

ATTACHMENT II
Text of Adopted New 19 TAC

Chapter 102. Educational Programs

Subchapter EE. Commissioner's Rules Concerning Pilot Programs

§102.1056. Dropout Recovery Pilot Program.

- (a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Advanced technical credit--Credit earned by a high school student who meets established guidelines for successful completion of an articulated content-enhanced technical course included on the list of courses in the Statewide Articulated Crosswalk established by the Advanced Technical Credit Program, a program accepted by participating colleges and universities for students interested in preparing for college and a technical career that requires postsecondary education.
 - (2) Dropout Recovery Pilot Program--A pilot program established and implemented by the Texas Education Agency (TEA) in accordance with the Texas Education Code (TEC), Chapter 39, Subchapter L. The pilot program is to provide eligible entities with financial grants to identify and recruit students who have dropped out of Texas public schools and provide them services designed to enable them to earn a high school diploma or demonstrate college readiness.
 - (3) Eligible student--For the purposes of this section, an eligible student is defined as a student who is 25 years of age or less and who:
 - (A) was assigned by a Texas public secondary school a leaver code in the Public Education Information Management System (PEIMS) that corresponds to the definition of a dropout for that school year in which the student withdrew;
 - (B) was enrolled in a Texas public secondary school and during the last regular school year in which the student was enrolled the student was not in attendance for at least 30 consecutive school days. Between this period of non-attendance and enrollment in the Dropout Recovery Pilot Program, the student may not have been enrolled in any Texas public secondary school, private school, or home school; or
 - (C) has a notarized affidavit from the student's parent or legal guardian stating that the student has dropped out of a Texas public secondary school, as defined in subparagraph (A) or (B) of this paragraph, and is not currently enrolled in a Texas public secondary school, private school, or home school.
 - (4) Institution of higher education (IHE)--An institution of higher education is any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in the TEC, §61.003.
 - (5) Nonprofit organization--An organization that meets the requirements of the United States Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Section 501(a).
 - (6) P-16 Individualized graduation plan (P-16 IGP)--A document with a prekindergarten through postsecondary focus, detailing a student's plans regarding courses to be taken during high school in order to succeed in entry-level courses offered at IHEs. A P-16 IGP shall include the following:
 - (A) the most recent assessment scores and strategies to improve these scores if they fall below the student's appropriate grade level;
 - (B) the educational goals of the student;

- (C) any diagnostic information, appropriate monitoring and intervention and other evaluation strategies;
 - (D) a description of participation of the student's parent(s) or guardian, including consideration of their educational expectations for the student; and
 - (E) a description of innovative methods to be used to promote the student's advancement and preparation to enter higher education prepared to succeed in entry-level courses.
- (7) School district--For the purposes of this section, the definition of school district includes an open-enrollment charter school.
- (8) Shared service arrangement (SSA)--A shared service arrangement is an agreement between two or more eligible applicants (school districts, nonprofit organizations that have demonstrated the ability and capacity to provide educational programs to students in any grade from kindergarten through Grade 12, education service centers, county departments of education) for provision of program services. A nonprofit organization that is not an eligible applicant may participate in the shared service arrangement, but may not serve as the fiscal agent.
- (9) Texas Success Initiative (TSI)--An initiative of the Texas Higher Education Coordinating Board established under §4.51 of this title (relating to Purpose).
- (b) Eligibility.
- (1) The following entities, located in specific regions of the state as established annually in the grant application, are eligible to apply for and receive grant funds under the Dropout Recovery Pilot Program:
- (A) school districts;
 - (B) IHEs;
 - (C) county departments of education;
 - (D) nonprofit organizations that have demonstrated the ability and capacity to provide educational programs to students in any grade from kindergarten through Grade 12; and
 - (E) education service centers established under the TEC, §8.001.
- (2) Eligible applicants listed in paragraph (1) of this subsection and other nonprofit organizations may enter into an SSA in order to apply for grant funds. An SSA is limited to no more than ten entities.
- (3) The applicant awarded the grant and acting as the fiscal agent for the program must comply with the following conditions of eligibility.
- (A) The applicant must have been operating as one of the eligible entities listed in paragraph (1) of this subsection for at least three years prior to the time of grant application.
 - (B) If an applicant is operating an education program that issues high school diplomas, the applicant must either have:
 - (i) been granted a charter from the State Board of Education or the local district in which it resides, or a home-rule district in accordance with the TEC, §§12.011, 12.052, and 12.101; or
 - (ii) earned accreditation through:
 - (I) the TEA, in accordance with the TEC, §39.071, and §97.1053 of this title (relating to Purpose);

