

DATE:	July 15, 2021
SUBJECT:	SB 204 and Out-of-District Transportation Requirements of TEC §34.007 and Related Waivers
CATEGORY:	Transportation
NEXT STEPS:	Share with appropriate staff

Senate Bill 204 recently passed during the 87th Regular Legislative Session, amending the law relating to the operation of a public school transportation system, as provided in Texas Education Code (TEC), §34.007.

Amended TEC, §34.007(a), provides that “[a] board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system: (1) in the county or district, as applicable; or (2) outside the county or district, as applicable, if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code; or (3) *outside the district if students enrolled in the district reside outside the district and the district:*

- (A) *has an active policy adopted by the board that prohibits screening transfer students who reside outside the district based on the student’s academic performance, disciplinary history, or attendance record, regardless of any relevant district or innovation plan adopted by the board or authorized to screen transfer students under any other authority; and*
- (B) *certifies that the district has:*
 - (i) *an overall performance rating of C or higher under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned;*
 - (ii) *an overall accountability score of 70 or higher for the preceding school year or the most recent school year in which a performance rating was assigned as calculated by the agency for purposes of determining the district’s overall performance rating under Section 39.054; and*
 - (iii) *the same or better overall performance rating under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned as the school district from which the district will transport students under this subdivision.” (emphasis added)*

Additionally, Subsection (a-1) requires a school district to make publicly available the information regarding their compliance with the requirements of Subsection (a)(3) on the district’s Internet website.

As these changes provide districts options to operate a transportation system outside of their district and resolve the previous apparent conflict between Texas Attorney General (Opinion KP-0166), the transfer statute (TEC, §25.036), and the transportation statute (TEC, §34.007), the agency will no longer grant waivers for TEC, §34.007.

Questions related to this correspondence should be directed to SchoolGovernance@tea.texas.gov.

Sincerely,

Jeff Cottrill
Deputy Commissioner of Governance and Accountability