Texas Education Agency

Manual for Districts Subject to Wealth Equalization

2018–2019 School Year

School Finance Department
Spring 2017

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Notes on This Manual

Although this manual provides information to anyone with an interest in Chapter 41 of the Texas Education Code, it is designed primarily for school districts that are subject to the provisions of Chapter 41 ("Chapter 41 districts"). It reflects the procedures the agency uses in administering Chapter 41's provisions.

Disclaimer

Although this manual provides information to anyone with an interest in Chapter 41 of the Texas Education Code, it was designed primarily to reflect the processes and procedures to be used in the administration of the provisions of Chapter 41 and to outline the fiscal, procedural, and administrative requirements that districts subject to Chapter 41 must meet. This manual does not calculate recapture. Cost of recapture reports are available through the TEA School District State Aid Reports web page at https://tea4avfawcett.tea.state.tx.us/fsp/Chapter41/Chapter41Home.aspx.

Unless stated otherwise, in this manual, your districtrefers to a Chapter 41 district.

The manual provides the following:

- an annual calendar with critical deadlines
- background information on Chapter 41
- the specific actions that your district must take to achieve wealth equalization
- information about tax-rate setting that is specific to Chapter 41 districts
- sample contracts that your district can use to achieve wealth equalization

The italicized terms in Sections 1 through 5 of the manual are defined in the glossary in Appendix E.

No school district official or any other person in your district has the authority, either implied or actual, to change any rules or requirements specified in this manual.

Your district will need to access the online Foundation School Program (FSP) System to comply with reporting requirements described in this manual. The FSP System is one of the applications in the Texas Education Agency Secure Environment (TEASE). Instructions on how to apply for access to the FSP System through the TEASE are available at http://tea.texas.gov/About_TEA/Other_Services/Secure_Applications/TEA__Secure_Applications_Information/.

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December 1, 2018

December 1 is the deadline for reporting election results for a Chapter 41 district that held an election during fall 2018: The district must notify the State Funding Division of the option(s) selected by voters by sending a certified copy of the school board minutes showing a canvass of election results. **The certified copy must be postmarked and mailed by this deadline.**

The commissioner will order detachment under Chapter 41, Subchapter G or annexation under Subchapter H, for a Chapter 41 district whose election did not pass as soon as practicable after this date, but by May 31. The commissioner will begin analyses of parcel data to determine the method by which the commissioner will achieve equalization, specifying the portion of the taxable value of the property to be detached or annexed.

January 15, 2019

January 15 is the contract deadline* for all other Chapter 41 contracts, including Option 3 contracts for districts not seeking an early agreement credit. **Contracts must be submitted** via the Chapter 41 subsystem of the online FSP Syste**or mailed and postmarked by this deadline.**

January 15, 2019

Supporting documentation deadline: A Chapter 41 district must submit all other 2018–2019 supporting information, including the M&O Collections, WADA, CAD Cost, Tuition & Chapter 42 Partner Data, and Option 4 partner districts, **via the Chapter 41 subsystem of the online FSP System.** If a Chapter 41 district wants to receive a reduction in its recapture cost for county appraisal district (CAD) costs for 2018–2019, the district must report CAD costs in the M&O Collections, WADA, CAD Cost, Tuition & Chapter 42 Partner Data. A CAD cost reduction is granted automatically as long as a district submits CAD costs by the January 15 deadline.

At his or her discretion, the commissioner may modify dates in this timeline to ensure the effective and efficient administration of Chapter 41, in accordance with TEC 41.006(b).

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What is the third EWL?

The third EWL it is set in statute and it applies to any tax effort that exceeds the CTR plus six cents.

Example:

2005 M&O tax rate = $1.50
CTR = $1.50 × 66.67% = $1.00
2018 M&O tax rate = $1.17
79 reW(t t6/TT1 1 Tf11.04 -0 0 11.04 228.12 577.32 Tm(68 t6TEMC /P <4MCID 11 ƀBDC q194.3 560.76 67.42756.87

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Section 2: Administrative Procedures

This section discusses administrative procedures that districts subject to the provisions of Chapter 41 must follow.

mail a contract that informs the state which option your district has chosen to equalize its wealth level for the 2018–2019 school year.

