

Chapter 61. School Districts

Subchapter AA. Commissioner's Rules on School Finance

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

- (a) General provisions. This section implements the Texas Education Code (TEC), §42.2511 (School District Entitlement for Certain Students), which provides for additional funding for school districts that have entered into a contract to partner to operate a district campus under the TEC, §11.174.
- (b) Definition. In this section, the term "contracted campus" means a campus for which the board of trustees of a school district has contracted to partner to operate a campus under the TEC, §11.174.
- (c) Entitlement. In the fall of each school year, as part of the settle-up process for the preceding school year, the Texas Education Agency (TEA) will use the attendance reported through the Texas Student Data System Public Education Information Management System summer data submission, as well as campus-level data regarding the number of students eligible for free and reduced-price meals received from the Texas Department of Agriculture, to calculate the following for a contracted campus:
 - (1) the entitlement for each student in average daily attendance at the contracted campus, as if the campus were a charter school under the TEC, §12.106, using the state average adjusted allotment as defined under the TEC, §12.106(a-1), and state average tax effort for enrichment funding as defined by the TEC, §12.106(a-2);
 - (2) the entitlement for each student in average daily attendance at the contracted campus under the TEC, Chapter 42, Subchapters B, C, and F, as adjusted by subsection (d) of this section, using the district's adjusted allotment and enrichment tax effort without a local share component for those entitlements; and
 - (3) any positive difference that results from subtracting the amount calculated under paragraph (2) of this subsection from the amount calculated under paragraph (1) of this subsection, which shall be added to the district's Foundation School Fund Allotment.
- (d) Estimates. School districts will be provided with estimated funding during a school year for eligible contracted campuses based on the prior year's attendance and Texas Department of Agriculture data using the same methodology used in subsection (c) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §42.258.
- (e) Exclusions. For purposes of the calculation in subsection (c) of this section, the following allotments shall be excluded from the entitlement:
 - (1) the Tuition Allotment for districts not offering all grade levels under the TEC, §42.106;
 - (2) the Advanced Career and Technology Education Allotment under the TEC, §42.154(a)(2);
 - (3) the Transportation Allotment under the TEC, §42.155; and
 - (4) the New Instructional Facility Allotment under the TEC, §42.158.
- (f) Funding for instructional facilities for charter schools. Effective September 1, 2018, for purposes of the calculation in subsection (c)(1) of this section, any funding to which the contracted campus would be entitled under the TEC, §12.106(d), will be included in the calculation.
- (g) Recovery of funds. If a contract is found to be out of compliance with the TEC, §11.174, or §97.1075 of this title (relating to Contracting to Partner to Operate a Campus under Texas Education Code, §11.174), the TEA will eliminate any funding provided for that campus under the TEC, §42.2511, and recover any funds overallocated under the provisions of the TEC, §42.258.

Statutory Authority: The provisions of this §61.1010 issued under the Texas Education Code, §42.2511.

Source: The provisions of this §61.1010 adopted to be effective June 19, 2018, 43 TexReg 3882.

§61.1011. Additional State Aid for Tax Reduction (ASATR).

- (a) Definitions. The following terms have the following meanings when used in this section.
- (1) Annual financial report--The annual financial report that a school district is required to submit to the Texas Education Agency (TEA) under the Texas Education Code (TEC), §44.008.
 - (2) Average daily attendance (ADA)--Average daily attendance as defined by the TEC, §42.005(a).
 - (3) Chapter 313 tax credit aid--Additional State Aid for Ad Valorem Tax Credits Under the Texas Economic Development Act, as authorized by the TEC, §42.2515, for the purposes of reimbursing school districts for tax credits issued under the Texas Tax Code, Chapter 313.
 - (4) Compressed tax rate (CTR)--
 - (A) For the 2006-2007 fiscal year, the CTR is calculated by multiplying the 2005 adopted maintenance and operations (M&O) tax rate by 0.8867.
 - (B) For the 2007-2008 fiscal year and each subsequent fiscal year, the CTR is calculated by multiplying the 2005 adopted M&O tax rate by the state compression percentage specified in the TEC, §42.2516(a), as that section existed for that fiscal year.
 - (5) District planning estimates (DPEs)--The figures on the *Summary of Finances* report that reflect:
 - (A) the data submitted to the TEA by school districts and by the comptroller of public accounts during a given fiscal year; and
 - (B) the estimated Foundation School Program entitlements of school districts for the year and data specified in subparagraph (A) of this paragraph.
 - (6) Fiscal year--The state fiscal year, which begins on September 1 of a given year and ends on August 31 of the subsequent year.
 - (7) Foundation School Program (FSP)--The program established under the TEC, Chapters 41, 42, and 46, or any successor program of state-appropriated funding for school districts in this state.
 - (8) General Appropriations Act (GAA)--The bill passed by the Texas Legislature that provides funding for state government.
 - (9) House Bill (HB) 1 weighted average daily attendance--A calculation of weighted average daily attendance based on the TEC, Chapter 42, funding elements as they existed between September 1, 2006, and August 31, 2009, under the provisions of HB 1, 79th Texas Legislature, Third Called Session, 2005.
 - (10) HB 3646 weighted average daily attendance--A calculation of weighted average daily attendance based on the TEC, Chapter 42, funding elements as they existed between September 1, 2009, and August 31, 2011, under the provisions of HB 3646, 81st Texas Legislature, 2009.
 - (11) Legislative payment estimates (LPEs)--The figures on the *Summary of Finances* report that reflect:
 - (A) the data submitted to the Texas Legislature by the TEA and the comptroller of public accounts in accordance with the TEC, §42.254, for use in establishing the FSP appropriation specified in the GAA for a given biennium; and
 - (B) the FSP entitlements of school districts for each fiscal year of the biennium based on the data specified in subparagraph (A) of this paragraph.
 - (12) Local maintenance and operations (M&O) tax collections--The amount of local M&O taxes collected by a school district.
 - (A) Local M&O tax collections to be used in the calculation of FSP entitlements are determined as follows.

- (i) On the preliminary *Summary of Finances* report, local M&O tax collections are calculated according to estimates of property value growth rates provided in the GAA.
 - (ii) On the near-final *Summary of Finances* report, the local M&O tax collections used are those estimated by the school district for the fiscal year of the *Summary of Finances* report and reported to the TEA in the annual tax information survey conducted by the TEA division responsible for state funding.
 - (iii) On the final *Summary of Finances* report, the local M&O tax collections used are those reported in the school district annual financial report for the fiscal year of the *Summary of Finances* report.
 - (iv) On the current *Summary of Finances* report, the local M&O tax collections used are those shown on the final *Summary of Finances* report or amended M&O tax collections that have been submitted and approved by the TEA chief school finance officer.
- (B) M&O tax collections used to calculate FSP entitlements are adjusted as applicable. M&O tax collections are reduced for:
- (i) payments related to a tax increment fund arrangement under the Texas Tax Code, Chapter 311; and
 - (ii) amounts related to the local share of a district's Instructional Facilities Allotment for a lease-purchase agreement.
- (13) Local M&O tax collections for revenue target calculations--The local M&O tax collections used in the calculation of revenue targets in accordance with the TEC, §42.2516(b), as that section existed on September 1, 2006, to determine a school district's minimum entitlement under the TEC, Chapter 42, as that chapter existed on January 1, 2006, as described in subsection (b)(1) and (2) of this section, are determined as follows.
- (A) For Scenario 1, the local M&O tax collections used are those reflected on a school district's current *Summary of Finances* report for the 2005-2006 fiscal year.
 - (B) For Scenario 2, local M&O tax collections are determined by multiplying the following:
 - (i) the 2006-2007 M&O yield per penny, which is determined by dividing 2006-2007 M&O tax collections reported in a school district's annual financial report by the number of pennies in the 2006-2007 M&O tax rate; and
 - (ii) the number of pennies in the 2005 adopted M&O tax rate.
 - (C) For Scenario 3, local M&O tax collections are determined by multiplying the following:
 - (i) the 2006-2007 M&O yield per penny, which is determined by dividing 2006-2007 M&O tax collections reported in a school district's annual financial report by the number of pennies in the 2006-2007 M&O tax rate; and
 - (ii) the number of pennies in the effective tax rate for the 2006-2007 fiscal year, calculated under the Texas Tax Code, §26.08(i) or (k)(1), as that section existed on September 1, 2006.
 - (D) No changes to the calculations of the tax collections described in this paragraph will be made after September 1, 2014.
- (14) Local M&O tax collections at the CTR for Scenario 4--
- (A) Local M&O tax collections used for Scenario 4 are determined by multiplying the following:

