

A Report on the Texas Education Agency's Efforts in Implementing the Provisions of Rider 70

A Report to the 84th Texas Legislature from the Texas Education Agency
January 2015

Submitted to the Governor, Lieutenant Governor, Speaker of the House of Representatives,
the Legislative Budget Board, and Members of the 84th Texas Legislature

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Executive Summary

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Introduction

Senate Bill 1, General Appropriations Act, Rider 70 requires the Texas Education Agency (TEA) to ensure all accountability, monitoring, and compliance systems related to special education are non-duplicative and unified and focus on positive results for students in order to ease the administrative and fiscal burden on districts.¹ Rider 70's provisions align with, and build upon, the coordination and alignment strategies implemented by TEA in its obligation to meet a diverse set of state and federal monitoring, accountability, and compliance requirements.

Rider 70. Special Education Monitoring. Out of funds appropriated above, the Texas Education Agency (TEA) shall ensure all accountability, monitoring, and compliance systems related to special education will be non-duplicative, unified, and focus on positive results for students in order to ease the administrative and fiscal burden on districts. TEA shall solicit stakeholder input with regard to this effort. TEA shall issue a report to the Lieutenant Governor, Speaker of the House, the Legislative Budget Board, and the presiding officers of the standing committees of the legislature with primary jurisdiction over public education no later than January 12, 2015 regarding the agency's efforts in implementing the provisions of this rider. In the report, TEA shall include recommendations from stakeholders, whether those recommendations were adopted, and the reasons any recommendations were rejected.

This report addresses the provisions of Rider 70 in the chapters that follow. These chapters provide an overview of accountability, monitoring, and compliance systems related to special education; describe processes already implemented or underway for ensuring those systems are non-duplicative, unified, and focused on positive results for students; introduce additional options for future consideration and implementation; and identify other longer-term considerations. This report also includes important information and details on timelines (Appendix A), performance gains and positive results achieved for students with disabilities (Appendix B), the full text of stakeholder comments received through the Rider 70 public comment period (Appendix C), and statutory references (Appendix D).

Recommendations

Rider 70 requires that this report include recommendations from stakeholders, whether those recommendations were adopted, and the reasons any recommendations were rejected. The following 13 recommendations were adopted:

1. Ensure duplicative documents and reporting are not requested.
2. Set up structures such that a given document can serve several purposes.
3. Provide templates for as many documentation requirements as possible.
4. Combine a performance-based system with random, on-site visits to schools.
5. Gather input from teachers, other staff, and parents regarding the quality of the school's overall special education program.
6. Combine, link, align, and/or eliminate indicators where possible to ensure a single, unified system for monitoring special education.

¹ Unless otherwise noted, the terms "district," "school district," and "campus" include open-enrollment charters.

7. Combine the three separate special education systems—State Performance Plan (SPP), the Performance-Based Monitoring Analysis System (PBMAS), and the residential facilities (RF) monitoring and *RF Tracker* system—into a single, integrated, non-duplicative monitoring system with a single reporting schedule such that an area is only addressed once.
8. Consult regularly with a variety of stakeholders regarding the ongoing implementation of accountability, monitoring, and compliance systems related to special education.
9. Ensure that changes made to the accountability, monitoring, and compliance systems related to special education are consistent with the goal of ensuring that every student has access to a free appropriate public education.
10. Increase transparency and make results easily accessible for stakeholders by providing a standard template to communicate results of performance and compliance indicators.
11. Provide technical assistance to school districts struggling to appropriately provide services to students with disabilities, and, when necessary, intervene and enforce sanctions when districts are unable or unwilling to correct noncompliance and violations of the state and federal laws.
12. Continue and improve the monitoring of districts that serve students with disabilities who reside in RFs.
13. Include indicators focusing on passing standards for state assessments in an area that affects a district performance indicator and not just that of “special education.”