***Note:** If your district chooses to submit the Option 3 Contract via the Chapter 41 subsystem, each year the district school board must delegate the authority to obligate the school district under chapter 41 to the superintendent. The following language is required to be recorded in the board minutes and the board minutes must be uploaded via the Chapter 41 subsystem of the online FSP System:

For the 2018–2019 school year, we delegated contractual authority to obligate the school district under Texas Education Code (TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, Chapter 41, Subchapters A and D, and the rules adopted by th

*Note: The Option 4 contracts are not submitted through the Chapter 41 subsystem online, the Option 4 contracts are mailed in original paper form.

- Ensure that corresponding contracts are submitted or **postmarked by the deadlines** specified in the calendar for the given year (see the **Chapter 41 Calendar for School Year 2018–2019** at the beginning of this manual).

x

Texas Education Agency
State Funding Division
ATTENTION: Chapter 41 Actions
1701 N. Congress Ave.
Austin, TX 78701-1494

Please direct questions about Chapter 41 to the Chapter 41 program director in the TEA State Funding Division at (512) 463-9238.

When does the TEA provide estimates of the cost of recapture?

The TEA typically produces five estimates of the cost of recapture in five Cost of Recapture Reports during the course of the school year. These reports are referred to as the preliminary, payment, revised, near-final, and final reports.

The TEA provides the **preliminary** Cost of Recapture Report in the early fall of the applicable year. If no information is available about your district's choice of options when this report is produced, the TEA assumes that Option 3 will be exercised. Because current-year data are not yet available, the TEA may use prior-year data or estimates of current-year data for estimating Chapter 41 WADA and recapture costs. These data include M&O collections, enrollment, and Chapter 42 WADA.

The TEA provides the **payment** Cost ofnr89(s)7.4(pr)8.9(o)-8.[9py7.4(5.6(ail)10.5(a005 Tw a2.315 r-13)9.4(t).5(e)-1.

The TEA provides the **final** Cost of Recapture Report in April of the subsequent school year. For example, the agency will generate the 2018–2019 final Cost of Recapture Report in April 2020. This version of the report incorporates any necessary corrections to other data elements and your district's M&O tax collections from the schedule of delinquent taxes receivable. Once the report becomes final by incorporating the tax collections, changes are limited to corrections of erroneous or inaccurate data elements that affect the cost of recapture. Districts that request changes to this report must provide sufficient documentation. Requests for changes to the report affecting any fiscal year that occurs more than five years after the end of the state fiscal year for which the change is requested will not be accepted.

How does our district estimate the cost of recapture?

Your district can determine estimated recapture costs using a state aid Excel template provided by the Region XIII Education Service Center. The template is available at http://www5.esc13.net/finance/index.html. The TEA strongly encourages districts to compare their own estimates of recapture with those found in the Cost of Recapture Report. Your district can access the current Cost of Recapture Report

partner district in accordance with the FSP payment schedule, available at https://tea4avfawcett.tea.state.tx.us/fsp/Reports/ReportSelection.aspx.

What is settle-up?

Settle-up is a process of reconciling your district's estimated costs of recapture with its actual costs of recapture.

There are two rounds of settle-up, each associated with a Cost of Recapture Report (see **When does the TEA provide estimates of the cost of recapture?**).

The first round of settle-up is associated with the near-final Cost of Recapture Report. The TEA typically generates this report in September, following the school year that has just ended. At this "near-final" stage of settle-up, all data elements except final tax collections (from the schedule of delinquent taxes receivable) are incorporated in the near-final Cost of Recapture Report.

The second round of settle-up is associated with the final Cost of Recapture Report. The TEA generates

payment of any amount due to your district from its partner(s). The near-final Cost of Recapture Reports will compare the near-final number of WADA needed to the number of WADA purchased. The final Cost of Recapture Reports will compare the final number of WADA needed to the number of WADA purchased. After receiving the near-final and final Cost of Recapture Reports, your district must update the information about the number of WADA purchased from each partner in the Chapter 41 subsystem of the online FSP System. Submitting updated information enables the TEA to make the appropriate adjustment to each partner's state aid.

The cost of recapture for a Chapter 41 district that is exercising Option 3 or 4 is based on the cost of an attendance credit. The cost of attendance credits is established by the TEC, §41.093(a), which states that:

> the cost of each credit is an amount equal to the greater of:
>
> 1) the amount of the district's maintenance and operations tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or
> 2) the amount of the statewide district average of maintenance and operations tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

For the 2018–2019 school year, the preliminary 2017–2018 statewide district average M&O tax revenue per WADA used to calculate recapture costs for the first EWL is calculated as data becomes available and is provided on the Cost of Recapture Report. The statewide average M&O revenue per WADA used to calculate recapture costs for the third EWL is calculated as data becomes available and is provided on the Cost of Recapture Report.