- (i) the yield per penny, which is determined by dividing the M&O tax collections for the fiscal year reported in a school district's annual financial report by the number of pennies in the total M&O tax rate for the fiscal year; and
 - (ii) the number of pennies in the CTR for the fiscal year.
 - (B) For a school district that experiences an increase in tax collections in tax year 2012 or a subsequent tax year because it meets one or more of the criteria established under the TEC, §42.2516(f-1)(1), (2), and (3), or that ceases to deposit tax collections into a tax increment fund as described in the TEC, §42.2516(f-1)(4), in tax year 2012 or a subsequent tax year, local M&O tax collections used for Scenario 4 are reduced by the amount of the increase in the M&O tax collections at the CTR that is due to the changes described in the TEC, §42.2516(f-1).
 - (C) For a school district that experiences a decrease in tax collections in tax year 2012 or a subsequent tax year because it meets one or more of the criteria established under the TEC, §42.2516(f-1)(1), (2), and (3), or that begins to deposit tax collections into a tax increment fund as described in the TEC, §42.2516(f-1)(4), in tax year 2012 or a subsequent tax year, local M&O tax collections used for Scenario 4 are increased by the amount of the decrease in the M&O tax collections at the CTR that is due to the changes described in the TEC §42.2516(f-1).
- (15) Minimum salary schedule (MSS) employees--Classroom teachers, full-time nurses, full-time counselors, and full-time librarians that are subject to the MSS requirements under the TEC, §21.402.
- (16) Scenario 1, 2, or 3--A series of calculations that existed in the TEC as of January 1, 2006, that determined the amount of state and local revenue per student in weighted average daily attendance to which a school district was entitled. The scenario that produced the greatest state and local revenue per student in weighted average daily attendance served as the basis of funding to which a school district was entitled under the TEC, §42.2516(b), as that section existed on September 1, 2006.
- (A) Scenario 1 (S1)--The series of calculations that resulted in the amount of state and local revenue per student in weighted average daily attendance described in the TEC, §42.2516(b)(1)(A), as that section existed on September 1, 2006.
 - (B) Scenario 2 (S2)--The series of calculations that resulted in the amount of state and local revenue per student in weighted average daily attendance described in the TEC, §42.2516(b)(1)(B), as that section existed on September 1, 2006.
 - (C) Scenario 3 (S3)--The series of calculations that resulted in the amount of state and local revenue per student in weighted average daily attendance described in the TEC, §42.2516(b)(1)(C), as that section existed on September 1, 2006.
- (17) Scenario 4 (S4)--The series of calculations that results in the amount of state and local formula revenue per student in weighted average daily attendance generated at the CTR for a given fiscal year.
- (18) Settle-up--A two-step process that reconciles the difference between the FSP payments that are made to a school district or charter school during a fiscal year and the actual entitlement earned by the school district or charter school for that year.
- (A) Near-final settle-up--The year-end reconciliation process that occurs after the close of a given fiscal year. The process incorporates the final attendance data for that fiscal year that have been submitted to the Public Education Information Management System (PEIMS). The FSP funding adjustments that result from this reconciliation are reflected on the near-final *Summary of Finances* report for the fiscal year.
 - (B) Final settle-up--The postaudit reconciliation process that occurs after the TEA's receipt of school district annual financial reports for a given fiscal year. The process incorporates the tax collection data that are reported in the annual financial reports and any other

changes to funding elements that have occurred since the near-final settle-up. The FSP funding adjustments that result from this reconciliation are reflected on the final *Summary of Finances* report for the fiscal year.

- (19) *Summary of Finances (SOF)* report--The document of record for FSP allocations. The different versions of the report are as follows.
- (A) Preliminary *SOF* report--The version of the *SOF* report published during a given fiscal year for that year.
 - (B) Near-final *SOF* report--The version of the *SOF* report that reflects the FSP entitlements of a school district following near-final settle-up for the given fiscal year.
 - (C) Final *SOF* report--The version of the *SOF* report that reflects the FSP entitlements of a school district following final settle-up for the given fiscal year.
 - (D) Current *SOF* report--The most recent version of the *SOF* report that reflects the FSP entitlements of a school district for the given fiscal year as of the current date. The report reflects any changes that have been made since the final *SOF* report.
- (20) Supplemental tax increment fund (TIF) aid--Aid under the TEC, §42.2514, that may be due to a school district that pays into a TIF.
- (21) Target year--The year that produces the greatest revenue per student in weighted average daily attendance in the scenarios defined by subsection (a)(16) of this section and that is thus used in calculating the minimum revenue entitlement for each fiscal year beginning with the 2006-2007 fiscal year. If the maximum target revenue per student in weighted average daily attendance is produced with S1, then 2005-2006 is the target year. If the maximum target revenue per student in weighted average daily attendance is produced with S2 or S3, then 2006-2007 is the target year.
- (22) Weighted average daily attendance (WADA)--Weighted average daily attendance as defined by the TEC, §42.302(a). The WADA used for state funding calculations is determined as follows.
- (A) During a given fiscal year, WADA is calculated using the LPEs for that year.
 - (B) On the near-final *SOF* report, WADA is calculated using the student attendance data reported to the PEIMS for the given fiscal year.
 - (C) On the final *SOF* report, WADA is calculated using the student attendance data for the given fiscal year that are available as of the date of the final *SOF*.
- (b) Additional State Aid for Tax Reduction (ASATR). A school district may be entitled to receive ASATR under the TEC, §42.2516(b). The entitlement to ASATR for a given fiscal year is determined by calculating the minimum revenue entitlement applicable to that fiscal year and comparing the minimum revenue entitlement to the total state and local formula revenue based on the CTR for that fiscal year.
- (1) Fiscal year 2006-2007. S1, S2, and S3 target revenue; S4 total state and local revenue; and ASATR are calculated as follows for the 2006-2007 fiscal year.
- (A) S1 target revenue. S1 target revenue is based on the actual state and local revenue earned by a school district for the 2005-2006 fiscal year as reflected on the current 2005-2006 *SOF* report. S1 target revenue is calculated as follows.
 - (i) S1 revenue includes the sum of the following amounts, calculated based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2006:
 - (I) Tier 1 state aid earned by the district in 2005-2006;
 - (II) Tier 2 state aid earned by the district in 2005-2006;
 - (III) the per pupil allotment as described in Rider 69, GAA, 79th Texas Legislature, 2005;

- (IV) Additional State Aid for Professional Staff Salaries earned by the district under the TEC, §42.2512, for 2005-2006;
 - (V) Additional State Aid for Homestead Exemption earned by the district under the TEC, §42.2511, for 2005-2006;
 - (VI) Additional State Aid for School Employee Benefits earned by the district under the TEC, §42.2514, for 2005-2006;
 - (VII) any gain from a Chapter 41 partnership, which is the amount retained by the district as the result of an agreement under the TEC, §41.121. This amount is equal to the funds received by the district as the result of a 2005-2006 agreement under the TEC, §41.121, less the following amounts:
 - (-a-) funds retained from the district's 2005-2006 FSP allocation due to attendance credits purchased through an agreement under the TEC, §41.121; and
 - (-b-) funds due from the district to another entity based on a 2005-2006 agreement under the TEC, §41.121; and
 - (VIII) M&O tax collections for the 2005-2006 fiscal year as defined by subsection (a)(13)(A) of this section.
- (ii) The sum is reduced by the amount of the recapture payments owed by the district for the 2005-2006 fiscal year to produce total state and local revenue.
 - (iii) Total state and local revenue is divided by the number of WADA the district had in 2005-2006 to produce S1 target revenue per WADA.
 - (iv) S1 target revenue per WADA is multiplied by the district's 2006-2007 WADA to produce S1 total target revenue.
- (B) S2 target revenue. S2 target revenue is based on the state and local revenue a school district would have been entitled to in 2006-2007 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2006, and on the tax collections defined by subsection (a)(13)(B) of this section. S2 target revenue is calculated as follows.
- (i) S2 revenue includes the sum of the following amounts, calculated based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2006:
 - (I) Tier 1 state aid the district would have received in 2006-2007;
 - (II) Tier 2 state aid the district would have received in 2006-2007;
 - (III) the per pupil allotment as described in Rider 69, GAA, 79th Texas Legislature, 2005;
 - (IV) Additional State Aid for Professional Staff Salaries the district would have earned under the TEC, §42.2512, for 2006-2007;
 - (V) Additional State Aid for Homestead Exemption the district would have earned under the TEC, §42.2511, for 2006-2007;
 - (VI) Additional State Aid for School Employee Benefits the district would have earned under the TEC, §42.2514, for 2006-2007;
 - (VII) any gain the district would have received from a Chapter 41 partnership, which is the amount the district would have retained as the result of an agreement under the TEC, §41.121. This amount is equal to the funds the district would have received in 2006-2007 if the 2005-

2006 agreement had been maintained under the TEC, §41.121, less the following amounts:

- (-a-) funds that would have been retained from the district's 2006-2007 FSP allocation due to attendance credits purchased if the 2005-2006 agreement under the TEC, §41.121, had been maintained; and
- (-b-) funds that would have been due from the district to another entity if the 2005-2006 agreement under the TEC, §41.121, had been maintained; and

(VIII) M&O tax collections as defined by subsection (a)(13)(B) of this section.

