

Commissioner's Rule Review

Chapter 61, Subchapter CC, School Facilities

Chap.	Ext.	Issue	Desired Change	Rationale	Focus Group Comment	TEC	Agency Response
61	1032 (IFA)	Wording in subsection (d) (5) seems to imply that the rule applies to all bonded debt.	Change wording to clarify. Subsection (d) (5) states that funds raised by the district through the issuance of bonded debt must be used for an instructional facility purpose.	This change would clarify that funds raised by the district through the issuance of bonded debt could be used for multiple purposes.	Possibly clarify language.	46.002	Agree with need for clarification. The agency will address this need in a planned future amendment to the rule.
61	1032	Prioritization for IFA	Rework chapter, simplify/clarify	clarification	Comment is outside scope of the rule. Recommend TEA review language to see if could be clarified.	46.002	Agree with need for clarification. The agency will address this need in a planned future amendment to the rule.
61	1032	Subsection (d)(5) implies that all I&S funds have to be used for an instructional facility	Revise language to clarify that the bonded debt being addressed is only bonded debt being covered by IFA	Not all bonded debt is for an instructional facility	Possibly clarify language.	46.002	Agree with need for clarification. The agency will address this need in a planned future amendment to the rule.
61	1032	Prioritization of IFA Redundancy How is eligibility determined? What waiver?	Rework chapter Simplify/clarify	Clarification	Comment is outside scope of the rule. Recommend TEA review language to see if could be clarified.	46.002	Agree with need for clarification. The agency will address this need in a planned future amendment to the rule.
61	1032	Issues with the written complexity of the rules.	Rewrite the rule using less technical terms; incorporate use of school business people to write the rules in "layman" terms.	If written in less technical terms, school business employees can ensure compliance with the rule because they understand what is written. TEA does not have the current capacity or resources to monitor the rules as written. Using the market index as the guide is impossible to keep up with. Resulting punitive damages fall on the district, not the financial advisors.	Have TEA consider providing guidance, explanatory material that is linked to rule.	46.002	Agree; agency will address in guidance posted on program web page. Guidance cannot be directly linked to the rule publication; the only links permitted within rule text are to figures that are officially a part of the rule.

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61	1032(1)	Application Cycle	Commissioner conducts an annual application cycle the first year of the biennium	Maximize number of eligible districts	Comment is outside rule's scope.	28.002	Having a single deadline streamlines the awarding of allotments. Under the current application process, all eligible applications received have been funded.
61	1032a4	The code basically defines a fiscal year as September 1 through August 31. Some districts operate on a different fiscal year.	Change September 1 and August 31 to 'fiscal year' to allow for the district flexibility needed.	Some districts operate on a July 1 through June 30 fiscal year. A change in working would be responsive to the local control of selecting and operating on a fiscal year that meets local needs.	No action needed. Districts that operate on a July 1 through June 30 fiscal year are already able to participate in the rule's program.	46.002	Districts that operate on a July 1 through June 30 fiscal year are already able to participate in the rule's program.
61	1032b	Flexibility that the agency has provided is appreciated.	Please continue the flexibility with districts.	The flexibility allows greater opportunities for LEAs.		46.002	No change requested.
61	1032d	More schools need to support this.	No Change	Need additional financial resources	Do not understand comment.	46.002	No change requested.
61	1032d11a	Availability of data	Add link (excess collection spreadsheet) to the spreadsheet on the TEA summary of finance.	To be able to have access to it and benefit from it	Recommend TEA do this.	46.002	Agree. The agency has provided the requested link on its website. The link will be incorporated into reports developed for the new FSP system.
61	1032d9f	Subparagraph expired on January 1, 2009.	Delete subparagraph.	Clean up code by deleting expired subparagraph.	Agree.	46.007	Agree. The agency will make this revision as part of a planned future amendment to the rule.

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61	1033 (const stnd pre-2004)	The two sets of rules pre and post 2004 seem to be no longer applicable.	Delete old rules.	The rules before 2004 are no longer necessary.	Consider repealing.	46.008	Agree. The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.
61	1033	Out-dated	Delete	Not needed anymore	Consider repealing.	46.008	Agree. The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.
61	1033	Keep the rule AS IS. This rule serves the important function of setting out vital information regarding the standards and construction quality that school classrooms, libraries, and other instructional space in schools must meet to ensure the safety of students and educators and educational adequacy for students.	No Change.	Keeping the current rule as is serves the important function of setting out vital information regarding standards and construction quality that school classrooms, libraries and other instructional space in schools must meet to ensure the safety of students and educators and educational adequacy for students. Especially important is subsection (d) regarding space, minimum square foot, and design requirements.	Consider repealing.	46.008	No change requested. The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.

