



Public Comments on Proposed Amendments to Commissioner's Rules in 19 TAC Chapter 150 January 18, 2022

The Association of Texas Professional Educators (ATPE) respectfully submits the following comments on the proposed amendments to 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal, Subchapter AA, Teacher Appraisal, §150.1012, Local Optional Teacher Designation System.

150.1012(a)(1)(I) – Provisional Approval Definition

The proposed rules would redefine provisional approval of a local optional teacher designation system to allow the Texas Education Agency (TEA) to require that a district submit video as part of their resubmission for system review. ATPE has serious confidentiality concerns about whether such submissions will contain video of teachers in the act of teaching. Texas Education Code (TEC) §21.3521(h) requires the agency to collect the information necessary to implement that section but also specifies that “information otherwise confidential remains confidential.” Statute does not authorize the unmasking or linking of individual teachers’ identities to any evaluation or observation data collected by the agency under these rules. To comply with the authorizing statute, **ATPE recommends that the proposed rule eliminate the ability of TEA to request video submission.**

150.1012(b)(2) – Teacher Eligibility

The description of the changes to 150.1012(b)(2) state that they would add a requirement “that a teacher must provide a year of service for each district” to “ensure that teachers generate funding for districts in which they have served a year of service.” This is likely designed to capture situations in which an educator has worked in multiple districts. In these cases, the proposed rules would ensure that the district in which the educator works for the majority of their time is the district that receives the Teacher Incentive Allotment (TIA) funds. However, the rule amendments do not align with the description of the changes—a situation that raises red flags by implying that a teacher who receives a designation is then locked into one year of service with each district in which they generated the designation. **ATPE recommends clarifying the explanatory language provided for (b)(2) to align with the rule changes.**

The changes to (b)(2) also give a great amount of administrative discretion to TEA that could allow for disputes to be settled on an undefined timeline. Any delays to dispute resolution could significantly affect an educator’s pay. **ATPE recommends tightening the timeline to ensure disputes are resolved by the start of the next school year in which TIA funds would be distributed.**

150.1012(d) – Approval for Changes

The amendments to (d) outline which specific changes to a district's local optional teacher designation system would trigger the need to submit an application to TEA for approval. Although the increased clarity is beneficial, the list of changes in (1)-(10) appear to require all districts currently operating a local optional teacher designation system to apply for approval. For instance, if the new language in this proposal is adopted, then districts would have to "include progressive descriptors" in their teacher observation rubrics under proposed (c)(2)(A)(i)(II). Because districts would be "changing a previously approved teacher observation rubric," they would need to apply for approval under proposed (d)(3). **ATPE recommends defining a deadline for districts to submit their applications for approval rather than relying on "the year prior to implementation" so that TEA has ample time to review applications, approve funding, and avoid teacher compensation delays.**

150.1012(g)(2) – Funding

The proposed changes to (g)(2) state that school districts receiving funding for charter partnerships authorized under Senate Bill 1882 (2017) "shall pass along at least 90% of the teacher incentive allotment funding to the charter partner." The proposed rule also states that "charter partners and districts shall work together to ensure that the spending requirements of TEC, §48.112, are met," which includes a requirement that at least 90% of each allotment be used for compensation of teachers employed at the campus where the fund-generating teacher is employed.

The proposed rules imply that a school district must pass along at least 90% of its TIA funds to the charter partner, regardless of whether any fund-generating teachers work on the charter campus. **ATPE recommends simplifying the proposed rule to read as follows:**

- (2) Status and use of state funds. A school district that receives teacher incentive allotment funding must comply with the requirements of TEC, §48.112, including the requirement that at least 90% of each allotment must be used for compensation of teachers employed at the campus at which the teacher for whom the district received the allotment is employed. School districts that receive teacher incentive allotment funding for eligible teachers employed at a charter partnered with the district charter partnerships pursuant to TEC, §11.174 and §48.252 shall pass along at least 90% of the teacher incentive allotment funding to the charter partner. Charter partners and districts shall work together to ensure that the spending requirements of TEC, §48.112, are met.

Under ATPE's revised language, the school district would pass along 90% of the TIA funds for eligible teachers employed at a charter partner campus to the charter partner.

ATPE appreciates the agency's consideration of our feedback. For additional information, contact ATPE Governmental Relations at government@atpe.org or (512) 467-0071.