- (ii) The sum is reduced by the amount of the recapture obligation that would have been owed in 2006-2007 if the district would have been subject to the provisions of the TEC, Chapter 41, as that chapter existed on January 1, 2006, based on the 2005 M&O tax rate and the M&O tax collections defined by subsection (a)(13)(B) of this section to produce total state and local revenue.
- (iii) Total state and local revenue is divided by the number of WADA the district had in 2006-2007 to produce S2 target revenue per WADA.
- (iv) S2 target revenue per WADA is multiplied by the district's 2006-2007 WADA to produce S2 total target revenue.

(C) S3 target revenue. S3 target revenue is based on the state and local revenue a school district would have been entitled to in 2006-2007 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2006, and on the tax collections defined by subsection (a)(13)(C) of this section. S3 target revenue is calculated as follows.

- (i) S3 revenue includes the sum of the following amounts, calculated based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2006:
 - (I) Tier 1 state aid the district would have received in 2006-2007;
 - (II) Tier 2 state aid the district would have received in 2006-2007 based on the tax rate authorized by the Texas Tax Code, §26.08(i) or (k)(1), as that section existed on September 1, 2006;
 - (III) the per pupil allotment as described in Rider 69, GAA, 79th Texas Legislature, 2005;
 - (IV) Additional State Aid for Professional Staff Salaries the district would have earned under the TEC, §42.2512, for 2006-2007;
 - (V) Additional State Aid for Homestead Exemption the district would have earned under the TEC, §42.2511, for 2006-2007;
 - (VI) Additional State Aid for School Employee Benefits the district would have earned under the TEC, §42.2514, for 2006-2007;
 - (VII) any gain the district would have received from a Chapter 41 partnership, which is the amount the district would have retained as the result of an agreement under the TEC, §41.121. This amount is equal to the funds the district would have received in 2006-2007 if the 2005-2006 agreement had been maintained under the TEC, §41.121, less the following amounts:
 - (-a-) funds that would have been retained from the district's 2006-2007 FSP allocation due to attendance credits purchased if the

- 2005-2006 agreement under the TEC, §41.121, had been maintained; and
- (-b-) funds that would have been due from the district to another entity if the 2005-2006 agreement under the TEC, §41.121, had been maintained; and
- (VIII) M&O collections as defined by subsection (a)(13)(C) of this section.
- (ii) The sum is reduced by the amount of the recapture obligation that would have been owed in 2006-2007 if the district would have been subject to the provisions of the TEC, Chapter 41, as that chapter existed on January 1, 2006, based on the M&O tax rate resulting from the computation described in the Texas Tax Code, §26.08(i) or (k)(1), as that section existed on September 1, 2006, and the M&O tax collections defined by subsection (a)(13)(C) of this section to produce total state and local revenue.
 - (iii) Total state and local revenue is divided by the number of WADA the district had in 2006-2007 to produce S3 target revenue per WADA.
 - (iv) S3 target revenue per WADA is multiplied by 2006-2007 WADA to produce S3 total target revenue.
- (D) S4 total state and local revenue. S4 total state and local revenue is determined by the amount of state and local formula revenue that is generated at the CTR for 2006-2007 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on September 1, 2006, and on the tax collections defined by subsection (a)(14) of this section. S4 total state and local revenue is calculated as follows.
- (i) S4 total state and local revenue includes the sum of the following amounts, calculated for the 2006-2007 fiscal year based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on September 1, 2006:
 - (I) Tier 1 state aid;
 - (II) Tier 2, Level 1, state aid, as determined under the TEC, §42.302(a-1);
 - (III) the per pupil allotment as described in Rider 69, GAA, 79th Texas Legislature, 2005;
 - (IV) Additional State Aid for Professional Staff Salaries earned by the district under the TEC, §42.2512;
 - (V) Additional State Aid for Homestead Exemption earned by the district under the TEC, §42.2511;
 - (VI) Additional State Aid for School Employee Benefits earned by the district under the TEC, §42.2514;
 - (VII) any gain from a Chapter 41 partnership as defined by subsection (b)(1)(A)(i)(VII), (B)(i)(VII), or (C)(i)(VII) of this section for the applicable target year; and
 - (VIII) M&O tax collections at the CTR as defined by subsection (a)(14) of this section.
 - (ii) The sum is reduced by the cost of recapture based on the M&O tax collections at the CTR as defined by subsection (a)(14) of this section to produce S4 total state and local revenue.
- (E) Determining the need for ASATR funding or a reduction of excess revenue.
- (i) The need for ASATR funding is determined by comparing the revenue target to S4 total state and local revenue.

- (ii) The revenue target is calculated by adding the following:
 - (I) the base target revenue, which is the greatest of S1 total target revenue as described in subsection (b)(1)(A)(iv) of this section, S2 total target revenue as described in subsection (b)(1)(B)(iv) of this section, and S3 total target revenue as described in subsection (b)(1)(C)(iv) of this section;
 - (II) the Salary Allotment, which is the product of the number of MSS employees for 2006-2007 multiplied by \$2,500; and
 - (III) the High School Allotment, which is the product of the number of high school ADA for 2006-2007 multiplied by \$275.
- (iii) If the revenue target is greater than S4 total state and local revenue, then the district is entitled to receive ASATR equal to the difference between the revenue target and S4 total state and local revenue. If S4 total state and local revenue is greater than the revenue target, then ASATR is equal to zero. For a district with an adopted M&O tax rate below the CTR, any ASATR the district is entitled to is reduced in proportion to the amount by which the adopted M&O tax rate is less than the CTR.
- (iv) If S4 total state and local revenue is greater than the revenue target, then a reduction of excess revenue is calculated by subtracting S4 total state and local revenue from the revenue target. The result will be a negative number. If the revenue target is greater than S4 total state and local revenue, the reduction of excess revenue is equal to zero.
- (F) Timeline for data changes. No changes to the calculations described in this paragraph or to the S1, S2, and S3 target revenue per WADA amounts described in subsection (b)(1)(A)(iii), (B)(iii), and (C)(iii) of this section, respectively, will be made after September 1, 2014.
- (2) Fiscal years 2007-2008 and 2008-2009. Adjusted S1, S2, and S3 target revenue; S4 total state and local revenue; and ASATR are calculated as follows for the 2007-2008 and 2008-2009 fiscal years.
 - (A) Adjusted S1 target revenue. Adjusted S1 target revenue is based on the actual state and local revenue earned by the school district as reflected on the current 2005-2006 *SOF* report. Adjusted S1 target revenue is calculated as follows.
 - (i) S1 revenue includes the sum of the amounts summed in subsection (b)(1)(A)(i) of this section.
 - (ii) The sum is reduced by the amount of the recapture payments owed by the district for the 2005-2006 fiscal year to produce total state and local revenue.
 - (iii) Total state and local revenue is divided by the number of WADA the district had in 2005-2006 to produce S1 target revenue per WADA.
 - (iv) S1 target revenue per WADA is multiplied by 2007-2008 or 2008-2009 WADA, as applicable, to produce S1 total target revenue.
 - (v) S1 total target revenue is adjusted by the following to produce adjusted S1 target revenue:
 - (I) the difference between the New Instructional Facility Allotment (NIFA) that the district was entitled to receive under the TEC, §42.158, in the target year and the NIFA that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable; and
 - (II) for districts not subject to the provisions of the TEC, Chapter 41, the difference between the transportation allotment that the district was

entitled to receive under the TEC, §42.155, in the target year and the transportation allotment that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable.