In addition, the following eight recommendations were adopted, in part:

1. Require district and campus improvement teams to review campus and district data related to educating students with disabilities and to include parents of students with disabilities in order to ensure that this perspective is included in the planning process.
2. Require the board of trustees to post an agenda item for a public report on its level of intervention and corrective action plan.
3. Formally incorporate the complaint, mediation, and due process hearings data from a school district into the overall review of a district’s performance and the need for intervention.
4. If an indicator is reported in multiple systems, use a consistent data analysis formula in all systems.
5. Take into consideration the type of RF located in the district when assigning levels (points) for RF monitoring.
6. For the collection of graduation data for 2013-2014 and beyond, modify the PBMAS to align with changing graduation requirements in House Bill (HB) 5.
7. Eliminate PBMAS special education Indicator #7 in favor of Indicator #8 while assuring Indicator #8 data is collected similarly to its corresponding SPP indicator.
8. Consider a provision that all standards and guidance for any assessment and accountability system or reporting process must be published by September 1 of the year in which the standards are being implemented.

Information responsive to the 21 recommendations is provided in Chapter 2 as well as the report's appendices.

The following five recommendations were not adopted:

1. Add indicators to the monitoring system, such as whether districts have established procedures required by 19 Texas Administrative Code (TAC) §89.1075; indicators that would expand the representation indicator to include specific categories of disabilities, indicators that would evaluate the size of the regular education classes; and indicators that would set a standard for the number of complaints filed by staff and parents against a district with TEA.
2. Add indicators to the accountability system's district rating regarding the percentage of students with disabilities placed in disciplinary settings as compared to the general population; the number or percentage of students with disabilities arrested by peace officers at school, on school premises, or at school functions; and the number or percentage of students with disabilities placed in behavioral units. Also add indicators indicating the percentage of students with disabilities who are educated in the most segregated settings (students educated in self-contained settings for more than 50% of the day and other more restrictive instructional arrangements); the number or percentage of high school students with disabilities earning an endorsement under HB 5; the number or percentage of high school students with disabilities taking a course with modified curriculum; and the number or percentage of students with disabilities under *the Individuals with Disabilities Education Act* (IDEA) in relation to the number or percentage of students with disabilities under Section 504 of the Rehabilitation Act. Also indicators should be added that would evaluate transition services and outcomes for students receiving special education services (appropriate goals and services leading to post public school success in higher education, employment and community living).
3. Eliminate the SPP Indicator 14, year after graduation.
4. Add indicators to the bilingual education/English as a Second Language (BE/ESL) and Career and Technical Education (CTE) PBMAS program areas.
5. Eliminate the early childhood outcomes system as it does not allow for changes in campuses, handicap, instructional arrangements, etc. that occur during the time data is entered and the student is exited.

Additional information on these recommendations and reasons for not adopting them are provided in Chapter 3.

Finally, the following six recommendations were neither adopted nor rejected, but relate to other, longer-term considerations that are discussed in Chapter 4:

1. If monitoring specific student groups, such as students in RFs, use a Public Education Information Management System (PEIMS) specific code to disaggregate their data within existing systems versus requiring a separate tracking and monitoring system.
2. Align and integrate the special education monitoring systems with other state systems, including the state accountability system with reports coming to the district as part of the overall district accountability reporting system.
3. Data reported should be no more than one year old if used to determine a district's monitoring status, staging status, or required improvement activities.
4. Combine RF monitoring into the overall performance-based monitoring system.
5. Post district special education determinations on the TEA website to increase transparency of district specific special education compliance information.

6. Require districts to report their most recent final special education determination on the district/campus report card sent home with all students.

Chapter 1 Overview of Accountability, Monitoring, and Compliance Systems Related To Special Education

Overview of State Accountability Systems (1994-2011)

In 1993, the Texas Legislature mandated the creation of a Texas public school accountability system to evaluate district and campus performance. Two overarching goals were identified for the accountability system: to improve student achievement in core content areas of reading, writing, and mathematics and to close performance gaps among student groups.

The first accountability system was developed with the assistance of an educator focus group (comprised of principals, superintendents, district administrators, and education service center [ESC] representatives) and a commissioner's accountability advisory committee (composed of legislative representatives, business and community members, district and campus administrators, and ESC representatives). Through a comprehensive accountability development process, the educator focus group defined indicators, standards, and additional features of the system. These were compiled as a set of recommendations that were subsequently forwarded to the commissioner's accountability advisory committee for review. Surveys of educators and parents further assisted with the collection of broad-based stakeholder input before the final accountability system design was approved and implemented.

