

Chapter 61. School Districts

Subchapter AA. Commissioner's Rules on School Finance

§61.1010. Standards for School District Administrative Cost Ratios.

(a) Administrative cost ratio standards are established on the basis of the refined average daily attendance (ADA) of a school district for the prior year, unless the district qualified in that prior year for a sparsity adjustment.

(1) For an ADA of 10,000 or more, the standard is 0.1105.

(2) For an ADA of 5,000-9,999, the standard is 0.1250.

(3) For an ADA of 1,000-4,999, the standard is 0.1401.

(4) For an ADA of 500-999, the standard is 0.1561.

(5) For an ADA of less than 500 without a sparsity adjustment, the standard is 0.2654.

(6) For a district that qualified for a sparsity adjustment, the standard is 0.3614.

(b) For the administrative cost limits calendar that begins in May 1994, prior year refers to the 1992-1993 school year. For the administrative cost limits calendar that begins in May 1995, prior year refers to the 1993-1994 school year.

Statutory Authority: The provisions of this §61.1010 issued under the Texas Education Code, §42.201.

Source: The provisions of this §61.1010 adopted to be effective April 20, 1994, 19 TexReg 2384.

§61.1011. Public Education Grant Supplemental Payments.

(a) Definitions. The following phrases, when used in the implementation of Texas Education Code, §29.203(b), or in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) Cost to the district of providing services – The Foundation School Program cost per student, including the equalized state and local share of the guaranteed yield allotment at the district's tax effort for the applicable school year, as limited by Texas Education Code, §42.253(e).

(2) Net additional students – The number of students accepted by a district under the public education grant program minus the number of that district's resident students who are educated in other districts under the public education grant program. For purposes of this section, the number of net additional students cannot be less than zero.

(b) Computation methodology. A school district with property wealth per student greater than the guaranteed wealth level but less than the equalized wealth level is entitled to a supplemental payment for the number of net additional students educated under the public education grant program. The amount of the supplemental payment shall be computed as the guaranteed level multiplied by the district enrichment and facilities tax rate as specified in Texas Education Code, §42.302(a), as limited by Texas Education Code, §42.253(e), multiplied by the number of net additional students.

(c) Payment method. The supplemental payment shall be made to the district in a lump sum in the subsequent school year.

Statutory Authority: The provisions of this §61.1011 issued under the Texas Education Code, §29.203(b), as added by House Bill 318, 75th Texas Legislature, 1997.

Source: The provisions of this §61.1011 adopted to be effective September 1, 1998, 24 TexReg 7779.

§61.1012. Contracts and Tuition for Education Outside District.

(a) Definitions. The following words and terms, when used in this section, shall 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 adjusting the property value of the home district as authorized by Texas Education Code (TEC), §42.1606, 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 adjusted

property value for the home district. The calculation will utilize 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) Excess maintenance and operations (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 TEC, Chapter 42, Subchapters B, C, and F, plus M&O tax collections, with the sum divided by enrollment, less the state aid gained by the addition of one transfer student. M&O taxes exclude the local share of any lease purchases funded in the Instructional Facilities Allotment (IFA) as referenced in TEC, Chapter 46, Subchapter A.

(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 (FSP) 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.

(2) Excess debt revenue per enrollee. A district's excess debt revenue per enrollee is defined as Interest and Sinking Fund (I&S) taxes budgeted to be collected that surpass the taxes equalized by the IFA pursuant to TEC, Chapter 46, Subchapter A, and the Existing Debt Allotment (EDA) pursuant to TEC, Chapter 46, Subchapter B, divided by enrollment.

(A) The local share of the IFA for bonds and the local share of the EDA are subtracted from debt taxes budgeted to be collected as reported through PEIMS.

(B) The estimate of enrollment includes transfer students.

(3) Base tuition limit. The base tuition limit per transfer student for the receiving district is a percentage of its state and local entitlement per enrollee from both tiers of the FSP. The entitlement includes the Texas Education Agency's estimate for the current year for the total of allotments in accordance with TEC, Chapter 42, Subchapters B and C, plus the state and local shares of the guaranteed yield allotment (GYA) in accordance with TEC, Subchapter F.

(A) For this purpose, the GYA is calculated as the product of the elements guaranteed leave (GL) multiplied by weighted average daily attendance

(WADA), then multiplied by district tax rate (DTR), and finally by 100. All applicable limits for DTR apply to the calculation as specified in §105.1011 of this title (relating to Distribution of Foundation School Fund), and GL is limited as directed in TEC, §42.152(t).

(B) The applicable proportions of the entitlement are 20% in the 2000-2001 school year, 15% in the 2001-2002 school year, and 10% in the 2002-2003 school year and beyond.