- (B) Adjusted S2 target revenue. Adjusted S2 target revenue is calculated as follows.
- (i) S2 revenue includes the sum of the amounts summed in subsection (b)(1)(B)(i) of this section.
 - (ii) The sum is reduced by the amount of the recapture obligation that would have been owed in 2006-2007 if the district would have been subject to the provisions of the TEC, Chapter 41, as that chapter existed on January 1, 2006, based on the 2005 M&O tax rate and the M&O tax collections defined by subsection (a)(13)(B) of this section to produce total state and local revenue.
 - (iii) Total state and local revenue is divided by the number of WADA the district had in 2006-2007 to produce S2 target revenue per WADA.
 - (iv) S2 target revenue per WADA is multiplied by 2007-2008 or 2008-2009 WADA, as applicable, to produce S2 total target revenue.
 - (v) S2 total target revenue is adjusted by the following to produce adjusted S2 target revenue:
 - (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in the target year and the NIFA that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable; and
 - (II) for districts not subject to the provisions of the TEC, Chapter 41, the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in the target year and the transportation allotment that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable.
- (C) Adjusted S3 target revenue. Adjusted S3 target revenue is calculated as follows.
- (i) S3 revenue includes the sum of the amounts summed in subsection (b)(1)(C)(i) of this section.
 - (ii) The sum is reduced by the amount of the recapture obligation that would have been owed in 2006-2007 if the district would have been subject to the provisions of the TEC, Chapter 41, as that chapter existed on January 1, 2006, based on the M&O tax rate resulting from the computation described in the Texas Tax Code, §26.08(i) or (k)(1), as that section existed on September 1, 2006, and the M&O tax collections defined by subsection (a)(13)(C) of this section to produce total state and local revenue.
 - (iii) Total state and local revenue is divided by the number of WADA the district had in 2006-2007 to produce S3 target revenue per WADA.
 - (iv) S3 target revenue per WADA is multiplied by 2007-2008 or 2008-2009 WADA, as applicable, to produce S3 total target revenue.
 - (v) S3 total target revenue is adjusted by the following to produce adjusted S3 target revenue:
 - (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in the target year and the NIFA that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable; and
 - (II) for districts not subject to the provisions of the TEC, Chapter 41, the difference between the transportation allotment that the district was

entitled to receive under the TEC, §42.155, in the target year and the transportation allotment that the district was entitled to receive in 2007-2008 or 2008-2009, as applicable.

- (D) S4 total state and local revenue. S4 total state and local revenue is determined by the amount of state and local formula revenue that is generated at the CTR for 2007-2008 or 2008-2009, as applicable, based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on September 1, 2007, and on the tax collections defined by subsection (a)(14) of this section. S4 total state and local revenue is calculated as follows.
- (i) S4 total state and local revenue includes the sum of the following:
 - (I) Tier 1 state aid;
 - (II) Tier 2, Level 1, state aid, as determined under the TEC, §42.302(a-1);
 - (III) the per pupil allotment as described in Rider 69, GAA, 79th Texas Legislature, 2005;
 - (IV) Additional State Aid for Professional Staff Salaries earned by the district under the TEC, §42.2512;
 - (V) Additional State Aid for Homestead Exemption earned by the district under the TEC, §42.2511;
 - (VI) Additional State Aid for School Employee Benefits earned by the district under the TEC, §42.2514;
 - (VII) any gain from a Chapter 41 partnership as defined by subsection (b)(1)(A)(i)(VII), (B)(i)(VII), or (C)(i)(VII) of this section for the applicable target year; and
 - (VIII) M&O tax collections at the CTR as defined by subsection (a)(14) of this section.
 - (ii) The sum is reduced by the cost of recapture based on the M&O tax collections at the CTR as defined by subsection (a)(14) of this section to produce S4 total state and local revenue.
- (E) Determining the need for ASATR funding or a reduction of excess revenue.
- (i) The need for ASATR funding is determined by comparing the revenue target to S4 total state and local revenue.
 - (ii) The revenue target is calculated by adding the following:
 - (I) the base target revenue, which is the greatest of adjusted S1 total target revenue as described in subsection (b)(2)(A)(v) of this section, adjusted S2 total target revenue as described in subsection (b)(2)(B)(v) of this section, and adjusted S3 total target revenue as described in subsection (b)(2)(C)(v) of this section;
 - (II) the Salary Allotment, which is the product of the number of MSS employees for 2007-2008 or 2008-2009, as applicable, multiplied by \$2,500;
 - (III) the High School Allotment, which is the product of the number of high school ADA for 2007-2008 or 2008-2009, as applicable, multiplied by \$275;
 - (IV) any tuition paid adjustment, which is the difference between the tuition paid in 2007-2008 or 2008-2009, as applicable, and the tuition paid in the target year;
 - (V) any other adjustment to tax collections; and

- (VI) any Texas Tax Code, Chapter 313, tax credit aid.
 - (iii) If the revenue target is greater than S4 total state and local revenue, then the district is entitled to receive ASATR equal to the difference between the revenue target and S4 total state and local revenue. If S4 total state and local revenue is greater than the revenue target, then ASATR is equal to zero. For a district with an adopted M&O tax rate below the CTR, any ASATR the district is entitled to is reduced in proportion to the amount by which the adopted M&O tax rate is less than the CTR.
 - (iv) If S4 total state and local revenue is greater than the revenue target, then a reduction of excess revenue is calculated by subtracting S4 total state and local revenue from the revenue target. The result will be a negative number. If the revenue target is greater than S4 total state and local revenue, the reduction of excess revenue is equal to zero.
- (3) Fiscal year 2009-2010. Adjusted S1, S2, and S3 target revenue; total HB 3646 state and local revenue; and ASATR are calculated as follows for the 2009-2010 fiscal year. Data elements and calculations are based on the provisions of the TEC, Chapters 41 and 42, as they existed on January 1, 2009, unless otherwise specified.
- (A) S1 target revenue is based on the state and local revenue a school district would have been entitled to in 2009-2010 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2009. Adjusted S1 target revenue is calculated as follows.
 - (i) S1 target revenue per WADA as described in subsection (b)(1)(A)(iii) of this section is multiplied by the number of 2009-2010 HB 1 WADA to produce S1 target revenue.
 - (ii) S1 target revenue is adjusted by the following to produce adjusted S1 target revenue:
 - (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2005-2006 and the NIFA that the district was entitled to receive in 2009-2010; and
 - (II) the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2005-2006 and the transportation allotment that the district was entitled to receive in 2009-2010.
 - (B) S2 target revenue is based on the state and local revenue a school district would have been entitled to in 2009-2010 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2009. Adjusted S2 target revenue is calculated as follows.
 - (i) S2 target revenue per WADA as described in subsection (b)(1)(B)(iii) of this section is multiplied by the number of 2009-2010 HB 1 WADA to produce S2 target revenue.
 - (ii) S2 target revenue is adjusted by the following to produce adjusted S2 target revenue:
 - (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2006-2007 and the NIFA that the district was entitled to receive in 2009-2010; and
 - (II) the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2006-2007 and the transportation allotment that the district was entitled to receive in 2009-2010.

- (C) S3 target revenue is based on the state and local revenue a school district would have been entitled to in 2009-2010 based on the provisions of the TEC, Chapters 12, 41, and 42, as they existed on January 1, 2009. Adjusted S3 target revenue is calculated as follows.
- (i) S3 target revenue per WADA as described in subsection (b)(1)(C)(iii) of this section is multiplied by the number of 2009-2010 HB 1 WADA to produce S3 target revenue.
 - (ii) S3 target revenue is adjusted by the following to produce adjusted S3 target revenue:
 - (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2006-2007 and the NIFA that the district was entitled to receive in 2009-2010; and
 - (II) the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2006-2007 and the transportation allotment that the district was entitled to receive in 2009-2010.
- (D) Adjusted HB 1 target revenue for 2009-2010 is calculated by adding the following:
- (i) the maximum adjusted target revenue, which is the greatest of adjusted S1 target revenue as described in subsection (b)(3)(A)(ii) of this section, adjusted S2 target revenue as described in subsection (b)(3)(B)(ii) of this section, and adjusted S3 target revenue as described in subsection (b)(3)(C)(ii) of this section;
 - (ii) the Salary Allotment, which is the product of the number of MSS employees for 2009-2010 multiplied by \$2,500;
 - (iii) the High School Allotment, which is the product of the number of high school ADA for 2009-2010 multiplied by \$275; and
 - (iv) any tuition paid adjustment, which is the difference between the tuition paid in 2009-2010 and the tuition paid in the target year.
- (E) Adjusted HB 1 revenue per HB 1 WADA is calculated by dividing adjusted HB 1 target revenue by 2009-2010 HB 1 WADA.
- (F) HB 3646 base target revenue is calculated by multiplying adjusted HB 1 revenue per HB 1 WADA by 2009-2010 HB 3646 WADA.
- (G) HB 3646 adjusted target revenue is calculated by adding the amount of the funds received by the district in 2008-2009 for the Educator Salary Increase as authorized by Rider 86, GAA, 80th Texas Legislature, 2007, to HB 3646 base target revenue.
- (H) Minimum revenue hold harmless is calculated by multiplying 2009-2010 HB 3646 WADA by \$120 and adding HB 3646 adjusted target revenue to that amount.
- (I) Maximum revenue is calculated by multiplying 2009-2010 HB 3646 WADA by \$350 and adding HB 3646 adjusted target revenue to that amount.
- (J) Total HB 3646 state and local revenue is calculated by adding 2009-2010 Tier 1 state aid and 2009-2010 M&O tax collections at the CTR and then subtracting from that sum 2009-2010 recapture at the CTR.
- (K) The need for ASATR funding or the reduction of excess revenue is determined as follows.
- (i) If minimum revenue hold harmless is greater than total HB 3646 state and local revenue, then the district is entitled to receive ASATR equal to the difference. If total HB 3646 state and local revenue is greater than minimum revenue hold

harmless, then ASATR is equal to zero. For a district with an adopted M&O tax rate below the CTR, any ASATR the district is entitled to is reduced in proportion to the amount by which the adopted M&O tax rate is less than the CTR.