From 1994–2002, TEA assigned state accountability ratings to districts and campuses based largely on indicators that measured the Texas Assessment of Academic Skills (TAAS) passing rates, annual dropout rates, and attendance rates for All Students as well as African American, Hispanic, White, and economically disadvantaged student groups that met minimum size criteria. Students receiving special education services for whom TAAS was determined to be an appropriate measure of their academic achievement by their admission, review, and dismissal (ARD) committee were included in the TAAS indicators.²

In 2002, the Texas Legislature mandated additional revisions. Development of the state's second accountability system began in 2003. Meetings with an educator focus group and an accountability advisory committee, along with surveys of educators, again provided broad-based input on the proposed structure of the new accountability system and the incorporation of new state requirements.

From 2004-2011, TEA assigned state accountability ratings of *Low-Performing*, *Academically Acceptable*, *Recognized*, and *Exemplary* based on indicators that measured passing rates from the more rigorous Texas Assessment of Knowledge and Skills (TAKS), a longitudinal completion rate, as well as other state requirements to expand the system with more subjects and grades. Under this system, districts and campuses were required to meet criteria on up to 25 separate assessment measures and up to 10 dropout and completion measures.

During this time, TEA developed new assessments for students served in special education. The performance of students taking the SDAA was evaluated through a new indicator included in the state accountability system from 2004-2007. Beginning in 2008, TAKS (Accommodated) tests for certain grades/subjects were evaluated. In 2010, TAKS (Accommodated) results for all grades/subjects were fully incorporated, and in 2011, performance on alternate assessments, TAKS–Modified (TAKS–M) and TAKS–Alternate (TAKS–Alt), were combined with TAKS and TAKS (Accommodated) results in the state accountability system's overall TAKS indicator, although students served in special education were not evaluated as a separate student group. In addition, as required by Texas Education Code (TEC) §39.055, students court-ordered into residential facilities and Texas Juvenile Justice Department facilities were excluded from the state accountability system.

² Special education students instructed in the state-mandated curriculum, but for whom TAAS was not an appropriate measure, even with allowable accommodations, were administered the State-Developed Alternative Assessment (SDAA). Special education students not instructed in the state-mandated curriculum were exempted from taking the TAAS and SDAA. In addition, any students whose ARD committee determined the need for an accommodation that invalidated the SDAA were exempt from taking the SDAA. Special education students who did not take TAAS or SDAA were still required to take one or more locally determined alternate assessments (LDAA) selected by the students' ARD committee. Results of the SDAA and LDAA were not included in the accountability system's TAAS indicators.

Overview of the Federal Accountability System (2003-2012)

In Texas, 2003 was the first year of implementation of new federal accountability requirements. The *No Child Left Behind Act of 2001* (NCLB) reauthorized and amended federal programs established under the *Elementary and Secondary Education Act of 1965* (ESEA). Provisions of this statute required that Adequate Yearly Progress (AYP) statuses of *Met AYP*, *Missed AYP*, and *Not Evaluated* be assigned to all districts and campuses.

Federal regulations required that AYP report three indicators for each district and campus in the state: (1) reading/English Language Arts (ELA); (2) mathematics; and (3) an “other” measure. The reading/ELA and mathematics indicators each consisted of a performance and participation component based on the reading/ELA and mathematics assessments administered to students in Grades 3–8 and 10.

Under the “other” measure, either graduation rate or attendance rate could be evaluated based on the grades offered in the district or campus. Graduation rate was used for high schools, combined elementary/secondary schools offering Grade 12, and districts offering Grade 12. Attendance rate was used for elementary schools, middle/junior high schools, combined elementary/secondary schools not offering Grade 12, and districts not offering Grade 12.

States were required to evaluate AYP indicators for each of the following student groups: major racial and ethnic groups, economically disadvantaged, special education, and English language learners (ELL, formerly referred to as limited English proficient or LEP). Additionally, each state was required to establish a timeline to ensure that not later than the 2013-2014 school year, all students in each group would meet or exceed the state's performance standards.

