

ATTACHMENT I

Statutory Citations Relating to Review of 19 TAC Chapter 105, Foundation School Program, Subchapter A, Definitions, and Subchapter B, Use of State Funds

Rule Review

Texas Government Code, §2001.039, Agency Review of Existing Rules:

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

19 TAC Chapter 105, Foundation School Program, Subchapter A, Definitions, and Subchapter B, Use of State Funds

Texas Education Code (TEC), §42.004, Administration of the Program:

The commissioner, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with this chapter as may be necessary to implement and administer the Foundation School Program.

TEC, §42.151, Special Education (excerpt):

- (h) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter A, Chapter 29.

TEC, §42.152, Compensatory Education Allotment (excerpts):

- (c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Specifically,

the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or a disciplinary alternative education program established under Section 37.008, to pay the costs associated with placing students in a juvenile justice alternative education program established under Section 37.011, or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. For purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular education program, and a district may use its compensatory education allotment for such a program.

- (c-1) Notwithstanding Subsection (c), funds allocated under this section may be used to fund in proportion to the percentage of students served by the program that meet the criteria in Section 29.081(d) or (g):
 - (1) an accelerated reading instruction program under Section 28.006(g); or
 - (2) a program for treatment of students who have dyslexia or a related disorder as required by Section 38.003.
- (c-2) Notwithstanding Subsection (c), funds allocated under this section may be used to fund a district's mentoring services program under Section 29.089.

TEC, §42.153, Bilingual Education Allotment (excerpt):

- (b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures.

TEC, §42.154, Career and Technology Education Allotment (excerpt):

- (c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing career and technology education programs in grades nine through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

TEC, §42.1541, Indirect Cost Allotments:

- (a) The State Board of Education shall by rule increase the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(a-1) and (c) and in effect for the 2010-2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter for the 2011-2012 school year as a result of S.B. Nos. 1 and 2, Acts of the 82nd Legislature, 1st Called Session, 2011.

- (b) To the extent necessary to permit the board to comply with this section, the limitation on the percentage of the indirect cost allotment prescribed by Section 42.152(c) does not apply.
- (c) The board shall take the action required by Subsection (a) not later than the date that permits the increased indirect cost allotments to apply beginning with the 2011-2012 school year.

TEC, §42.156, Gifted and Talented Student Allotment (excerpt):

- (b) Funds allocated under this section, other than the amount that represents the program's share of general administrative costs, must be used in providing programs for gifted and talented students under Subchapter D, Chapter 29, including programs sanctioned by International Baccalaureate and Advanced Placement, or in developing programs for gifted and talented students. Each district must account for the expenditure of state funds as provided by rule of the State Board of Education. If by the end of the 12th month after receiving an allotment for developing a program a district has failed to implement a program, the district must refund the amount of the allotment to the agency within 30 days.