

PROPOSAL

August 18, 2020

How Texas can immediately implement the School Safety, Flexibility and Freedom Plan: Simply adopt Proposed Regulations based on current Texas law:

Current law:

Texas Education Code Sec. 48.007 OFF-CAMPUS PROGRAMS APPROVED FOR PURPOSES OF AVERAGE DAILY ATTENDANCE. (a) The commissioner may, based on criteria developed by the commissioner, approve instructional programs provided off campus by an entity other than a school district or open-enrollment charter school as a program in which participation by a student of a district or charter school may be counted for purposes of determining average daily attendance in accordance with Section 48.005 (h). Pursuant to Texas Education Code Sec. 48.007, 48.005, and Chapter 26, Section 26.001 the Commissioner of Education should adopt the following rules:

Background: The current pandemic has created the immediate need for alternative educational opportunities for Texas students. Therefore, these regulations will increase safety, flexibility and freedom by expanding the educational opportunities for children in the state of Texas. In order to implement and "encourage parents to actively participate in implementing educational programs for their children" and to make them "partners" in their children's education [TEC § 26.001] parents are hereby encouraged to liaison with a school district to create, design, implement, and select in-district or Off-Campus Instructional Programs for their children's education.

Therefore, the Commissioner adopts the following regulations:

1. The Program shall be called the Safety, Flexibility and Freedom Plan.
2. Parents may select an Off-Campus Instructional Program setting for their child if any one of the following conditions are met:
 - a. The district does not offer full-time in-person education, or;
 - b. The parent or guardian feels that their child would be safer, or better served academically, in an Off-Campus Instructional Program because of the current pandemic emergency in Texas, or;

- c. The parent believes that the parent's selected Off-Campus Instructional Program would better meet the individual needs of the student.
3. The parent may select an Off-Campus Instructional Program and enroll their child in it and may consider such factors as failure to read at grade level, bullying, at risk factors, etc. The parent shall advise their district of residence in writing of their selection and stating the attendance dates of the child. The Off-Campus Instructional Program selected by the parent shall also submit such notice in writing to the District of Residence. The student's attendance will be counted and weighed in average daily attendance under the Off-Campus Instructional Program.
 4. The district shall accept the parent's designated Off-Campus Instructional Program if: 1) it is on the district's approved list of alternative providers, or 2) if the district allows other students to attend that institution for any reason, or 3) if it is an accredited, or accreditation seeking, school under TEPSAC, or a national accreditation association, or 4) if it is approved as an Off- Campus Instructional Program by the Commissioner of Education directly, pursuant to regulations to that effect.
 5. The child shall be counted in average daily attendance for the district of residence and the district is required to cover the expenses of the Off-Campus Instructional Program up to a maximum of 85% of the maintenance and operations funding that the district either receives or retains from tax dollars for the education of that child. Federal dollars shall be excluded. The remaining 15% shall be retained by the school district to cover fixed costs and other expenses of the district in its sole discretion.
 6. The child shall be counted in average daily attendance of the district and the Off-Campus Instructional Program must agree to provide attendance figures to the local school district weekly, which shall include such figures in its ADA reports.
 7. If the district fails to compensate the Off-Campus program within 45 days of billing, the Commissioner shall deduct equal funding from the district's next financial calculation and shall reimburse the Off-Campus program directly.