specified by the commissioner and the last no later than August 15 of the school year. The payment schedule will be negotiated by the two parties.

The partner will remain accountable for the educational performance of the students whose education is paid for by the district. Any excess state allocations to the partner will be immediately refunded to the state if the excess cannot be recovered by reduced Foundation School Program payments.

The district must ensure that the partner or partners do not exceed their respective limits on the amount of attendance credit available for purchase. If one or more partners sell attendance credit in excess of limit, the district will not receive credit for the purchase of attendance credit. The attendance credit purchased is sufficient in combination with any other actions taken under this chapter to reduce the district's local revenue to a level that is equal to or less than the level established under TEC, §49.153.

[OPTIONAL: Insert here optional language on CAD costs, if applicable.]

This agreement is in effect for one year and becomes null and void at the close of the school year. This agreement is subject to the approval of the voters of the district as provided by the TEC, §49.202. The board of trustees of the district agrees to submit to the commissioner of education, on request, a certified copy of the board minutes showing the canvass of the election.

The District

District: _____

County-District No.: _____

_____

Signature of President, Board of Trustees

Date: _____

_____

Signature of Secretary, Board of Trustees

Date: _____

_____

Signature of Superintendent

_____

Typed Name of Superintendent

Date: _____

_____

Signature of Commissioner of Education
or Designee

Date: _____

The Partner

District: _____

County-District No.: _____

_____

Signature of President, Board of Trustees

Date: _____

_____

Signature of Secretary, Board of Trustees

Date: _____

_____

Signature of Superintendent

_____

Typed Name of Superintendent

Date: _____

_____

IF APPLICABLE: Signature of Director,
Education Service Center, Region _____

_____

IF APPLICABLE: Typed Name of Director

Date: _____

Optional Language to Be Inserted in the Agreement for the Education of Nonresident Students

Optional Language on CAD Costs

The partner agrees to pay a prorated share of county appraisal district (CAD) costs incurred by the district as a result of funds raised by the district that are distributed to the partner. The share will be based on actual attendance credit purchased from the partner applied as a percentage to the total applicable CAD costs for the applicable year.

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Appendix D: Sample Ballot Proposition Language

This appendix provides sample ballot proposition language that your district can use if it is conducting an election to obtain voter approval for exercising Option 3, 4, or 5.

So far, virtually all districts have chosen Option 3 or 4 or both simultaneously. Therefore, it is assumed that all or most districts will use one or both of these options in the future. **If your district is considering any other option besides Option 3 or 4, please consult the Excess Local Revenue program administrator in the TEA State Funding Division at (512) 463-9238**.

Please direct questions about election procedures to the Elections Division of the Texas Secretary of State at 1-800-252-8683. **Please also contact this division for a calendar for special elections pertaining to Excess Local Revenue.**

Following the US Supreme Court decision in *Shelby County v. Holder*, preclearance of an election under Section 5 of the Voting Rights Act may no longer be required. Your district should consult its legal counsel about compliance with state and federal voting requirements.

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BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____School District (Distrito Escolar De_____)
Date (Fecha):_____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X" in the square beside the statement indicating the way you wish to vote. (Marque con una "X" el cuadro a la ezquierda de la frase que indica la manera en que usted quiere votar.)

Ballot Proposition: Authorizing the board of trustees of_____School District to purchase attendance credit from the state with local tax revenues. (Propuesta Electoral: Autorizando a la junta directiva del Distrito Escolar de_____para adquirir créditos de asistencia estatales con ingresos de impuestos locales.)
☐ FOR (A FAVOR DE)
☐ AGAINST (EN CONTRA DE)

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BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____School District (Distrito Escolar De_____)
Date (Fecha):_____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X" in the square beside the statement indicating the way you wish to vote. (Marque con una "X" el cuadro a la ezquierda de la frase que indica la manera en que usted quiere votar.)

Ballot Proposition: Authorizing the board of trustees of_____ School District to educate students of other school districts with local tax revenues. (Propuesta Electoral: Autorizando a la junta directiva del Distrito Escolar de_____para educar estudiantes de otros distritos escolares con ingresos de impuestos locales.)
☐ FOR (A FAVOR DE)
☐ AGAINST (EN CONTRA DE)

This page has been left blank intentionally.

BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____School District (Distrito Escolar De_____)
Date (Fecha):_____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X" in the square beside the statement indicating the way you wish to vote. (Marque con una "X" el cuadro a la ezquierda de la frase que indica la manera en que usted quiere votar.)

Ballot Proposition: Creation of a consolidated taxing district composed of the territory of _____school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed $_____on $100 valuation of taxable property (Propuesta Electoral: Creación de un distrito impositivo consolidado compuesto del territorio de _____distritos escolares, y autorización a ejecución, tasación, y cobro de impuestos ad valorem anuales para el mantenimiento de escuelas públicas dentro de este distrito impositivo sin sobrepasar a una contribución de $_____por $100 de valoración de propiedad imponible)
☐ FOR (A FAVOR DE)
☐ AGAINST (EN CONTRA DE)

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Appendix E: Glossary

appraisal costs: Costs associated with the operation of county appraisal districts that school districts must pay. Districts with local revenue in excess of entitlement are eligible for a credit for that portion of the costs resulting from the recaptured excess value.

contract: Another term for the Agreement for the Purchase of Attendance Credits (Option 3) or the Agreement to Educate Nonresident Students (Option 4).

county appraisal district (CAD): An entity that regularly makes a record of and assigns a value to all property within a county. After compiling this information, a CAD passes it on to a taxing entity.

Equalized Wealth Transition Grant: A school district is entitled to receive an annual allotment under Section 48.278, Education Code, in an amount equal to the amount of additional revenue a school district received for the 2018-2019 school year under former TEC, Sections §§41.002(e)–41.002(g), as those sections existed on January 1, 2019, subject to the reductions under §48.278(b).

guaranteed yield: A specified amount that a school district, no matter what its property wealth, is guaranteed per weighted student for each cent of tax effort over that required for the district's local fund assignment. The guaranteed yield is made up of both state and local funds.

weighted average daily attendance (WADA): An adjusted count of the number of students in average daily attendance that gives greater weight to students who fall under certain categories, such as students who are enrolled in a gifted and talented program, and thus cost more to educate.

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Texas Education Agency
Austin, Texas
Spring 2021