- (ii) If total HB 3646 state and local revenue is greater than maximum revenue, then a reduction of excess revenue is calculated by subtracting total HB 3646 state and local revenue from maximum revenue. The result will be a negative number. If maximum revenue is greater than total HB 3646 state and local revenue, the reduction of excess revenue is equal to zero.
 - (L) 2009-2010 revenue at the CTR is the sum of total HB 3646 state and local revenue, any ASATR the district is entitled to for 2009-2010, and any reduction of excess revenue the district is subject to for 2009-2010.
 - (M) 2009-2010 revenue per WADA at the CTR is calculated by dividing 2009-2010 revenue at the CTR by 2009-2010 HB 3646 WADA.
 - (N) No changes to the calculations described in this paragraph will be made after September 1, 2014.
- (4) Fiscal year 2010-2011. Minimum revenue; adjusted minimum revenue; state and local revenue (S4); and ASATR are calculated as follows for the 2010-2011 fiscal year.
- (A) 2010-2011 minimum revenue is calculated as follows.
 - (i) 2009-2010 adjusted HB 1 revenue per HB 1 WADA as described in subsection (b)(3)(E) of this section is multiplied by 2010-2011 WADA to produce base target revenue.
 - (ii) The following are added to base target revenue to produce 2010-2011 minimum revenue:
 - (I) the 2010-2011 minimum increase, which is calculated by multiplying 2010-2011 WADA by \$120;
 - (II) the amount of any supplemental TIF aid; and
 - (III) any tuition paid adjustment, which is the difference between the tuition paid in 2009-2010 and that paid in 2010-2011.
 - (B) 2010-2011 adjusted minimum revenue is calculated by adding the following to 2010-2011 minimum revenue:
 - (i) the amount of any Chapter 313 tax credit aid;
 - (ii) the amount of the funds received by the district in 2008-2009 for the Educator Salary Increase as authorized by Rider 86, GAA, 80th Texas Legislature, 2007;
 - (iii) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2009-2010 and the NIFA that the district was entitled to receive in 2010-2011; and
 - (iv) for districts not subject to the provisions of the TEC, Chapter 41, the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2009-2010 and the transportation allotment that the district was entitled to receive in 2010-2011.
 - (C) 2010-2011 state and local revenue (S4) is calculated by adding 2010-2011 Tier 1 state aid and 2010-2011 M&O collections at the CTR and then subtracting from that sum 2010-2011 recapture at the CTR.
 - (D) 2010-2011 maximum revenue is calculated by adding the following:

- (i) the product of 2010-2011 WADA multiplied by 2009-2010 revenue per WADA at the CTR as described in subsection (b)(3)(M) of this section; and
 - (ii) the product of 2010-2011 WADA multiplied by \$350.
- (E) The need for ASATR funding or the reduction of excess revenue is determined as follows.
- (i) If 2010-2011 adjusted minimum revenue is greater than 2010-2011 state and local revenue, then the district is entitled to receive ASATR equal to the difference. If 2010-2011 state and local revenue is greater than 2010-2011 adjusted minimum revenue, then ASATR is equal to zero. For a district with an adopted M&O tax rate below the CTR, any ASATR the district is entitled to is reduced in proportion to the amount by which the adopted M&O tax rate is less than the CTR.
 - (ii) If 2010-2011 state and local revenue is greater than 2010-2011 maximum revenue, then a reduction of excess revenue is calculated by subtracting 2010-2011 state and local revenue from 2010-2011 maximum revenue. The result will be a negative number. If 2010-2011 maximum revenue is greater than 2010-2011 state and local revenue, the reduction of excess revenue is equal to zero.
 - (I) If the school district receives state funding based on its CTR, the funding will be reduced by the amount of excess revenue.
 - (II) If the school district is subject to the recapture provisions of the TEC, Chapter 41, then its cost of recapture will be increased by the amount of excess revenue.
- (F) 2010-2011 revenue at the CTR is the sum of 2010-2011 state and local revenue, any ASATR the district is entitled to for 2010-2011, and any reduction of excess revenue the district is subject to for 2010-2011.
- (G) 2010-2011 revenue per WADA at the CTR is calculated by dividing 2010-2011 revenue at the CTR by 2010-2011 WADA.
- (5) Fiscal year 2011-2012 and subsequent fiscal years. Minimum revenue; adjusted minimum revenue; state and local revenue (S4); and ASATR are calculated as follows for the 2011-2012 fiscal year and each subsequent fiscal year.
- (A) Minimum revenue for the applicable year is calculated as follows.
 - (i) 2009-2010 adjusted HB 1 revenue per HB 1 WADA as described in subsection (b)(3)(E) of this section is multiplied by the number of WADA for the applicable year and then by the multiplier specified in the TEC, §42.2516(i), to establish base target revenue.
 - (ii) Base target revenue is added to the minimum increase, which is the product of the number of WADA for the applicable year multiplied by \$120 and then by the multiplier specified in the TEC, §42.2516(i).
 - (iii) The sum is adjusted by the difference between the tuition paid in 2009-2010 and that paid in the applicable year.
 - (B) Adjusted minimum revenue for the applicable year is calculated as follows.
 - (i) Minimum revenue for the applicable year is added to the product of the amount of funds received by the district in 2008-2009 for the Educator Salary Increase as authorized by Rider 86, GAA, 80th Texas Legislature, 2007, multiplied by the multiplier specified in the TEC, §42.2516(i).
 - (ii) For the 2011-2012 and 2012-2013 fiscal years, the sum described by subsection (b)(5)(B)(i) of this section is adjusted by the following to produce adjusted minimum revenue:

- (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2009-2010 and the NIFA that the district is entitled to receive in the applicable year; and
 - (II) for districts not subject to the provisions of the TEC, Chapter 41, the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2009-2010 and the transportation allotment that the district is entitled to receive in the applicable year.
- (iii) For 2013-2014 and each subsequent fiscal year, the sum described by subsection (b)(5)(B)(i) of this section is adjusted by the following to produce adjusted minimum revenue:
- (I) the difference between the NIFA that the district was entitled to receive under the TEC, §42.158, in 2009-2010 and the NIFA that the district is entitled to receive in the applicable year; and
 - (II) the difference between the transportation allotment that the district was entitled to receive under the TEC, §42.155, in 2009-2010 and the transportation allotment that the district is entitled to receive in the applicable year.
- (C) State and local revenue (S4) for the applicable year is calculated as follows.
- (i) State and local revenue (S4) for the applicable year is calculated by adding Tier 1 state aid for that year to M&O tax collections at the CTR for that year and then subtracting from that sum recapture at the CTR for that year.
 - (ii) For the 2016-2017 fiscal year, the sum described by paragraph (5)(C)(i) of this subsection is adjusted for districts receiving an adjustment to the local fund assignment (LFA) under the TEC, §13.054(f), by subtracting the amount of additional Tier 1 state aid that results from the adjustment to the LFA from the Tier 1 state aid amount used in the calculation of state and local revenue (S4) for the applicable year.
- (D) The need for ASATR funding is determined as follows.
- (i) If adjusted minimum revenue for the applicable year is greater than state and local revenue for that year, then the district is entitled to receive ASATR equal to the difference. For a district with an adopted M&O tax rate below the CTR, any ASATR the district is entitled to is reduced in proportion to the amount by which the adopted M&O tax rate is less than the CTR.
 - (ii) If state and local revenue for the applicable year is greater than adjusted minimum revenue for that year, then ASATR is equal to zero.
- (E) Revenue at the CTR for the applicable year is the sum of state and local revenue (S4) for that year and any ASATR the district is entitled to for that year.
- (F) Revenue per WADA at the CTR for the applicable year is calculated by dividing revenue at the CTR for that year by the number of WADA for that year.
- (c) Recapture at the CTR used to calculate state and local revenue (S4) for 2012-2013 and subsequent years.
- (1) For a school district that experiences an increase in tax collections in tax year 2012 or a subsequent tax year because it meets one or more of the criteria established under the TEC, §42.2516(f-1)(1), (2), and (3), or that ceases to deposit tax collections into a TIF as described in the TEC, §42.2516(f-1)(4), in tax year 2012 or a subsequent year, recapture at the CTR for use in S4 for the applicable year is reduced by recalculating the recapture owed using M&O tax collections at the CTR that are decreased as described in subsection (a)(14)(B) of this section.