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61	1033	Section 61.1033 School Facilities Standards for Construction before January 1, 2004--I question the need for this section which includes four pages. The only value would be to check to see if a facility constructed during this era met the requirements which existed at the time.	There is a section for facilities constructed after January 1, 2004. It is 61.1036	If 61.1033 is needed, then I would like to point out that size requirements stated in 61.1033 (d) (B) (ii) do not appear to be consistent with the general description in (2) which states that room size requirements are based on housing 25 students at the middle or high school level. The requirement in 61, 1033 (d) (2) (B) (ii) call for 50 sq ft per pupil of 1,000 sq feet per room at the middle school. (This only provides for 20 students). It requires 50 sq ft per pupil or 1,2000 sq ft per room at the high school and this will only accommodate 24 students.	Consider repealing.	46.008	The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.
61	1033	50% us too large for small LEs	Reduction in percentage for small LEAs: 25%	Current 50% is too high for small districts	Consider repealing.	46.008	The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.
61	1033	Outdated code expired.	Delete	Clean up code by deletion of 61.1033	Consider repealing.	46.008	Agree. The agency will determine whether any districts have any uncompleted construction to which the rule applies. If the rule is no longer needed, the agency will repeal it.

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61	1033 #4	School Library Facilities Every child in Texas should have access to a 21st-century school library facility facilitated by at least one full-time state certified school librarian.	Require school districts to fund and staff school libraries (School librarians need to be added to the Texas education code.)	Research studies in 19 states, including Texas, and 1 province show a positive correlation between fully-funded school libraries with professional librarian and student achievement, particularly in reading. (http://www.lrs.org/impact.php and http://www.tsl.state.tx.us/ld/pubs/schlibsurvey/index.html)	Comment is outside scope of rule.	46.008	The funding and staffing of school libraries are matters of local policy decided by local school districts.
61	1034 (NIFA)	We would like to request deletion of the requirement in subsection (b) (1) (B) to submit a photograph by certified mail.	Deletion of requirement to submit a photograph.	The deletion of this requirement would simplify the process.	Update rule language to clarify that alternate methods of photograph submission are permissible, but keep the photo requirement.	42.158	The required photograph helps the agency to determine whether construction meets program requirements. The agency will retain the rule provision requiring submission of a photograph but will amend the provision to reflect the agency's current policy of allowing alternate methods of photograph submission.
61	1034b1bi	Not necessary	e	Photograph not used by TEA	Update rule language to clarify that alternate methods of photograph submission are permissible, but keep the photo requirement.	42.158	The required photograph helps the agency to determine whether construction meets program requirements. The agency will retain the rule provision requiring submission of a photograph but will amend the provision to reflect the agency's current policy of allowing alternate methods of photograph submission.

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61	1034	Question the need for a brief description and photograph required by (b)(1)(B)(i) c)(1) and (c)(4)repeat law	Delete (b)(1)(B)(i) Delete (c)(1) and (c)(4)	Not relevant to process. Already requires a legal document in (b)(1)(B)(ii) Repeat of law	Update rule language to clarify that alternate methods of photograph submission are permissible, but keep the photo requirement.	42.158	The required photograph and description help the agency to determine whether construction meets program requirements. The agency will retain the rule provision requiring submission of this documentation but will amend the provision to reflect the agency's current policy of allowing alternate methods of documentation submission. Statutory language has been included in the rule for clarity and comprehensive guidance.
61	1034	The IFA is a contract with the state. When a district becomes Chapter 41, the state breaks the contract.	Add additional funds to allotment If a district qualifies under existing IFA rule, it should remain there even after moving to Chapter 41, funding should continue	Obligation/contract should not be broken.	Do not understand comment.	42.158	If this comment pertains to the New Instructional Facility Allotment (NIFA) rules, the agency wishes to clarify that eligible districts that become subject to Chapter 41 do still receive any NIFA funds they are entitled to. If this comment pertains to the Instructional Facilities Allotment rules, a statutory change and future appropriations would be required.