Which of these options require voter approval?

available at the TEA Chapte

If detachment of these categories of taxable property would not achieve wealth equalization, then the commissioner must consolidate the school district with one or more school districts to achieve wealth equalization.

What happens if the default is related to a prior school year?

The commissioner will evaluate the status of all recapture payments owed from prior school years two times annually. Districts with unpaid balances from prior school years will be considered delinquent.

First Evaluation

The first evaluation of the status of recapture payments owed from prior school years will occur in September of each year following near-final settle up calculations. The commissioner will notify delinquent districts of the amounts due on approximately September 15. A district that fails to make the recapture payments identified in this notice in full by October 1 will be considered to have defaulted on its recapture payments for a prior school year.

If a Chapter 41 school district is considered to be in default on its recapture payments as of October 1, the commissioner will notify the Chapter 41 school district that it has defaulted on its recapture payments and that the commissioner will not certify the Chapter 41 district to adopt a tax rate until wealth equalization has been achieved. The commissioner will also notify the Chapter 41 district in default of the commissioner's authorization to achie

G or Subchapter H. The notice of default will be sent to each Chapter 41 district in default on or before May 31. The agency also notifies the affected school districts and county appraisal districts in which the

Chapter 41 districts that are in default for a prior school year will be notified as soon as practicable after the default but before May 31 of the action(s) the commissioner will take to achieve wealth equalization.

The commissioner's action(s) to achieve wealth equalization will become effective July 1 of the current school year.

What happens if our district does not call an election?

If by September 1, the commissioner determines that a school district will not be able to equalize wealth for the current year due to failing to call an election to authorize one or more options under Chapter 41, the commissioner will order the detachment of property under Chapter 41, Subchapter G or annexation under Subchapter H. The commissioner will notify the affected school districts and appraisal districts of this decision as soon as practicable, but by May 31.

What happens if our district calls an election but the voters don't authorize an option to reduce wealth?

If the commissioner determines that a school district will not be able to equalize wealth for the current year, because the voters did not authorize an option(s) to reduce wealth, the commissioner will order the detachment of property under Chapter 41, Subchapter G or annexation under Subchapter H, spe0.003 Te3o(e)-65(u)-0.h[(t)-6(h)-0.7()-0.7()-.c 0.00(39(s)-1.3(3 Tc -6.c 0.00(39(s)-1G)-3.)03m5-0.7(t)--0.001 Tc 0.003 Tv

Section 4: Options for Reducing Costs

This section discusses options for Chapter 41 districts to reduce recapture costs.

Unless otherwise noted, your districtrefers to a Chapter 41 district.

What options are available to reduce recapture costs?

Several options are available to reduce recapture costs. Your district can take advantage of an early agreement credit, under certain conditions described below, as well as other methods of cost reduction.

Can our district receive a credit for submitting its agreement early?

If your district is exercising Option 3, the purchase of attendance credits from the state, an early agreement credit is available (see the TEC, §41.098). To qualify, your district must submit a signed Option 3 agreement to the TEA State Funding Division that is correct and complete and is postmarked on or before the due date for early agreement credits. Typically, that deadline is September 1 of the applicable year. Check the **Chapter 41 Calendar for School Year 2018–2019** for the appropriate deadline.

The credit amount is equal to the lesser of 1) 4 percent of the cost or 2) $80 per credit purchased. To qualify for this credit, your district must exercise Option 3 or a combination of Options 3 and 4 that involves a technology consortium (information on technology consortiums is provided in **How does our district participate in an Option 4 technology consortium?**). If your district exercises a combination of Options 3 and 4 with a technology consortium, the credit applies only to the portion of the WADA purchased through Option 3. The early agreement credit is automatic if your district meets the deadline and all other requirements.

Is our district eligible to receive a credit for tuit5( )-uali( )7()10.6(m)-6.4(

Is our district eligible for the hold harmless provision?