- (2) For a school district that experiences a decrease in tax collections in tax year 2012 or a subsequent tax year because it meets one or more of the criteria established under the TEC, §42.2516(f-1)(1), (2), and (3), or that begins to deposit tax collections into a TIF as described in the TEC, §42.2516(f-1)(4), in tax year 2012 or a subsequent year, recapture at the CTR for use in S4 for the applicable year is increased by recalculating the recapture owed using M&O tax collections at the CTR that are increased as described in subsection (a)(14)(C) of this section.
- (d) Consolidation.
- (1) If two or more school districts consolidate, a new target revenue per WADA for the consolidated district is calculated as follows.
- (A) The number of WADA for each district for the applicable year is multiplied by the district's target revenue per WADA for the applicable year.
- (B) The results are summed.
- (C) The sum is divided by the total number of WADA in the consolidated district to produce target revenue per WADA for the consolidated district.
- (2) The new target revenue per WADA applies to the computation of ASATR and any incentive aid under the TEC, §13.281, for the consolidated district.

Statutory Authority: The provisions of this §61.1011 issued under the Texas Education Code, §42.2516.

Source: The provisions of this §61.1011 adopted to be effective November 6, 2013, 38 TexReg 7708; amended to be effective March 19, 2017, 42 TexReg 1120.

§61.1012. Contracts and Tuition for Education Outside District.

- (a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
- (1) Home district--District of residence of a transferring student.
- (2) Receiving district--District to which a student is transferring for the purpose of obtaining an education.
- (3) Tuition--Amount charged to the home district by the receiving district to educate the transfer student.
- (b) Tuition charge for transfer students. For the purposes of calculating the tuition allotment of the home district as authorized by the Texas Education Code (TEC), §42.106, the amount of tuition that may be attributed to a home district for a transfer student in payment for that student's education may not exceed an amount per enrollee calculated for each receiving district. The calculated limit applies only to tuition paid to a receiving district for the education of a student at a grade level not offered in the home district. Tuition may be set at a rate higher than the calculated limit if both districts enter a written agreement, but the calculated tuition limit will be used in the calculation of the tuition allotment for the home district. The calculation will use the most currently available data in an ongoing school year to determine the limit that applies to the subsequent school year. For purposes of this section, the number of students enrolled in a district will be appropriately adjusted to account for students ineligible for the Foundation School Program funding and those eligible for half-day attendance.
- (1) Calculated tuition limit. Beginning with the limit for the 2012-2013 school year, the calculated tuition limit is the sum of the excess maintenance and operations (M&O) revenue per enrollee and the excess debt revenue per enrollee, as calculated in paragraphs (2) and (3) of this subsection, respectively.
- (2) Excess M&O revenue per enrollee. A district's excess M&O revenue per enrollee is defined as the sum of state aid in accordance with the TEC, Chapter 42, Subchapters B, C, and F, plus the state aid generated in accordance with the TEC, §42.2516(b). These state aid amounts are added to M&O tax collections, and the sum is divided by enrollment to determine the amount of total state and local revenue per enrolled student. The amount of state aid gained by the addition of one

transfer student is subtracted from the total amount of state and local revenue per student to determine the revenue shortfall created by the addition of one student. M&O taxes exclude the local share of any lease purchases funded in the Instructional Facilities Allotment (IFA) as referenced in the TEC, Chapter 46, Subchapter A, and taxes paid to a tax increment fund authorized by the Texas Tax Code, Chapter 311.

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

Statutory Authority: The provisions of this §61.1012 issued under the Texas Education Code, §25.039 and §42.106.

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

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

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

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

as paid disaster remediation costs that the school district or charter school paid during the two-year period following the governor's initial disaster proclamation or executive order declaring a disaster and that the school district or charter school board and school district superintendent or charter school chief executive officer do not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement; and

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

school district or charter school is subject to audit by the TEA until two years after the school district or charter school certifies to the TEA in writing that the disaster is finalized and closed in accordance with subsection (j) of this section.

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

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

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

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

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

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

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

§61.1015. Property Value Adjustments Due to Taxpayer Protests.

- (a) A school district is eligible for a property value adjustment if a major taxpayer fails to pay all or a portion of its ad valorem taxes because of a protest regarding the valuation of its property.

- (1) A taxpayer is considered "major" if the amount protested contributes 5.0% or more to the tax collections of the school district.
- (2) To be eligible for the adjustment, the district must have a Maintenance and Operations (M&O) tax rate that equals or exceeds the M&O tax rate in the prior year.
- (b) The commissioner of education shall grant the adjustment at his or her discretion. If granted, the tax base of the eligible district shall be reduced by 100% of the protested value for the purpose of temporarily increasing the state aid payment to the district.
- (c) When the protest has been resolved, the district must submit the results of the settlement to the commissioner within 30 days. An appropriate form shall be supplied by the commissioner to be completed by the district documenting the results of the protest and verified by the signature of the chief appraiser.
- (d) Recovery of state aid overpayment or collection of insufficient recapture amounts due from the district as a result of the settlement shall be made by means of offsetting adjustments to current or subsequent year state aid or recapture amounts. These amounts must be repaid no later than two years after the year in which the adjustment was initially made.

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

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

§61.1016. Hazardous Transportation Funding.

- (a) General provisions. This section implements the Texas Education Code (TEC), §42.155, which allows a school district to apply for up to an additional 10% of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions or a high risk of violence if they walked to school.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) School district--For the purposes of this section, the definition of a school district includes an open-enrollment charter school.
 - (2) Hazardous traffic condition--An area within two miles of a campus where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.
 - (3) Area presenting a high risk of violence--An area within two miles of a campus that law enforcement records indicate presents a high incidence of violent crimes.
- (c) Eligibility. A school district or county is eligible to report Hazardous Area Service Annual Mileage in the Foundation School Program (FSP) Transportation application if the school district submits to the Texas Education Agency (TEA) a policy adopted by the local board of trustees that:
 - (1) explains the specific hazardous traffic conditions or areas presenting high risk for violence that apply to the district and exist within two miles of its campuses; and
 - (2) if a school district elects to implement community walking transportation programs or innovative school safety projects, requires such district-supported community walking transportation programs or innovative school safety projects to:
 - (A) utilize trained adults with current background checks to either walk students to their home or school or to stand guard along safe routes; and
 - (B) provide financial reports to the district each semester.
- (d) Reporting. School districts are required to submit a Hazardous Area Policy prior to the start of the school year and to report annual Hazardous Area Service mileage by August 1 of each school year on the Home-to-School/School-to-Home section of the FSP Transportation Route Services Report. School districts requesting funds for an area presenting a high risk of violence must provide to TEA, contemporaneously

with the explanation required by subsection (c) of this section, consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction.

- (e) Funding formula. Funding for hazardous traffic and high-risk-of-violence routes is limited to 10% of the district's two or more mile only service. Hazardous transportation funding for students riding the bus will be calculated at the standard rate for regular transportation services. Funding for high-risk-of-violence walking areas will be calculated at the special education route services rate of \$1.08 per mile.

Statutory Authority: The provisions of this §61.1016 issued under the Texas Education Code, §42.155.

Source: The provisions of this §61.1016 adopted to be effective July 11, 2018, 43 TexReg 4557.

§61.1017. Alternative Compensatory Education Allotment Calculation.

- (a) This section applies to a school district or open-enrollment charter school that:
 - (1) is located in a county declared a natural disaster by the president during the 2017-2018 school year;
 - (2) received an adjustment to average daily attendance under Texas Education Code (TEC), §42.005(d), for the 2017-2018 school year; and
 - (3) did not receive a waiver related to provisions of the National School Lunch and School Breakfast programs offered by the Texas Department of Agriculture and approved by the U.S. Department of Agriculture on August 29, 2017.
- (b) For a school district or open-enrollment charter school that meets the requirements of subsection (a) of this section, the Texas Education Agency will substitute that entity's total student enrollment as reported during the 2017-2018 Fall Texas Student Data System Public Education Information Management System (TSDS PEIMS) Snapshot in place of the number of students reported as eligible for enrollment in free or reduced-price lunches for the month of September 2017 when computing the best six-month average under TEC, §42.152(b)(1), for the 2017-2018 school year.
- (c) Subsection (b) of this section only takes effect if an entity's total student enrollment as reported in the 2017-2018 Fall TSDS PEIMS Snapshot is larger than the number of students reported as eligible for free or reduced-price lunches for the month of September 2017.

