

<b>ACTION REQUIRED</b>
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December 17, 2004

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: Compliance with Class Size Requirements, Spring 2005  
Texas Education Code (TEC) §25.112

The purpose of this letter is to address the provisions and requirements of class size waivers and provide information on legislation passed by the 78<sup>th</sup> Texas Legislature. Each school district in Texas is required to conduct a class size enrollment survey for Kindergarten through Grade 4 no later than January 20, 2005. If the survey indicates that any class for Grades K-4 exceeds the allowable class size limit of 22:1, the district must submit the enclosed class size waiver request and the current approved compliance plan to the State Waiver Unit by February 18, 2005.

After January 20, 2005, if a class in Grades K-4 exceeds the 22:1 limit, the district has thirty days to submit a waiver request. Districts do not need to submit a waiver for exceeding the 22:1 limit during the last twelve weeks of school. However, a district for which average daily attendance is adjusted under Texas Education Code (TEC) §42.005(c) may claim a different twelve-week period to exceed the 22:1 limit without applying for a waiver. In such cases, the district must notify the Commissioner of Education of the twelve-week period to be used. Class size limits do not apply to physical education classes or fine arts classes. The following is a list of provisions, requirements, and new legislation.

- Unanticipated enrollment growth may be cited as the reason for the waiver request only if no more than one section per grade level at a campus has more than 22 students. If two or more sections at a grade level at a campus have more than 22 students, then the reason for the waiver request must be shortage of teachers, shortage of facilities, or shortages of both teachers and facilities.
- Updated compliance plans must delineate the specific actions that will be taken to bring the district into compliance along with a specific timeline for each action. In all instances, the plan must address the reason(s) the waiver is needed. For instance, for shortage of facilities, the district should state the number of classrooms/campuses added during the previous year (if any), the number of classrooms/campuses scheduled for completion during the period covered by the waiver, and the specific progress made since the last compliance plan was submitted (if the district submitted a waiver request for the previous semester).
- All campuses covered by the waiver are expected to have student performance that is at least acceptable if the waiver request is due to shortages of facilities and/or teachers.

To The Administrator Addressed

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- For districts requesting a class size waiver for more than two consecutive semesters, the district must initiate a public notification (approved as a part of the waiver) to ensure that the community is aware of the waiver request and of the actions the district is taking to reduce the need for continued class size waivers.
- For districts requesting a class size waiver for a campus for the third or subsequent semester, staff will be required to hold a meeting for parents and community members at each campus covered by the waiver request to discuss the continued need for the waiver, the specific steps that will be taken to bring the district into compliance, and the specific timeline for eliminating the need for future waivers. The action plan must be included in the campus and district improvement plans.
- Student performance will be considered for districts that request class size waivers for more than four consecutive semesters.
- For districts requesting a waiver for the fifth or subsequent consecutive semester, all campuses covered by the waiver are expected to show annual gains in performance for all students and for each student group on each state assessment administered.
- Notice of Class Size, TEC §25.113. A campus or district that is granted an exception under TEC §25.112(d) from class size limits will provide written notice of the exception to the parent of (or person standing in parental relation to) each student affected by the exception. The notice must be characterized by the following four elements. It must (a) indicate the particular class for which a class size waiver was granted, (b) state the number of students in that class, (c) be delivered in a regular mailing or other means of communication from the campus or district, such as information sent home with students, and (d) not be delivered any later than the 31<sup>st</sup> day of the school year or the 31<sup>st</sup> day from the date the waiver was granted, if it was granted after the beginning of the school year.
- For districts requesting a class size waiver for the seventh or subsequent semester at any campus, the local board of trustees must hold a public hearing regarding the continued need for a class size waiver at one or more campuses, the specific steps taken to date to bring the district into compliance, and the future actions and timeline for eliminating the need for a waiver for each campus covered by the request. The action plan must be included in the campus and district improvement plans.

For questions regarding class size waivers, please contact the State Waiver Unit at 512-463-9630.

Sincerely,

Shirley J. Neeley, Ed.D.  
Commissioner of Education

[Enclosure](#)