To be eligible for the hold harmless provision, your district must exercise Option 2 or 3, or Option 3 in combination with the technology consortium form of Option 4. If your district is exercising Option 3 in cn

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Section 5: Taxation

This section discusses taxation as it relates to Chapter 41.

Unless otherwise noted, your districtrefers to a Chapter 41 district.

How does being a Chapter 41 district affect tax rate adoption?

The TEC, §41.004(c), **prohibits a Chapter 41 district from adopting a**

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Appendix A: Applicable Statutes

Texas Education Code, Chapter 41: http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.41.htm

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Screen shot of 2018–2019 Chapter 41 Choice SelectionDistrict Intent/Choice Selection form: For districts that were first designated Chapter 41 prior to 2006–2007

2018–2019 Contracts

Use this form to inform the state which option your district has chosen to equalize its wealth level. The contract must be completed and submitted via the online FSP System. A screen shot of the contract as it appears in the FSP System is shown on the following page.

Instructions and Notes

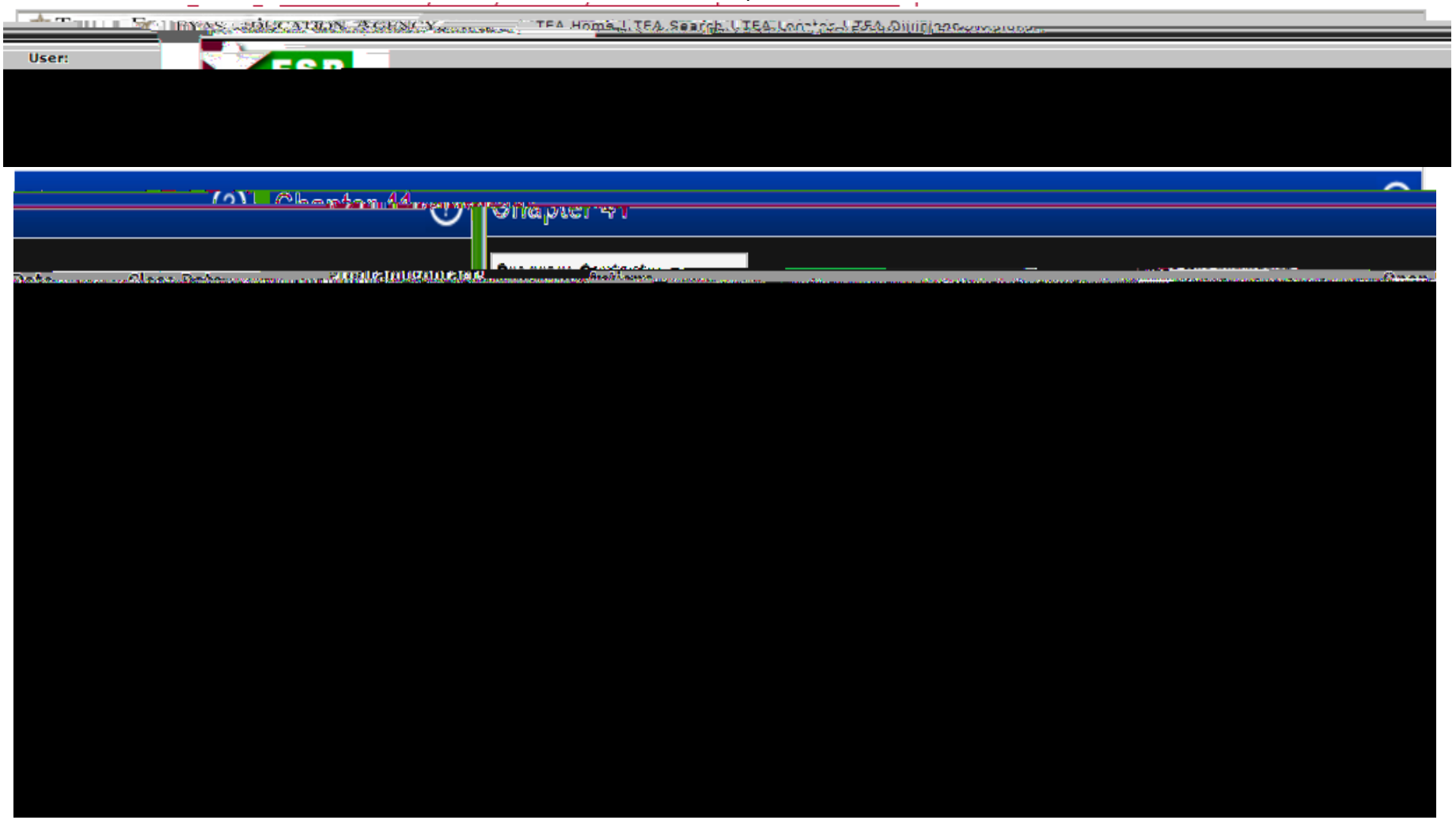
If your district chooses to submit the Option 3 Contract via the Chapter 41 subsystem, each year the district school board must delegate the authority to obligate the school district under chapter 41 to the superintendent. The following language is required to be recorded in the board minutes and the board minutes must be uploaded via the Chapter 41 subsystem of the online FSP System:

For the 2018–2019 school year, we delegated contractual authority to obligate the school district under Texas Education Code (TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, Chapter 41, Subchapters A and D, and the rules adopted by the commissioner of education as authorized under TEC, 41.006. This included approval of the Agreement for the Purchase of Attendance Credits or the Agreement for the Purchase of Attendance Credits (Netting Chapter 42 Funding).

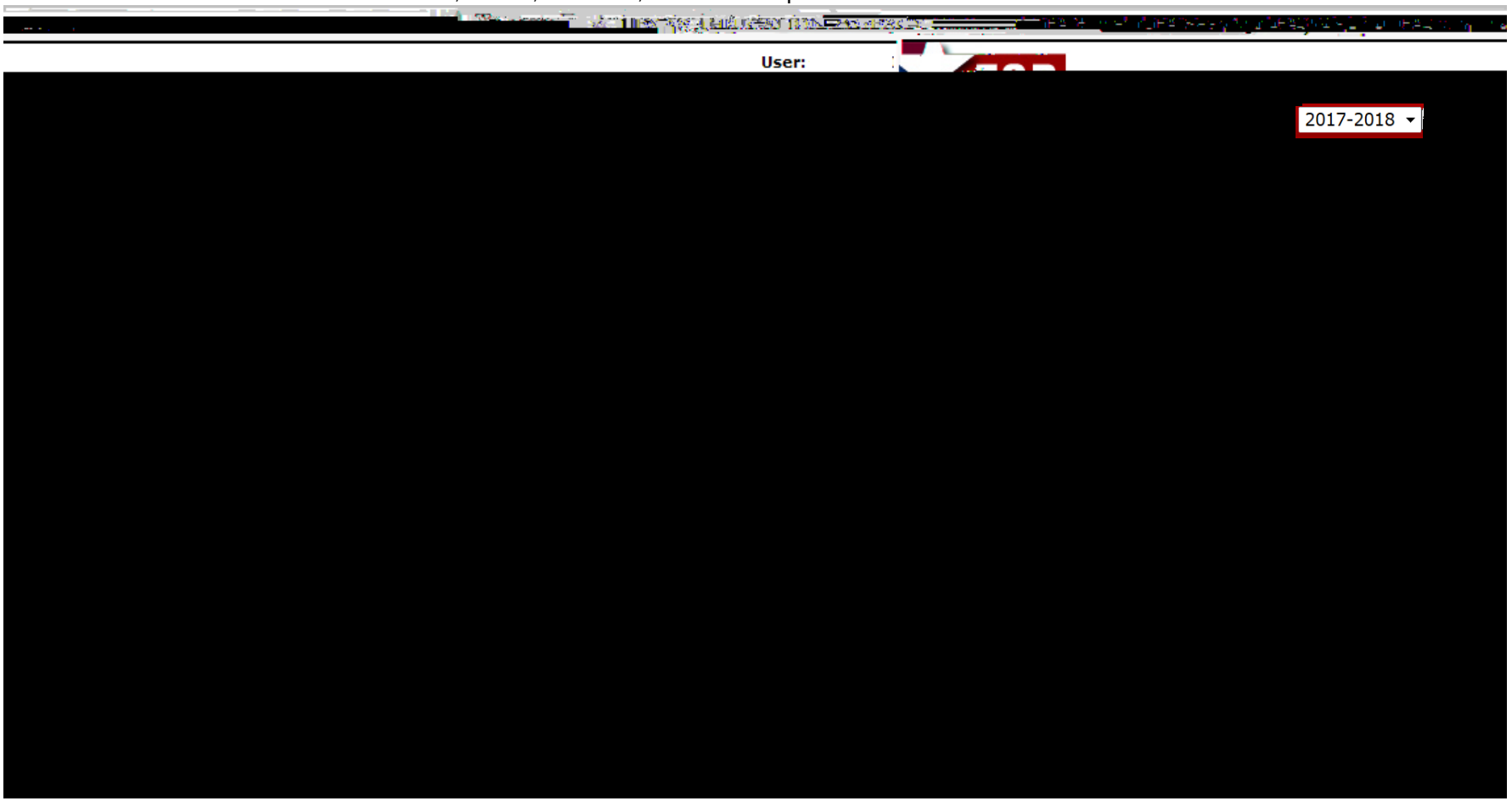
If your school board chooses not to delegate contractual authority to the superintendent or if your