Statutory Authority: The provisions of this §61.1017 issued under the Texas Education Code, §42.152.

Source: The provisions of this §61.1017 adopted to be effective August 22, 2018, 43 TexReg 5365.

§61.1018. Payment of Health Care Supplementation.

- (a) Purpose. In accordance with the Texas Education Code (TEC), Chapter 22, Subchapter D, each year the Texas Education Agency (TEA) shall distribute staff salary allotment funds to eligible entities for the purpose of making payments of health care supplementation to eligible employees, as specified by the provisions delineated in this section.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.
 - (1) Eligible entity--An eligible entity is defined as:
 - (A) a school district or other educational district whose employees are members of the Teacher Retirement System of Texas (TRS);
 - (B) a participating open-enrollment charter school; or
 - (C) a regional education service center.
 - (2) Full-time employee--An individual is employed as a full-time employee if the individual:
 - (A) is a participating member of the TRS;
 - (B) is employed by an eligible entity;

- (C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;
 - (D) is not a minimum-salary-schedule employee; and
 - (E) works for an eligible entity or any combination of eligible entities for 30 or more hours each week.
- (3) Minimum-salary-schedule employee--A classroom teacher, full-time librarian, full-time counselor, or full-time nurse subject to the minimum salary schedule under the TEC, §21.402.
- (4) Part-time employee--An individual is employed as a part-time employee if the individual:
- (A) is a participating member of the TRS;
 - (B) is employed by an eligible entity;
 - (C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Act established under the Texas Insurance Code, Chapter 1575;
 - (D) is not a minimum-salary-schedule employee; and
 - (E) works for an eligible entity or any combination of eligible entities for fewer than 30 hours each week.
- (5) Staff salary allotment--An allotment made up of the health care supplementation funding an eligible entity is due under the TEC, Chapter 22, Subchapter D, based on the entity's number of full-time and part-time employees.
- (c) Reporting. For each designated report month, each eligible entity must report to the TEA the number of full-time and part-time employees eligible to receive health care supplementation, as determined by the eligible entity in accordance with requirements established by the TEA in this section. The TEA may dispute, seek verification of, or conduct an investigation regarding the reported number of employees and staff at any time after receiving the report.
- (d) Eligibility. For the purposes of this section, an individual is eligible to receive health care supplementation if the individual:
- (1) is employed by an eligible entity;
 - (2) is a full-time employee, as defined in subsection (b)(2) of this section, or a part-time employee, as defined in subsection (b)(4) of this section;
 - (3) is not a minimum-salary-schedule employee, as defined in subsection (b)(3) of this section; and
 - (4) has provided written election of whether to designate a portion of the individual's compensation to be used as health care supplementation, in accordance with the TEC, §22.105.
- (e) Funding formula. The funds for health care supplementation will comprise the staff salary allotment. Funding for the staff salary allotment is based on the number of employees who are eligible and the full- or part-time status of those employees. The staff salary allotment will be paid to the eligible entity as part of its regularly scheduled payments from the Foundation School Program (FSP). If the eligible entity is not scheduled or eligible to receive FSP payments, the staff salary allotment will be paid to the entity in a separate payment.
- (1) During the school year, the staff salary allotment will be based on the sum of:
 - (A) an amount equal to the estimated number of full-time employees multiplied by \$500; and
 - (B) an amount equal to the estimated number of part-time employees multiplied by \$250.
 - (2) The final staff salary allotment due to an eligible entity for a school year will be determined by the reports of eligible employees submitted to the division responsible for state funding during the settle-up processes as described in subsection (f) of this section.
 - (3) The formula for determining the final staff salary allotment is as follows.

- (A) The data submitted by an eligible entity to the division responsible for state funding is used to calculate the entity's staff salary allotment.
 - (B) Each month, the count of full-time employees is multiplied by \$500/12.
 - (C) Each month, the count of part-time employees is multiplied by \$250/12.
 - (D) The final staff salary allotment is determined by summing the monthly amounts for the full-time and part-time staff for the state fiscal year beginning September 1 and ending August 31.
- (f) Settle-up. The TEA may make adjustments to previously reported numbers and may make a corresponding increase or decrease in funds that would otherwise be remitted to an eligible entity at any time after receipt of a report. A final determination of the staff salary allotment due to an eligible entity will be based on the reports of eligible employees submitted to the TEA division responsible for state funding.
- (1) Near-final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by August 31 of that school year for those adjustments to be reflected in the near-final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in the subsequent school year. Any reductions in payments will be subtracted from the staff salary allotment due to the eligible entity in the subsequent school year until the overpayment has been recovered.
 - (2) Final settle-up. Eligible entities must submit proposed adjustments to reports of eligible employees for a school year by March 31 of the following school year for those adjustments to be reflected in the final settle-up reconciliation. Additional amounts owed to an eligible entity for health care supplementation will be added to the staff salary allotment due to the eligible entity in April and subsequent months of the current school year. Any overpayments from a prior year that exceed the amount owed to an eligible entity for health care supplementation by March 31 of the following school year will be subtracted from other FSP payments owed to that eligible entity in April and subsequent months until the full amount of overpayment has been recovered. Any overpayments that cannot be subtracted from the current staff salary allotment or other FSP payments will be due and payable on request from the TEA.
 - (3) Adjustments to allotment. For a period not to exceed five years after the close of a fiscal year, the TEA may adjust the amount of an eligible entity's staff salary allotment for that year as a result of review, investigation, or audit of the eligible entity's reports of eligible employees and other data related to the staff salary allotment.

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

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

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

- (a) General provisions. This section implements the Texas Education Code (TEC), §42.2515 (Additional State Aid for Ad Valorem Tax Credits Under Texas Economic Development Act). In accordance with the TEC, §42.2515, a school district, including a school district that is otherwise ineligible for state aid under the TEC, Chapter 42, is entitled to state aid in an amount equal to the amount of all tax credits applied against ad valorem taxes of the school district in each year that tax credits were applied pursuant to the Texas Tax Code, Chapter 313, also known as the Texas Economic Development Act. School districts eligible to receive additional state aid under the TEC, §42.2515, must apply to the commissioner of education in order to receive additional state aid equal to the qualifying ad valorem tax credits issued under the Texas Tax Code, Chapter 313, Subchapter D, as that subchapter existed prior to repeal by House Bill (HB) 3390, 83rd Texas Legislature, Regular Session, 2013, subject to certain annual limitations.
- (b) Definitions. The following phrases, words, and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.
 - (1) Eligible property--A term that has the meaning assigned in the Texas Tax Code, §313.024.

- (2) Limitation on appraised value--A term that has the meaning assigned in the Texas Tax Code, Chapter 313. A school district may limit the appraised value on a qualified property for the purposes of ad valorem taxation for a period of eight tax years, beginning with the tax year that follows the applicable two-year qualifying time period. A limitation on appraised value applies only to the maintenance and operations portion of a school district's ad valorem tax rate. For each tax year in which the limitation on appraised value is in effect, the appraised value of the qualified property that is described in the written agreement between the school district and taxpayer for school district maintenance and operations ad valorem tax may not exceed the lesser of the market value of the property or the amount to which the school district has agreed, but the limited amount must be at least the minimum amount of limitation that is set for the applicable school district category in the Texas Tax Code, Chapter 313.
 - (3) Qualified property--A term that has the meaning assigned in the Texas Tax Code, §313.021(2).
 - (4) Tax credit--A credit that is made to a taxpayer who has applied for and received a limitation on appraised value under the Texas Tax Code, Chapter 313, from the school district that approved the limitation in an amount equal to the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation agreed to by the governing body of the school district under the Texas Tax Code, §313.027(a)(2), in each year in the applicable qualifying time period.
 - (5) Tax year--The calendar year beginning January 1 in which the taxpayer incurred ad valorem taxes on the qualified property for which the taxpayer is entitled to a tax credit toward ad valorem taxes paid in that tax year.
 - (6) Texas Economic Development Act--The Texas Tax Code, Chapter 313.
- (c) Eligibility for additional state aid.
- (1) A school district may be eligible for additional state aid under the TEC, §42.2515, only pursuant to the provisions of the TEC, §42.2515, and the Texas Tax Code, Chapter 313.
 - (2) A school district must file an application on a form prescribed by the commissioner in accordance with the applicable timeline as described in subsection (i) of this section. A separate application must be made for each tax year for which additional state aid is being requested. An application, including the required supporting documentation described in subsections (d)(2) and (d)(3) of this section, as applicable, must be complete in order for the Texas Education Agency (TEA) to process it.
 - (3) A school district must be in compliance with the reporting requirements set forth in 34 Texas Administrative Code Chapter 9, Subchapter F (relating to Limitation on Appraised Value on Certain Qualified Property), to be eligible for additional state aid under the TEC, §42.2515.
- (d) Procedures for filing request for additional state aid for ad valorem tax credits.
- (1) Method of filing. All requests for additional state aid under the TEC, §42.2515, must be filed by mail with the TEA, 1701 North Congress Avenue, Austin, Texas 78701, in accordance with instructions on the application.
 - (2) Information required for first year of tax credit. A school district's initial request for additional state aid under the TEC, §42.2515, must include:
 - (A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;
 - (B) a copy of the taxpayer's application to the school district for the tax credit, together with all required attachments to the application;
 - (C) a copy of the school board's resolution or other proof that the school district has approved the taxpayer's application for the tax credit;

