

The Texas Education Agency (TEA) proposes new §105.1031, concerning the allotment for non-enrolled students participating in University Interscholastic League (UIL) activities. The proposed new rule would implement House Bill (HB) 3708, 88th Texas Legislature, Regular Session, 2023, by establishing provisions related to an allotment for local educational agencies that allow non-enrolled students to participate in UIL activities.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 547, 87th Texas Legislature, Regular Session, 2021, enabled public school districts to extend the option of UIL participation to non-enrolled students who live within the district's borders. The bill defined a non-enrolled student as one who is home-schooled. The expansion of participation benefited both students and schools, as participating home-schooled students receive the educational enrichment of UIL activities and schools offer their services to more students in their community. However, school districts that provide these opportunities to home-schooled students receive no additional funding to accommodate the increased number of participants in their programs. HB 3708, 88th Texas Legislature, Regular Session, 2023, helps to support school districts in expanding their UIL programs to include home-schooled students by providing for an annual allotment of \$1,500 per UIL activity in which a non-enrolled student participates.

Proposed new §105.1031 would implement HB 3708 by establishing definitions; specifying the data used to calculate the estimated and final entitlement; and providing requirements for the UIL activities, student participation, and documentation.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, 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 by establishing a rule so that districts would be reimbursed for allowing non-enrolled students to participate in UIL activities.

It 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 or decrease 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 clarification related to an allotment for local education agencies that allow non-enrolled students to participate in UIL activities. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have data and reporting implications. The proposed amendment would require school districts and open-enrollment charters schools to report each UIL activity in which a non-enrolled student participated.

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 March 22, 2024, and ends April 22, 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 March 22, 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), §33.0832(a)(2), which defines a non-enrolled student as one who predominantly receives instruction that is provided by the parent, or a person standing in parental authority, in or through the child's home; TEC, §48.004, which requires the commissioner of education to adopt rules as necessary to implement and administer the Foundation School Program; and TEC, §48.305, as added by House Bill 3708, 88th Texas Legislature, Regular Session, 2023, which permits each school district that allows participation for a non-enrolled student to receive an annual allotment of \$1,500 for each league activity in which the student participates.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §§33.0832(a)(2); 48.004; and 48.305, as added by House Bill 3708, 88th Texas Legislature, Regular Session, 2023.

<rule>

§105.1031. Allotment for Non-enrolled Students Participating in University Interscholastic League Activities.

(a) The following terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Activity season--The period established by a school or the University Interscholastic League (UIL) in which practices, rehearsals, and interschool competitions or contests take place.

(2) Non-enrolled student--A student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home. This may include a student who is designated as enrolled, not in membership.

(3) Participation--The active involvement of a student in a minimum of 75% of a combined total of practices, rehearsals, or preparation activities and associated competitions and contests, including selection as an alternate, for a specific UIL activity.

(4) University Interscholastic League or UIL activity--Any official UIL activity identified in the UIL Constitution and Contest Rules, not including pilot activities.

(b) In accordance with Texas Education Code (TEC), §48.305, a school district or open-enrollment charter school that allows participation of non-enrolled students in UIL activities under TEC, §33.0832, is entitled to an annual allotment of \$1,500 for each UIL activity in which a non-enrolled student participates.

(c) In the fall of each school year, as part of the settle-up process for the preceding school year, data reported through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) summer submission will be used to calculate the allotment prescribed in subsection (b) of this section.

(d) UIL activities shall:

(1) be overseen by a school district- or charter school-approved coach or sponsor;

(2) provide for a minimum of four weeks of coach- or sponsor-led practice, rehearsal, or preparation specific to the activity within the designated activity season; and

(3) provide opportunities for students to take part in formal, interschool competitions or contests in the associated activity during the designated activity season.

(e) A school district or charter school may still receive the allotment if a student began the activity season without injury or illness and later experienced an injury or prolonged illness that prevented participation.

(f) For audit purposes, a school district or charter school shall maintain documentation to support the requirements of this section.

(g) School districts and charter schools will be provided with estimated funding during a school year for non-enrolled students based on the prior year's summer TSDS PEIMS data using the same methodology described in subsection (c) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §48.272.