

ATTACHMENT II
Text of 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts

§109.1. Financial Accounting.

- (a) A uniform system of public school budgeting, accounting, and financial reporting shall be provided and employed throughout the state as required by law. The uniform system for budgeting, accounting, and financial reporting is to reflect the full implementation of modified and full accrual accounting, as appropriate, in accordance with generally accepted accounting principles.
- (b) The commissioner of education shall develop and administer the requirements relating to budgeting, accounting, financial reporting, and auditing for Texas public schools. The commissioner of education shall ensure adequate stakeholder involvement in the design and modification of these requirements. The State Board of Education shall approve the budgeting, accounting, and reporting systems and the auditing procedures as determined by the commissioner of education. The school districts and charter schools shall install the budgeting, accounting, and financial reporting system as required by law and meet the audit requirements as developed by the commissioner of education and subject to review and comment by the state auditor when required by law.

Statutory Authority: The provisions of this §109.1 issued under the Texas Education Code, §§7.102(c)(32), 44.001, 44.002, 44.007, and 44.008.

Source: The provisions of this §109.1 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective October 13, 2002, 27 TexReg 9317.

Subchapter B. Texas Education Agency Audit Functions

§109.21. Annual Audit Plan.

The commissioner of education shall submit an annual audit plan for field and independent audits for review of the designated committee of the State Board of Education. The plan may be amended as needed by the commissioner of education. The designated committee of the State Board of Education shall be informed at least annually by the commissioner of education on the progress of and amendments to the plan.

Statutory Authority: The provisions of this §109.21 issued under the Texas Education Code, §44.001.

Source: The provisions of this §109.21 adopted to be effective September 1, 1996, 21 TexReg 2076.

§109.23. School District Independent Audits and Agreed-Upon Procedures.

- (a) A school district, governmental charter school, open-enrollment charter school, nonprofit service provider, county education district, or regional education service center must file with the Texas Education Agency (TEA) an annual financial and compliance report and, if applicable, a state compensatory agreed-upon procedures report. These reports must be audited by an independent auditor, and the audit must be reviewed by the TEA, including review of auditors' working papers, in accordance with the Financial Accountability System Resource Guide, as adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide).
- (b) The annual financial audit report and state compensatory agreed-upon procedures report are due 150 days after the end of the fiscal year.
- (c) Auditors from the TEA must review independent audit reports. The commissioner's designee must resolve audit findings.

- (d) The district or other educational entity must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.
 - (1) The independent auditor must:
 - (A) be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy;
 - (B) be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under the Texas Education Code, §44.008; and
 - (C) adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the US Government Accountability Office, as amended.
 - (2) The CPA firm must:
 - (A) be a member of the AICPA Governmental Audit Quality Center (GAQC);
 - (B) adhere to GAQC's membership requirements; and
 - (C) collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:
 - (i) Texas public school district environment; or
 - (ii) public sector; or
 - (iii) nonprofit sector.
- (e) If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the standards required as stated in subsection (d) of this section, the division may require the district or other educational entity to change its audit firm.
- (f) To the extent that this section conflicts with any other rule regarding audits of school districts and other educational entities by independent auditors and the TEA, this section controls.

Statutory Authority: The provisions of this §109.23 issued under the Texas Education Code, §§7.102(c)(32), 44.001, 44.007, 44.008, and 44.010.

Source: The provisions of this §109.23 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective October 13, 2002, 27 TexReg 9317; amended to be effective March 10, 2015, 40 TexReg 1084.

§109.25. State Compensatory Education Program Reporting and Auditing System.