(4) Calculated tuition limit. The calculated tuition limit is the sum of the excess M&O revenue per enrollee, the excess debt revenue per enrollee, and the base tuition limit, as calculated in subsections (b)(1), (b)(2), and (b)(3) of this section, respectively.

(5) 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 non-tax 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.

(c) Maximum tuition amount in property value adjustment. For the 2000-2001 school year, the maximum amount of tuition that can be applied to the property value adjustment for school districts offering fewer than all grade levels in accordance with TEC, §42.106, may not exceed the greater of the amount per student computed in subsection (b)(4) of this section or the amount per student actually paid during the 1999-2000 school year if both districts adopt a written agreement specifying a rate that exceeds the computation in subsection (b)(4) of this section. Tuition may not exceed the rate paid in the 1999-2000 school year. For subsequent years, the maximum amount to be used in the adjustment to property value is limited to the amount per student computed in subsection (b)(4) of this section.

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.

§61.1013. Gap Funding.

(a) Gap funding is supplemental state assistance to school districts that do not achieve the same revenue benefit per weighted student as districts eligible for tier II funding due to formula changes enacted by the 77th Texas Legislature, 2001.

(b) Districts eligible for gap funding are:

(1) those with wealth above the tier II guarantee level that applied in the 2000-2001 school year and below the equalized wealth level per weighted pupil; and

(2) those subject to wealth equalization with a revenue gain from the increase to the equalized wealth level enacted by the 77th Texas Legislature, 2001, that is less than the revenue gain from the gap funding formula.

(c) The district tax rate (DTR) in the gap funding formula is the district's DTR determined in accordance with Texas Education Code (TEC), §42.302 and §42.303.

(d) Gap funds shall be distributed to eligible districts along with other state aid payments in accordance with their Foundation School Program payment class. For eligible districts that are subject to recapture, gap funds shall be used first to reduce any recapture amounts owed.

(e) This section, issued under TEC, §42.2513, expires September 1, 2003.

Statutory Authority: The provisions of this §61.1013 issued under the Texas Education Code, §42.2513(f).

Source: The provisions of this §61.1013 adopted to be effective December 2, 2001, 26 TexReg 9618.

§61.1014. Determination of Foundation School Program Gains.

(a) The commissioner of education shall determine for each school district and open-enrollment charter school the amount of gain from modifications to the school finance formulas enacted by the 77th Texas Legislature, 2001.

(1) The determination of gain is made by comparing the state aid or recapture amounts generated with the change in the formulas to the state aid or recapture amounts produced with the formulas prior to the changes, with all other data elements constant in the two calculations for any given year.

(2) The changes to the formulas include modifications of the equalized wealth level under Texas Education Code (TEC), §41.002, changes to the tier II guarantee level under TEC, §42.302, and supplemental "gap funding" under TEC, §42.2513, as applicable.

(b) The commissioner shall provide worksheets for school districts and open-enrollment charter schools to compute estimates of formula gain.

(c) The commissioner shall make a preliminary determination of gain in late August of the year preceding each applicable school year and shall certify the final gain in March of the year following each applicable school year.

Statutory Authority: The provisions of this §61.1014 issued under the Texas Education Code, §42.2591(d) and §42.260(e).

Source: The provisions of this §61.1014 adopted to be effective December 2, 2001, 26 TexReg 9618.

§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. Delivery of Funds per House Bill 1, Rider 82, 2003.

(a) General provisions. For the 2003-2004 and 2004-2005 school years, each school district and open-enrollment charter school is entitled to an additional \$110 per student in weighted average daily attendance as authorized by the General Appropriations Act, House Bill 1, Rider 82, 78th Texas Legislature, 2003. Only those school districts that are authorized to participate in the full range of Tier 1 allotments under Texas Education Code (TEC), Chapter 42, and open-enrollment charter schools established under TEC, Chapter 12, are eligible to receive this funding. A school district required to take an action under TEC, Chapter 41, is eligible to receive the \$110 per student in weighted average daily attendance, subject to the adjustment in subsection (d) of this section.

(b) Calculation. The amount to which each eligible school district or open-enrollment charter school is entitled shall be based on the final weighted average daily attendance of those students actually educated by the entity for the respective school years. An estimate of the weighted average daily attendance shall be used for purposes of the initial calculation.

(c) Payment and reconciliation. Payment of the estimated amount shall be made in conjunction with other regularly scheduled state aid payments from the Foundation School Fund solely as an administrative convenience, and is not considered part of the general state aid calculation under the formulas for state aid in TEC, Chapters 42 or 46. Upon final determination of the amount earned for the 2003-2004 school year, the 2004-2005 amount shall be increased or reduced for any underpayment or overpayment from the preceding school year. Upon final determination of the amount earned for the 2004-2005 school year, and pending any future legislative action that would affect it, the 2005-2006 Foundation School Program entitlement for the school district or open-enrollment charter school shall be increased or reduced for the amount overpaid or underpaid for the 2004-2005 school year.