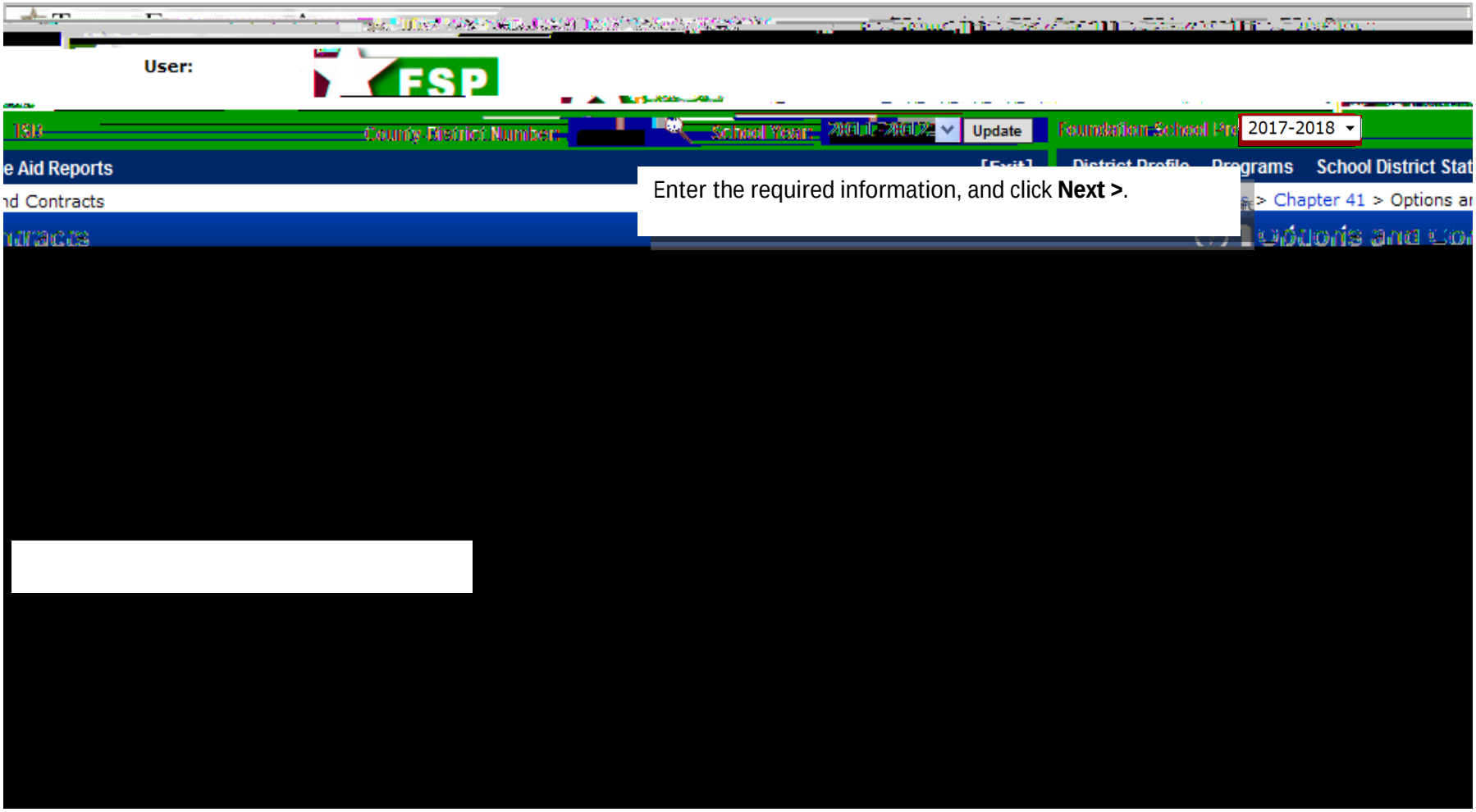
Screen shot of 2018–2019 Chapter 41 Contract Detail Information Section:

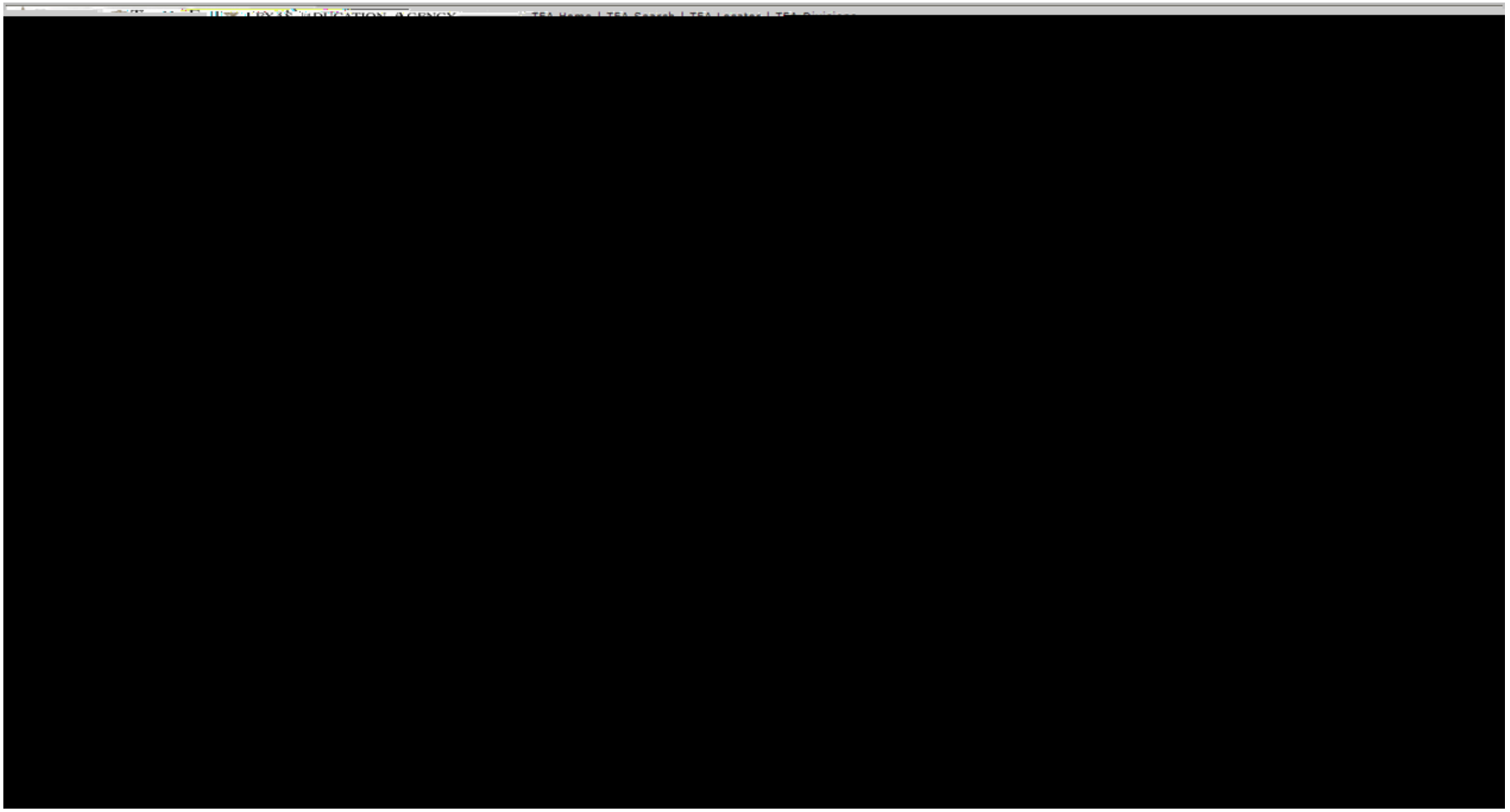
Screen shots of 2018–2019 M&O Collections, WADA, CAD Cost, Tuition & Chapter 42 Partner Data screens:



Screen shots of 2018–2019 M&O Collections, WADA, CAD Cost, Tuition & Chapter 42 Partner Data screens:




User:
FSP
Update
2017-2018
Enter the required information, and click **Next >**.