- (a) Each school district and charter school shall report financial information relating to expenditure of the state compensatory education allotment under the Foundation School Program to the Texas Education Agency (TEA). Each school district and charter school shall report the information according to standards for financial accounting provided in §109.41 of this title (relating to Financial Accountability System Resource Guide.) The financial data will be reported annually through the Public Education Information Management System. The commissioner of education shall ensure that districts follow guidelines contained in the "Financial Accountability System Resource Guide" in attributing supplemental direct costs to state compensatory education and accelerated instruction programs and services. Costs charged to state compensatory education shall be for programs and services that supplement the regular education program.
- (b) Each school district and charter school shall ensure that supplemental direct costs and personnel attributed to compensatory education and accelerated instruction are identified in district and/or campus improvement plans at the summary level for financial units or campuses. Each school district and charter school shall maintain documentation that supports the attribution of supplemental costs and personnel to compensatory education. School districts and charter schools must also maintain sufficient documentation supporting the

appropriate identification of students in at-risk situations, under criteria established in Texas Education Code (TEC), §29.081.

- (c) The TEA shall conduct risk assessment and desk audit processes to identify the school districts, charter schools, or campuses most at risk of inappropriate allocation and/or underexpenditure of the compensatory education allotment. In the risk assessment and desk audit processes, the TEA shall consider the following factors:
 - (1) aggregate performance of students in at-risk situations on the state assessment instruments that is below the standards for the "acceptable" rating, as defined in the state accountability system;
 - (2) the financial management of compensatory education funds; and/or
 - (3) the quality of data related to compensatory education submitted by a school district or charter school.
- (d) The TEA shall use the results of risk assessment and desk audit processes to prioritize school districts or charter schools for the purpose of on-site visits and may conduct on-site visits.
- (e) The TEA shall issue a preliminary report resulting from a desk audit or an on-site visit before submitting a final report to the school district or charter school. After issuance of a preliminary report, a school district or charter school must file with the TEA the following:
 - (1) a response to the preliminary report within 20 calendar days from the date of the preliminary report outlining steps the school district or charter school will take to resolve the issues identified in the preliminary report; and
 - (2) a corrective action plan within 60 calendar days from the date of the preliminary report if the school district's or charter school's response to the preliminary report does not resolve issues identified in the preliminary report.
- (f) The TEA shall issue a final report that indicates whether the school district or charter school has resolved the findings in the preliminary report and whether the corrective action plan filed under subsection (e)(2) of this section is adequate.
 - (1) If the final report contains a finding of noncompliance with TEC, §42.152(c), the report shall include a financial penalty authorized under TEC, §42.152(q).
 - (2) If the school district or charter school responds with an appropriate corrective action plan, the TEA shall rescind the financial penalty and release the amount of the penalty to the school district or charter school.
- (g) The TEA may conduct an on-site visit to verify the implementation of a school district's or charter school's corrective action plan.

Statutory Authority: The provisions of this §109.25 issued under the Texas Education Code, §42.152, as amended by Senate Bill 1873, 75th Texas Legislature, 1997.

Source: The provisions of this §109.25 adopted to be effective September 1, 1998, 24 TexReg 7781; amended to be effective October 13, 2002, 27 TexReg 9317.

Subchapter C. Adoptions By Reference

§109.41. Financial Accountability System Resource Guide.

- (a) The rules for financial accounting are described in the official Texas Education Agency publication, Financial Accountability System Resource Guide, dated January 2010 (with *Module 4 - Auditing* updated April 2012), which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.
- (b) The commissioner of education shall amend the Financial Accountability System Resource Guide and this section adopting it by reference, as needed. The commissioner shall inform the State Board of Education of

the intent to amend the Resource Guide and of the effect of proposed amendments before submitting them to the Office of the Secretary of State as proposed rule changes.

Statutory Authority: The provisions of this §109.41 issued under the Texas Education Code, §§7.055, 7.102(c)(32), 44.001, 44.007, and 44.008.