- (II) an accrediting entity, operating as a member of the Texas Private School Accreditation Commission; or
- (III) another accrediting entity approved by the commissioner of education.

(C) The applicant must be determined by the TEA to be financially stable. The TEA will make this determination using information required of the applicant serving as the fiscal agent and submitted in the grant application, including information provided in the following reports:

- (i) an audit report, conducted within the last two years, including a statement of financial position, statement of activities (income), statement of cash flows, note disclosures, and the independent auditor's opinion (standard report);
- (ii) if subject to the Single Audit Act of 1996, as amended, the applicant must also include reports in accordance with Government Auditing Standards, as promulgated by the United States Government Accountability Office and Office of Management and Budget Circular A-133; or
- (iii) a compilation of financial statements prepared by a certified public accountant, including a report on compiled financial statements, a statement of financial position, statement of activities (income), and statement of cash flow.

(D) All nonprofit organizations, including open-enrollment charter schools but excluding school districts, must submit current proof of nonprofit status. An applicant may show current nonprofit status by any of the following means:

- (i) a copy of a letter from the Internal Revenue Service recognizing that contributions to the organization are tax deductible under the Internal Revenue Code, Section 501(c)(3);
- (ii) a statement from a state taxing body or the state attorney general certifying that the organization is a nonprofit organization operating within the state and that no part of its net earnings may lawfully benefit any private shareholder or individual;
- (iii) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or
- (iv) any item described in this subparagraph if that item applies to a state or national parent organization, together with a statement by the parent organization that it is a local nonprofit affiliate.

(c) Application.

- (1) An eligible applicant must submit an application in accordance with procedures determined by the commissioner and detailed in the Request for Application (RFA). The application must include a P-16 Strategic Plan that indicates how implementation of this program will address deficiencies in the grantee's overall P-16 strategy.
- (2) Each eligible applicant must meet all deadlines, requirements, and guidelines outlined in the RFA.

(d) Notification. The TEA will notify each applicant in writing of selection or non-selection for funding under the Dropout Recovery Pilot Program. In the case of an application selected for funding, notification to the applicant will include the contractual conditions the applicant agrees to accept as a condition of grant award.

