

The Texas Education Agency (TEA) proposes new §102.1097, concerning postsecondary preparation programs. The proposed new section would implement House Bill (HB) 8, 88th Texas Legislature, Regular Session, 2023, by establishing provisions for the Financial Aid for Swift Transfer (FAST) program.

**BACKGROUND INFORMATION AND JUSTIFICATION:** HB 8, 88th Texas Legislature, Regular Session, 2023, established the FAST program to allow eligible students to enroll, at no cost to the student, in dual credit courses at participating institutions of higher education.

Proposed new §102.1097 would implement HB 8 by defining the requirements a school district must meet each school year to report educationally disadvantaged students for the purposes of the FAST program.

The proposal would add new subsection (a) to identify the purpose of the FAST program and new subsection (b) to include relevant definitions.

New subsections (c) and (d) would clarify the methods school districts and open-enrollment charter schools may use to determine student eligibility for the FAST program.

New subsection (e) would explain the relationship between the Community Eligibility Provision and determining individual student eligibility status.

New subsection (f) would establish the responsibility of school districts to obtain appropriate data needed from families to determine eligibility, verify information, and retain records.

New subsection (g) would state that the commissioner has the discretion to conduct an audit of data as it relates to the FAST program.

New subsection (h) would clarify that the eligibility of students participating in the FAST program would be based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) data submissions.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and program, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation to establish student eligibility requirements; the responsibility of school districts to obtain appropriate data needed from families to determine eligibility, verify information, and retain records; and TSDS PEIMS reporting requirements.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in

future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to provide school districts with clarifications on the student eligibility of the FAST program. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact. Economically disadvantaged student indicators in TSDS PEIMS will be used.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins April 26, 2024, and ends May 27, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 26, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §28.0095(b), as added by House Bill 8, 88th Texas Legislature, Regular Session, 2023, which requires the Texas Education Agency and the Texas Higher Education Coordinating Board (THECB) to jointly establish the Financial Aid for Swift Transfer (FAST) program to allow eligible students to enroll, at no cost to the student, in dual credit courses at participating institutions of higher education. TEC, §28.0095(j), requires the commissioner and THECB to adopt rules as necessary to implement the FAST program.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §28.0095(b) and (j), as added by House Bill 8, 88th Texas Legislature, Regular Session, 2023.

<rule>

**§102.1097. Financial Aid for Swift Transfer Program.**

- (a) Purpose. The Financial Aid for Swift Transfer (FAST) program is established to allow eligible students to enroll, at no cost to the student, in dual credit courses at participating institutions of higher education.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) Dual credit course--A course offered for joint high school and junior college credit under Texas Education Code (TEC), §130.008, or another course offered by an institution of higher education for which a high school student may earn credit toward satisfaction of:
    - (A) a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree;
    - (B) a foreign language requirement at an institution of higher education;
    - (C) a requirement in the core curriculum, as that term is defined by TEC, §61.821, at an institution of higher education; or
    - (D) a requirement in a field of study curriculum developed by the Texas Higher Education Coordinating Board under TEC, §61.823.

- (2) Institution of higher education--An institution of higher education has the meaning assigned by TEC, §61.003.
- (c) Student eligibility. To be considered educationally disadvantaged, a student must meet the income requirements for eligibility under the National School Lunch Program (NSLP), authorized by 42 United States Code, §§1751, et seq. School districts and open-enrollment charter schools may use the following approved methods for determining student eligibility for the FAST program:
- (1) parent certification, where the parent or guardian asserts meeting the income requirements for eligibility under this subsection;
  - (2) direct certification, where eligible children are certified for free meals without the need for a household application based on household participation in one or more federal assistance programs; or
  - (3) direct verification, where public records are used to verify a student's eligibility for free or reduced-price meals when verification of student eligibility is required.
- (d) Student eligibility under an alternative method. School districts and open-enrollment charter schools with one or more campuses not participating in the NSLP may derive an eligible student count by an alternative method as determined by the Texas Education Agency (TEA).
- (e) Community Eligibility Provision (CEP). School districts and open-enrollment charter schools with one or more campuses using the CEP must still determine each student's individual eligibility status under the income guidelines for the NSLP for purposes of the FAST program.
- (f) Recordkeeping. School districts and open-enrollment charter schools that participate in the FAST program pursuant to this section are responsible for obtaining the appropriate data from families of potentially eligible students, verifying that information, and retaining records.
- (g) Auditing procedures. TEA will conduct an audit of data submitted by school districts and open-enrollment charter schools that participate in the FAST program pursuant to this section at the discretion of the commissioner of education.
- (h) Data source. The FAST program will be based on each eligible student submitted by school districts and open-enrollment charter schools in the Texas Student Data System Public Education Information Management System fall submission. An indicator must be submitted for every educationally disadvantaged student and each student coded with average daily attendance (ADA) eligibility, except those students who are homeless, not enrolled, or otherwise ineligible for ADA or who reside in a residential facility and whose parents live outside the district.