Source: The provisions of this §109.41 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective February 15, 1998, 23 TexReg 1020; amended to be effective September 1, 1998, 24 TexReg 7782; amended to be effective December 13, 1998, 23 TexReg 12301; amended to be effective September 12, 1999, 24 TexReg 6978; amended to be effective December 5, 1999, 24 TexReg 10537; amended to be effective July 31, 2001, 26 TexReg 5638; amended to be effective December 30, 2001, 26 TexReg 10539; amended to be effective September 1, 2002, 27 TexReg 7802; amended to be effective January 5, 2003, 27 TexReg 12213; amended to be effective November 16, 2003, 28 TexReg 9833; amended to be effective December 30, 2004, 29 TexReg 11972; amended to be effective July 31, 2008, 33 TexReg 5929; amended to be effective April 26, 2010, 35 TexReg 3261; amended to be effective August 9, 2012, 37 TexReg 5746.

Subchapter D. Uniform Bank Bid or Request for Proposal and Depository Contract

§109.51. Uniform Depository Bank Bid or Proposal Form.

- (a) At least 60 days before the end of the current depository contract, each school district must decide to use either competitive bidding or a request for proposals to choose a new depository.
- (b) At least 30 days before the end of the current depository contract, the district must mail the uniform blank form for the selected process to each bank located in the district. The district must use either the uniform bid form specified in subsection (c) of this section or the uniform proposal form specified in subsection (d) of this section. The district may add other terms to the uniform bid or proposal form if the added terms do not unfairly restrict competition between banks as stated in the Texas Education Code, §45.206(b). The district must keep the selected bid or proposal form in the district and make it available to the Texas Education Agency upon request.
- (c) This subsection provides the uniform bid blank form, entitled "Bid Form for Depository Services."
Figure: 19 TAC §109.51(c)
- (d) This subsection provides the uniform proposal blank form, entitled "Proposal Form for Depository Services."
Figure: 19 TAC §109.51(d)

Statutory Authority: The provisions of this §109.51 issued under the Texas Education Code, §§7.102(c)(34), 45.206, and 45.208.

Source: The provisions of this §109.51 adopted to be effective September 1, 1997, 22 TexReg 3780; amended to be effective March 4, 2001, 26 TexReg 1708; amended to be effective October 13, 2002, 27 TexReg 9316; amended to be effective August 17, 2008, 33 TexReg 6592; amended to be effective May 15, 2014, 39 TexReg 3706.

§109.52. Uniform Depository Bank Contract and Surety Bond Forms.

- (a) Each school district must use the uniform depository contract form as provided in subsection (b) of this section. The district must complete the form and file it electronically with the Texas Education Agency (TEA) as specified in the Texas Education Code (TEC), §45.208, and in accordance with filing instructions provided on the TEA website.
- (b) This subsection provides the uniform depository contract form, entitled "Depository Contract for Funds of Independent School Districts under the Texas Education Code, Chapter 45, Subchapter G, School District Depositories."
Figure: 19 TAC §109.52(b)
- (c) If a district's depository elects a surety bond to secure the district's deposit amounts less any applicable Federal Deposit Insurance Corporation insurance, the depository must complete the surety bond form

provided in subsection (d) of this section, attach it to the contract, and file it with the district. The district must file a copy of the contract and the surety bond form with the TEA as specified in the TEC, §45.208, and in accordance with filing instructions provided on the TEA website.

- (d) This subsection provides the uniform surety bond form, entitled "Texas School Depository Surety Bond Form."

Figure: 19 TAC §109.52(d)

- (e) If the TEA receives a contract form and determines that it is incomplete, the TEA will notify the district.
- (f) A district that has no current depository contract in force and filed with the TEA will receive its warrants from the TEA by US mail.
- (g) For depository contract filing requirements for charter schools, refer to §100.1043 of this title (relating to Status and Use of State Funds; Depository Contract).

Statutory Authority: The provisions of this §109.52 issued under the Texas Education Code, §§7.102(c)(34), 45.206, and 45.208.

Source: The provisions of this §109.52 adopted to be effective September 1, 1997, 22 TexReg 3780; amended to be effective March 4, 2001, 26 TexReg 1708; amended to be effective October 13, 2002, 27 TexReg 9316; amended to be effective August 17, 2008, 33 TexReg 6592; amended to be effective May 15, 2014, 39 TexReg 3706.