(d) Adjustment. For districts that are not entitled to state aid from the Foundation School Fund in Tier 1 as computed according to TEC, §42.253(c), the total amount of funding provided under Rider 82 is subject to reduction for the increase in the amount of funding received from the Available School Fund caused by the adoption of amendments to the Texas Constitution, Article VII, §5, at the election held September 13, 2003. The Texas Education Agency shall provide a computation of the additional revenue derived from the constitutional amendment to each affected district. The amount of the reduction shall be equal to the difference between the payment from the Available School Fund before and after the effects of the constitutional amendment, less any increase in recapture payment under TEC, §41.002(e), that may arise as a result of the increase in revenue from the

Available School Fund. In no case shall the adjustment result in a payment for Rider 82 purposes higher than \$110 per student in weighted average daily attendance.

Statutory Authority: The provisions of this §61.1016 issued under the General Appropriations Act, House Bill 1, Rider 82, 78th Texas Legislature 2003.

Source: The provisions of this §61.1016 adopted to be effective February 22, 2004, 29 TexReg 1361.

§61.1017. Optional Flexible Year Program.

(a) General provisions. In accordance with Texas Education Code (TEC), §29.0821, a school district may modify their instructional calendar to provide a flexible year program to meet the educational needs of its students, including providing intensive instructional services. A school district approved by the commissioner of education to implement an Optional Flexible Year Program (OFYP) may reduce the number of instructional days for certain students.

(b) Eligibility. A student is eligible to participate in the OFYP if the student meets one or more of the following criteria.

(1) The student did not or is not likely to achieve a passing score on an assessment instrument administered under TEC, §39.023.

(2) The student is not eligible for promotion to the next grade level.

(c) Program criteria.

(1) A school district may reduce the number of instructional days during the regular school year for students who are not eligible for participation in this program to no fewer than 170 days.

(2) A school district must provide at least 180 days of instruction to those students who meet the eligibility criteria defined in subsection (b) of this section.

(3) In accordance with subsection (d) of this section, a school district may request waivers for no more than five days of staff development or teacher preparation in order to provide additional days of instruction.

(4) A school district that provides transportation services must continue to provide these services during the OFYP.

- (5) A school district that participates in the National School Lunch Program or the National School Breakfast Program must continue to provide these services during the OFYP.
- (6) A school district may require educational support personnel to provide service as necessary for an OFYP.
- (7) Each educator employed under a ten-month contract must provide the minimum days of service required under TEC, §21.401, notwithstanding the reduction in the number of instructional days or in the number of staff development days.
- (d) Approval process. To implement an OFYP, a school district must request prior approval from the commissioner of education.
- (1) A school district must submit a letter to the Texas Education Agency division responsible for state funding describing the proposed modifications to the instructional calendar, including a description of the OFYP that will be provided under TEC, §29.0821. The letter must indicate the date on which the board of trustees approved the modified instructional calendar. If the district is requesting a waiver of staff development days or teacher preparation days, the letter must also indicate that the request to waive staff development days or teacher preparation days has been approved by the campus site-based decision-making committee. The letter must be submitted no later than 90 days prior to the first day of the proposed instructional calendar in which the district is requesting to implement the OFYP.
- (2) Approval to modify the number of instructional days is limited to one year. Extensions may be approved by submitting subsequent applications.
- (3) No approval will be granted that reduces the number of instructional days to fewer than 170 days.
- (4) The commissioner may require a school district to provide an evaluation that demonstrates the success of their approach as a condition of approval.
- (e) Funding. For a school district that operates an OFYP, the calculation of average daily attendance is modified to reflect the approved instructional calendar. For students placed on a reduced instructional calendar, the reported number of days of instruction used as the divisor in calculating average daily attendance shall reflect the reduced number of days (no fewer than 170). For eligible students served through the OFYP, the reported number of days of instruction used as the divisor in calculating average daily attendance shall reflect the scheduled number of days (180 or more) in which instruction took place.

Statutory Authority: The provisions of this §61.1017 issued under the Texas Education Code, §29.0821.

Source: The provisions of this §61.1017 adopted to be effective October 18, 2005, 30 TexReg 6732.

§61.1018. Payment of Supplemental Compensation.

(a) Purpose. In accordance with the Texas Education Code (TEC), Chapter 22, Subchapter D, each month the Texas Education Agency (TEA) shall distribute funds, subject to the availability of funds, for the purpose of payment of supplemental compensation, 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) Entity--An 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 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 a school district, other educational district whose employees are members of the TRS, a participating charter school, or a regional education service center;

(C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Program established under the Texas Insurance Code, Chapter 1575;

(D) is not professional staff; and

(E) works for an entity or any combination of entities for 30 or more hours each week.