- (e) Conditions of pilot program operation. Each grantee operating an approved Dropout Recovery Pilot Program must operate the program in accordance with the requirements outlined in the RFA and must:
- (1) conduct an assessment, in accordance with specifications detailed in subsection (f)(4)(B)(ii)-(iii) of this section, for each participating student to determine services needed and create a P-16 IGP for each student based on the assessment;
 - (2) employ as faculty and administrators persons with baccalaureate or advanced degrees;
 - (3) meet the following requirement regarding employee criminal history checks:
 - (A) if a grantee is a school district, the grantee must be in compliance with the TEC, §22.085(f), to remain eligible for the program; or
 - (B) if a grantee is not a school district, the grantee must obtain criminal history record information as defined in §153.1101(2) of this title (relating to Definitions) on each employee, and an officer of the organization with signature authority must certify that no employee of the organization or person contracted with the organization who has contact with students in the program has been convicted of:
 - (i) a felony offense under Title 5, Texas Penal Code;
 - (ii) an offense or conviction of which a defendant is required to register as a sex offender under Code of Criminal Procedure, Chapter 62; and
 - (iii) an offense under the laws of another state or federal law that is equivalent to an offense under clause (i) or (ii) of this subparagraph; and
 - (4) ensure that the grant activities funded under the Dropout Recovery Pilot program are non-sectarian.
- (f) Funding. Grantees are eligible to receive the following funding.
- (1) Base funding. A grantee will receive a base amount of funding, to be determined during the grant application phase, in the first year of operation of the program for the purposes of planning, establishing an appropriate infrastructure to implement the program, and implementing the program for eligible students.
 - (2) Performance funding. In addition to the base funding, a grantee is eligible to receive performance funding up to a total of \$2,000 in the program year (which includes no more than \$1,000 in interim benchmark payments and \$1,000 in a completion payment) for each eligible student participating in the program based upon the student's academic performance.
 - (A) Interim benchmark payments. A payment of \$250 for any, not to exceed four, of the following benchmarks achieved by an eligible student participating in the program who:
 - (i) earned the required course credits necessary to advance to the next grade level;
 - (ii) earned high school graduation credit for a dual credit course that was established through an articulation agreement with an IHE or a private or an independent IHE, as defined in the TEC, §61.003(15);
 - (iii) earned college credit for a course that is within an IHE's core curriculum, in accordance with §4.28 of this title (relating to Core Curriculum), or an equivalent course offered by a private or an independent IHE, as defined in the TEC, §61.003(15);

(iii) the assessment instrument and the performance standards for measuring academic progress must be identified in the grant application and approved by the commissioner prior to grant award.

(g) Allowable expenditures. Allowable expenditures with grant funds include, but are not limited to, the following:

- (1) textbooks and other instructional materials;
- (2) recruiting and promotional materials;
- (3) personnel costs, including salaries, benefits, stipends, and incentives;
- (4) tutoring services;
- (5) test fees;
- (6) social services;
- (7) transportation;
- (8) educational software;
- (9) incentive programs for students;
- (10) technology;
- (11) equipment costs; and
- (12) costs associated with distance learning or participation in virtual schools.

(h) Disallowed expenditures. The following expenditures, including but not limited to the following, may not be made with grant funds:

- (1) construction;
- (2) purchase of buildings;
- (3) debt service (including lease-purchase agreements);
- (4) expenditures related to religious instruction;
- (5) expenditures related to students who are not eligible for the program; or
- (6) indirect costs.

(i) Evaluation. Each grantee operating an approved Dropout Recovery Pilot Program must comply with evaluation procedures established by the commissioner as detailed in the RFA.

(j) Subsequent funding. To receive any subsequent funding for the Dropout Recovery Pilot Program, grantees must reapply for funding on an annual basis. In order to remain eligible for any subsequent funding, the grantee must have met all applicable performance standards included in the prior year's grant agreement and submit a new application annually.

(k) Revocation.

- (1) The commissioner may revoke the grant award for the Dropout Recovery Pilot Program based on the following factors:
 - (A) noncompliance with application assurances and/or the provisions of this section;
 - (B) lack of program success as evidenced by progress reports and program data;
 - (C) failure to participate in data collection and audits;
 - (D) failure to meet performance standards specified in the application; or
 - (E) failure to provide accurate, timely, and complete information as required by the TEA to evaluate the effectiveness of the Dropout Recovery Pilot Program.

- (2) A decision by the commissioner to revoke the grant award of a Dropout Recovery Pilot Program is final and may not be appealed.
- (l) Access to records. For grantees that are nongovernmental bodies, access must be granted to all records, including those of the controlling or parent entity, involving transactions and payments of program funds.
- (m) Technical assistance. The commissioner may create a technical advisory panel made up of experts and practitioners from areas with experience and expertise in dropout recovery to advise the TEA regarding review criteria and implementation issues. The technical advisory panel may provide technical assistance.
- (n) Recovery of funds. The commissioner may audit the use of grant funds and may recover funds against any state provided funds.