

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 105, Foundation School Program, Subchapter B, Use of State Funds, §105.11, Maximum Allowable Indirect Cost**

**Texas Education Code, §42.152, Compensatory Education Allotment, as amended by House Bill 3646, 81st Texas Legislature, 2009 (excerpt):**

- (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 [~~45~~] percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or an alternative education program established under Section 37.008 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. Notwithstanding any other provisions of this section:
- (1) to ensure that a sufficient amount of the funds allotted under this section are available to supplement instructional programs and services, no more than 18 percent of the funds allotted under this section may be used to fund disciplinary alternative education programs established under Section 37.008;
  - (2) the commissioner may waive the limitations of Subdivision (1) upon an annual petition, by a district's board and a district's site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs under Section 37.008, provided that:
    - (A) the district in its petition reports the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system; and
    - (B) the commissioner makes the waiver request information available annually to the public on the agency's website; and
  - (3) 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.

**Texas Education Code, §42.1541, Indirect Cost Allotments, as added by House Bill 3646, 81st Texas Legislature, 2009:**

- (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 2008-2009 school year as necessary to reflect the increased percentage of total maintenance and operations funding represented by the basic allotment under Section 42.101 as a result of amendment of that section by H.B. No. 3646, Acts of the 81st Legislature, Regular Session, 2009.
- (b) 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 2009-2010 school year.
- (c) This section expires September 1, 2010.

**Texas Education Code, §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.

**Texas Education Code, §45.153, 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.

**Texas Education Code, §42.154, Career and Technology Education Allotment (excerpt):**

- (a-1) Notwithstanding any other provision of this section, the commissioner shall develop and implement a pilot program under which a school district is entitled to additional funding for each student receiving career and technology instruction in grade eight. The commissioner shall select not more than five school districts for participation in the pilot program. In selecting school districts for participation, the commissioner shall consider school districts that can provide services under the program at the least cost. For each full-time equivalent student in grade eight in average daily attendance in an approved career and technology education program, a school district participating in the program under this subsection is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35. Funds allocated under this subsection, other than an indirect cost allotment established under State Board of Education rule, must be used in providing career and technology programs in grade eight under Sections 29.182, 29.183, and 29.184. A school district is entitled to an allotment under this subsection for each school year through the completion of the 2011-2012 school year. Not later than January 1, 2013, the agency shall prepare and deliver to each member of the legislature a report describing the effectiveness of the pilot program described by this subsection. This subsection expires February 1, 2013.
- (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.

**Texas Education Code, §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.