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61	1034	Districts are being disqualified from receiving the IFA based on criteria set in the section (a)(4). This section compromises the efficiencies of small, rural districts that have limited resources and construction sites on which to build.	Eliminate section (a)(4)	Eliminating section (a)(4) would allow flexibility in the construction of new facilities for the small, rural school districts and allow award of the IFA to these districts that most need the funding.	Keep rule as is. The limited amount of funding available for the allotment is insufficient to fully fund those districts whose construction projects meet the requirements of the existing rule.	42.158	The agency will study this issue further to determine if changes should be made.
61	1034a1	Exclusion of major campus renovations/replacements	To include major renovations/replacements of at least (75%) of original structure	More efficient use of limited district resources	Keep rule as is. The limited amount of funding available for the allotment is insufficient to fully fund those districts whose construction projects meet the requirements of the existing rule.	42.158	The agency will study this issue further to determine if changes should be made.
61	1034b3	Limitation of NIFA funding for 2 years	Allow 3 year follow up	To capture ADA for incremental grade level additions	Comment is outside scope of rule.	42.158	Statutory change and future appropriations required.
61	1035 (EDA)	(c)(3) repeats law	Delete	Repeat of law	No action needed.	46.031, 46.061	Statutory language has been included in the rule for clarity and comprehensive guidance.
61	1035	Subsection (c) (3) EDTR limit is specified in law. It does not need to be repeated in rules.	Delete EDTR limit.	The change would delete the repetitive rule.	No action needed.	46.031, 46.061	Statutory language has been included in the rule for clarity and comprehensive guidance.
61	1035	The allotment, while helpful, does not meet obligations. Help is needed to ease fiscal and financial strain on districts.	Request legislature raise allotment from #35 to \$50.	Legislative action is needed to raise the allotment from current level.	Comment is outside scope of rule.	46.031, 46.061	Statutory change and future appropriations required.
61	1035e	Works well.	No change.	This is positive for LEAs.	Agree.	46.031, 46.061	No change requested.

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61	1036 (construct. standards post-2004)	Keep the current rule as is. This rule serves the important function of setting out vital information regarding standards and construction quality that school classrooms, libraries, and other instructional space in schools must meet to ensure the safety of students and educators and educational adequacy for students.	No change.	Keeping the current rule as is serves the important function of setting out vital information regarding standards and construction quality that school classrooms, libraries, and other instructional space in schools must meet to ensure the safety of students and educators and educational adequacy for students. Especially important is subsection (d) regarding space, minimum square foot and design requirements.	Agree.	46.002, 46.008	No change requested.
61	1036d	Review and update size allocations for libraries.	Accommodations for technology.	Need to realign focus on print resources and increases in technology resources... needs updating to reflect current resources available.	Review size allocations.	46.002, 46.008	Agree. The agency will review the size allocations for libraries specified in the rule and amend the rule if necessary.
61	1037 (science lab grant)	Subsection (a) (3) defines renovation projects as space not currently used as a science lab. Some districts need to renovate existing labs.	Revise rule to allow renovation of existing labs. Some science labs need to be renovated and should be eligible for this funding.	This change would allow more efficient use of funds and assist districts unable to allocate new space for a lab.	Agree. Consider revising rule.	7.062	Agree. If funding is available, the agency will consider changing the rule to make renovations of existing labs eligible for grant funds.
61	1037c	Need to expand schools eligible for participation	More schools could benefit from this program.	Increased eligibility would directly impact schools positively.	Not enough information provided.	7.062	All districts and charter schools are eligible for the grant under the current rule.

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61	1037f1	Districts do not have appropriate time to make budget decisions.	<p>Deadlines and accountability.</p> <p>By January 15 of each fiscal year, the commissioner shall certify whether the amount appropriated for the fiscal year for purposes of TEC, Chapter 46, Subchapters A and B, exceeds the amount to which school districts are entitled under those subchapters for that fiscal year. The commissioner shall use the excess funds, in an amount not to exceed \$20 million, for the purpose of making grants under this section. The commissioner shall conduct an annual application cycle with a deadline of September 1 or the next working day after September 1 every year based on the availability of excess funds. A district may file an amendment to its initial application before the deadline; any amendment received after the deadline will not be considered.</p>	Provide additional time for the districts to make budget decisions.	Rule already amended, in accordance with statutory changes related to the funding of the grant program, to remove language related to commissioner's certifying whether excess IFA and EDA funds are available to fund the program.	7.062	<p>Agree in part. Recent amendments to this rule removed the language about the commissioner's certification of excess facilities funding, but an April 15 application due date is still specified in the rule (the commenter would like the due date changed to September 1.) Contingent on an appropriation in the upcoming legislative session, the agency will consider changing the application due date to September 1.</p>