- (D) a copy of the tax bill sent to the taxpayer (showing the taxes imposed are net of the tax credit); and
 - (E) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.
- (3) Information required for subsequent years of tax credit. For each year subsequent to the year in which the initial request for the tax credit was approved, the request for additional state aid under the TEC, §42.2515, must include:
- (A) a completed Request for Additional State Aid for Ad Valorem Tax Credit application form, including the template that comprises a component of the application showing requested and projected additional state aid for each agreement under the Texas Tax Code, Chapter 313;
 - (B) a copy of the tax bill sent to the taxpayer (showing the taxes imposed are net of the tax credit); and
 - (C) confirmation that, as of the date of the tax credit approval, the taxpayer has not relocated its business outside of the school district.
- (e) Forms. The division of the TEA responsible for state funding will make available the application form, including the template, required under subsections (d)(2) and (d)(3) of this section.
- (f) Limitation of tax credit. In the fourth through the tenth years in which the agreement described in subsection (b)(2) of this section is in effect, the tax credit is limited to 50% of the total maintenance and operations and interest and sinking fund taxes imposed on the qualified property for the tax year for which the credit applies.
- (g) Determination of additional state aid. For any tax year for which additional state aid authorized by the TEC, §42.2515, is approved, additional state aid will be limited to the amount of the tax credit due to the taxpayer for a qualified property that is receiving a limitation on appraised value for that year as determined in the Texas Tax Code, §313.104, as that section existed prior to the repeal of the Texas Tax Code, Chapter 313, Subchapter D, by HB 3390, 83rd Texas Legislature, Regular Session, 2013.
- (h) Erroneous tax credits and recovery of state aid for erroneous tax credits. If the comptroller of public accounts or the governing body of the school district determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the school district must provide a notification of the facts to the commissioner within 30 days of the official action. If the TEA determines that an entity that received a tax credit was ineligible to have received it or received more credit than the entity should have received, the commissioner will notify the school district within 30 days of the determination. Any overpayment of additional state aid provided to the school district based on issuance of an erroneous tax credit by the school district will be fully recovered by the TEA pursuant to the TEC, §42.258.
- (i) Timeline for submission of application requests. The school district must submit its application for additional state aid for ad valorem tax credits on or before May 31 each year for which the tax credit is due.
- (j) Payment to the school district. On approval of a school district's application for additional state aid for ad valorem tax credits by the commissioner, the amount of the credit will be applied to the entitlement due to the school district (as soon as practicable after the application is approved).

Statutory Authority: The provisions of this §61.1019 issued under the Texas Education Code, §42.2515.

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

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

- (a) General provisions. This section implements the Texas Education Code (TEC), §42.2528 (Excess Funds for Video Surveillance of Special Education Settings). If the commissioner of education determines that appropriated funds are highly likely to exceed expenditures under the Foundation School Program (FSP) for the biennium after accounting for all critical FSP data required to make accurate expenditure estimates

- and there is sufficient funding remaining to provide for a grant program under the TEC, §42.2528, the commissioner shall make a grant application available to apply for funds to cover the cost of purchasing video equipment for use in implementing the TEC, §29.022, and announce the amount of funds available.
- (b) Eligibility. School districts and charter schools that have purchased or that intend to purchase video equipment for the purpose of implementing the TEC, §29.022, may apply for funds necessary to reimburse the cost of such equipment. Purchases made after September 1, 2015, that have not been previously reimbursed under this grant program or through gifts, grants, or donations under the TEC, §29.022(f), are eligible to apply.
- (c) Application process. School districts and charter schools must submit a separate application request in each year that excess funds are made available. The application shall contain, at a minimum, the following:
- (1) a description of the type of equipment to be purchased or that has been purchased using funds provided under this section;
 - (2) a description of the intended use of the equipment to be funded using funds provided under this section; and
 - (3) an itemized account of the cost of the equipment to be funded using funds provided under this section.
- (d) Finality of award. Awards of assistance under this section will be made based on the information available to the Texas Education Agency as of the deadline for receipt of applications for that application cycle.
- (e) Data sources. The maintenance and operations tax rate and the interest and sinking tax rate will be based on data from the comptroller of public accounts property tax assistance division for the current school year. Maintenance and operations tax collections and the count of students in weighted average daily attendance (WADA) will come from the most recently published summary of finance for the most recent school year that is in Final or Near Final status.
- (f) Definitions. The following terms have the following meanings when used in this section.
- (1) State maximum compressed tax rate--The state compression percentage multiplied by \$1.50.
 - (2) Maintenance and operations tax collections per WADA--The maintenance and operations tax collections net of payments into a tax increment fund and net of payments for an Instructional Facilities Allotment lease purchase arrangement as reported in the most recently available school year that is in Final or Near Final status divided by the count of students in weighted average daily attendance as reported in the same summary of finance.
 - (3) Video equipment--Video equipment as described in §103.1301(b)(8) of this title (relating to Video Surveillance of Certain Special Education Settings).
 - (4) Eligible requests--An eligible request for funds is a request for video equipment that is necessary to comply with the provisions of the TEC, §29.022, and that has not received funds under this section in a prior application cycle or through a gift, grant, or donation under the TEC, §29.022(f).
- (g) Deadlines. The commissioner will announce a deadline in conjunction with making a determination that excess funds are available for the purpose of implementing the TEC, §42.2528. All applications received by the announced deadline will be reviewed. Successful applications will be ranked according to the criteria in subsection (h) of this section.
- (h) Priority status. Upon close of the application cycle, all eligible applications will be awarded priority status in accordance with the criteria outlined in paragraphs (1)-(4) of this subsection. All applications within Priority 1 will be fully funded before funds are allocated to Priority 2 and Priority 3. Funds not used for Priority 1 will be allocated to Priority 2 and Priority 3 in proportion to the total funds requested by school districts in those categories. If Priority 2 and Priority 3 applications are fully funded, remaining funds will be allocated to Priority 4.
- (1) Priority 1. Applications from school districts that have current-year adopted tax rates for maintenance and operations of at least \$1.17. If insufficient funds remain to fully fund all Priority

- 1 applications, funds will be awarded in proportion to the amount of eligible requests for each applicant compared to total available funds.
- (2) Priority 2. Applications from school districts with maintenance and operations tax rates at least equal to the state maximum compressed tax rate. Priority 2 applications will be sorted by maintenance and operations tax collections per WADA and Priority 2 funds shall be awarded beginning with the school district with the lowest collections per WADA.
 - (3) Priority 3. Applications from school districts with interest and sinking fund tax rates of at least \$0.40 per \$100 of valuation. Priority 3 applications will be sorted by interest and sinking tax rates, and Priority 3 funds shall be awarded beginning with the school district with the highest interest and sinking tax rate. If insufficient funds remain to fully fund all Priority 3 school districts at a given interest and sinking tax rate, remaining funds will be awarded in proportion to the amount of eligible requests for each applicant compared to total available funds.
 - (4) Priority 4. All other applications. Remaining funds available for Priority 4 applications, including charter schools, shall be awarded in proportion to the amount of eligible requests compared to total available funds.
- (i) Distribution of funds. Funds will be allocated through the FSP and will appear on the school district or charter school summary of finance and be delivered as soon as is practicable after awards have been made.

Statutory Authority: The provisions of this §61.1020 issued under the Texas Education Code, §42.2528.

Source: The provisions of this §61.1020 adopted to be effective November 6, 2016, 41 TexReg 8822.