Appendix C: Sample Contracts

This appendix includes the following sample contracts and optional contract language:

Option 3:

- **Agreement for the Purchase of Attendance Credits**—for use if your district selected Choice 2 in the Choice Selection Form in the FSP System

- **Agreement for the Purchase of Attendance Credits (Netting Chapter 42 Funding)**—for use if your district selected Choice 1 in the District Intent/Choice Selection Form in the FSP System

Option 4:

- **Agreement for the Education of Nonresident Students**

- Optional language to be inserted in the **Agreement for the Education of Nonresident Students**

Please note that the sample contracts require the entry of the school year to which they apply.

No school district official (or any other person in your district) has the authority, either implied or actual, to change or alter any rules, regulations, or reporting requirements specified in this manual.

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Agreement for the Purchase of Attendance Credits

This agreement is entered into pursuant to the Texas Education Code (TEC), Chapter 41, Subchapters A and D, and rules adopted by the commissioner of education as authorized by the TEC, §41.006. The purpose of this agreement is to enable the district to reduce its wealth per weighted student to a level that is not greater than the equalized wealth level as determined by the commissioner of education in accordance with the TEC, §41.002.

Signature of Superintendent

Date: _____

Signature of President, Board of Trustees

Date: _____

Signature of Secretary, Board of Trustees

Signature of Superintendent

Date: _____

Typed Name of Superintendent

Date: _____

Signature of Commissioner of Education or Designee

Agreement for the Education of Nonresident Students

Optional Language to Be Inserted in the Agreement for the Education of Nonresident Students

Optional Language on CAD Costs

The partner agrees to pay a prorated share of county appraisal district (CAD) costs incurred by the district as a result of funds raised by the district that are distributed to the partner. The share will be based on actual WADA purchased from the partner applied as a percentage to the total applicable CAD costs for the applicable year.

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Appendix D: Sample Ballot Proposition Language

This appendix provides sample ballot proposition language that your district can use if it is conducting an election to obtain voter approval for exercising Option 3, 4, or 5.

So far, virtually all Chapter 41 districts have chosen Option 3 or 4 or both simultaneously. Therefore, it is assumed that all or most districts will use one or both of these options in the future. **If your district is considering any other option besides Option 3 or 4, please consult the Chapter 41 program director in the TEA State Funding Division at (512) 463-9238**.

Please direct questions about election procedures to the Elections Division of the Texas Secretary of State at 1-800-252-8683. **Please also contact this division for a calendar for special elections pertaining to Chapter 41.**

Following the US Supreme Court decision in Shelby County v. Holder, preclearance of an election under Section 5 of the Voting Rights Act may no longer be required. Your district should consult its legal counsel about

BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____ School District (Distrito Escolar De _____)
Date (Fecha): _____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X" in the square beside the statement indicating the way you wish to vote. (Marque con una "X" el cuadro a la ezquierda de la frase que indica la manera en que usted quiere votar.)

Ballot Proposition: Authorizing the board of trustees of _____ School District to purchase attendance credits from the state with local tax revenues. (Propuesta Electoral: Autorizando a la junta directiva del Distrito Escolar de _____ para adquirir créditos de asistencia estatales con ingresos de impuestos locales.)
... FOR (A FAVOR DE)
... AGAINST (EN CONTRA DE)

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BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____ School District (Distrito Escolar De _____)
Date (Fecha): _____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X"

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BALLOT PROPOSITIONS

No. 0000

Special Election (Elección Especial)
_____ School District (Distrito Escolar De _____)
Date (Fecha): _____, 20XX

OFFICIAL BALLOT (BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION:)

Place an "X" in the square beside the statement indicating the way you wish to vote. (Marque con una "X" el cuadro a la ezquierda de la frase que indica la manera en que usted quiere votar.)

Ballot Proposition: Creation of a consolidated taxing district composed of the territory of _____ school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed $_____ on $100 valuation of taxable property

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Texas Education Agency
Austin, Texas
Spring 2017