(3) 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 a school district, other educational district whose employees are members of the TRS, a participating charter school, or a regional education service center;

(C) is not a retiree covered under the Texas Public School Retired Employees Group Benefits Program established under the Texas Insurance Code, Chapter 1575;

(D) is not professional staff; and

(E) works for an entity or any combination of entities for less than 30 hours each week.

(4) Professional staff--An individual is employed as professional staff if:

(A) the individual is employed by a school district, a charter school, or other eligible entity that is not a regional education service center and 50% or more of the individual's time is reported under any combination of the role identifications in the Public Education Information Management System (PEIMS) specified in this subparagraph, or under any subsequently created role identifications that describe roles that are substantially similar to the ones identified in this subparagraph;

Figure: 19 TAC §61.1018(b)(4)(A)

(B) the individual is employed by a regional education service center and 50% or more of the individual's time is reported under any combination of the role identifications in PEIMS specified in this subparagraph, or under any subsequently created role identifications that describe roles that are substantially similar to the ones identified in this subparagraph; or

Figure: 19 TAC §61.1018(b)(4)(B)

(C) regardless of how the individual's time is reported in PEIMS, 50% or more of the individual's time is reported in a role that is substantially similar to a role set out in subparagraph (A) or (B) of this paragraph, as determined by the reporting entity or combination of entities.

(c) Reporting. For each designated report month, each entity shall report to the TEA the number of full-time and part-time employees eligible to receive supplemental compensation and the total number of professional staff, as determined by the entity in accordance with requirements established by the TEA in this section.

(1) The TEA division responsible for state funding must receive each monthly report by 5:00 p.m. Central Time on the 10th calendar day of each month or, if

that date is not a business day, by 5:00 p.m. Central Time on the first business day after the 10th calendar day of the month.

(2) 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 supplemental compensation if the individual:

(1) is a full-time employee, as defined in subsection (b)(2) of this section, or a part-time employee, as defined in subsection (b)(3) of this section;

(2) is not a professional staff member, as defined by subsection (b)(4) of this section; and

(3) has been employed by an eligible entity for a period of at least 91 days.

(e) Funding formula. The TEA will remit funds to an entity if the TEA receives the required report on or before the deadline and does not seek verification of, choose to investigate, or otherwise dispute information in the report upon initial review. The remittance is subject to later adjustment if the TEA determines that there are errors in the report. The TEA will remit to the entity, subject to the availability of funds appropriated for this purpose, the sum of:

(1) an amount equal to the number of full-time employees reported by the entity for the reporting month multiplied by \$500 and divided by 12; and

(2) an amount equal to the number of part-time employees reported by the entity for the reporting month multiplied by \$250 and divided by 12.

(f) Distribution.

(1) If a report is submitted after the deadline specified in subsection (c) of this section, remittance to the reporting entity will be delayed by at least one month even if the TEA does not dispute or seek verification of the numbers reported.

(2) In the first month an individual becomes eligible for the supplement, all entities must begin to distribute the appropriate monthly supplement to each eligible individual employed by the entity, regardless of whether reports are submitted in accordance with the deadlines and other requirements of this section.

(3) Entities must continue to make the appropriate monthly distribution to eligible individuals for the length of time that such individuals are employed, as determined by the entity, for at least one day of the applicable month, provided

that the individual did not receive a monthly distribution from another entity for employment that occurred earlier in the same month.

(g) Settle-up.

(1) Entities must submit proposed adjustments to previously reported numbers through September 30 of the fiscal year following the reporting month. 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 entity at any time after receipt of a report.

(2) A final determination of supplemental compensation for a school year shall be based on the reports of eligible employees submitted to the TEA division responsible for state funding. Any adjustments to prior year reporting must be completed by September 30 of the following school year.

(A) Additional amounts owed to districts for supplemental compensation shall be added to payments of supplemental compensation in the subsequent school year, and any reductions in payments shall be subtracted from payments of supplemental compensation in the subsequent school year until the overpayment has been recovered.

(B) Any overpayments from a prior year that exceed the amount of supplemental compensation owed to a school district or charter school by March 31 of the following school year will be subtracted from the Foundation School Fund payments owed to that school district or charter school in April and subsequent months until the full amount of overpayment has been recovered. Any overpayments that cannot be subtracted from current payments of supplemental compensation or Foundation School Fund payments will be due and payable upon request from the TEA.

(C) Adjustments to state assistance based on changes in the final number of eligible employees resulting from a subsequent audit or review of the data reported to the TEA or to the TRS must be requested no later than 12 months following the close of the school year for which the adjustment is sought.

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.