In December 2003, an additional federal regulation implemented a federal cap on the number of students who could be counted as proficient based on performance results from alternative assessments. The Texas AYP Workbook amendments in 2004 outlined the use of the SDAA for students receiving special education services.

In November 2005, TEA reached a flexibility agreement with the United States Department of Education (USDE) for the inclusion of students with disabilities in the performance calculations for 2005, 2006, and 2007 AYP. The agreement outlined the use of the newly developed SDAA II assessment designed to align with TAKS proficiency levels and include secondary grades.

By 2008, Texas completed the development and peer review of the TAKS–Alt and TAKS–M assessments, which replaced SDAA and SDAA II for students receiving special education services. As required, these assessments were subject to the federal 1% (TAKS–Alt) and 2% (TAKS–M) caps on proficient results.

All districts, campuses, and the state were evaluated annually for AYP from the 2002-2003 through the 2011-2012 school years. In January 2013, the Commissioner of Education requested that the USDE waive specific provisions of the ESEA, including a request that the AYP calculations and performance targets be replaced with a single, unified accountability system. The USDE approved the Texas waiver request on September 30, 2013, which waived the 2012-13 AYP calculations and allowed the state’s existing systems of interventions to guide the support and improvement of schools. As a result of the approved ESEA Flexibility Waiver, the state accountability system safeguard information was used to meet federal accountability requirements to identify Priority and Focus Schools that are eligible for additional federal funding while subject to a series of federally prescribed interventions.

Development of a Single, Unified Accountability System (2012-Present)

In 2009, the Texas Legislature passed House Bill (HB) 3 mandating the creation of an entirely new accountability system focused on the achievement of postsecondary readiness for all Texas public school students. Legislation passed during this time also led to the development of a new assessment program: the State of Texas Assessments of Academic Readiness (STAAR).

In 2010, TEA began working closely with advisory committees and others to develop the new accountability system designed to meet legislative requirements by incorporating STAAR results, evaluating postsecondary readiness, and including a new distinctions designations component. The development of the new accountability system also included a plan for aligning state and federal accountability requirements, to the extent possible, in a single system.

In 2012, AYP statuses were assigned, but no state accountability ratings were issued. In 2013, the agency notified districts that ratings of *Met Standard*, *Met Alternative Standard*, or *Improvement Required* would be assigned under the new system. These ratings would be based on four performance indexes for Student Achievement, Student Progress, Closing Performance Gaps, and Postsecondary Readiness.

The indexes were designed to include assessment results from the STAAR testing program, graduation rates, and rates of students achieving the Recommended High School Program and Distinguished Achievement High School Program. In addition to evaluating performance for all students, the performance index framework included evaluation of the following student groups - African American, American Indian, Asian, Hispanic, Pacific Islander, White, Two or More Races, Students Served by Special Education, Economically Disadvantaged, and ELLs. Students served by special education and ELLs were evaluated for the first time as separate student groups in the state accountability system in the student progress and postsecondary readiness indexes. The performance indexes also included student performance on the alternate assessments, STAAR Modified and STAAR Alternate, for grades 3-8 and end-of-course.

System safeguards were incorporated into the index system to ensure that performance on each subject, indicator, and student group was addressed and that all state and federal accountability requirements were incorporated into the new accountability system. System safeguard reports were developed to provide disaggregated results with percent of measures and targets met for all of the student groups.

As required by state law, the new accountability system was also designed to award distinctions designations to campuses based on campus performance compared to a group of campuses of similar type, size, and student demographics. In 2013, campuses were eligible for up to three distinctions designations: top 25% student progress, academic achievement in reading/English language arts, and academic achievement in mathematics.

In addition, Senate Bill 306 expanded the exclusion of students placed in a residential facility from the accountability system to include students who were not court-ordered to the residential facility. This exclusion increased the number of campuses that were not rated in the state accountability system from 22 in 2011 to 87 in 2013. The number of charter districts that were not rated in the 2013 state accountability system because they operated only residential facilities was nine.

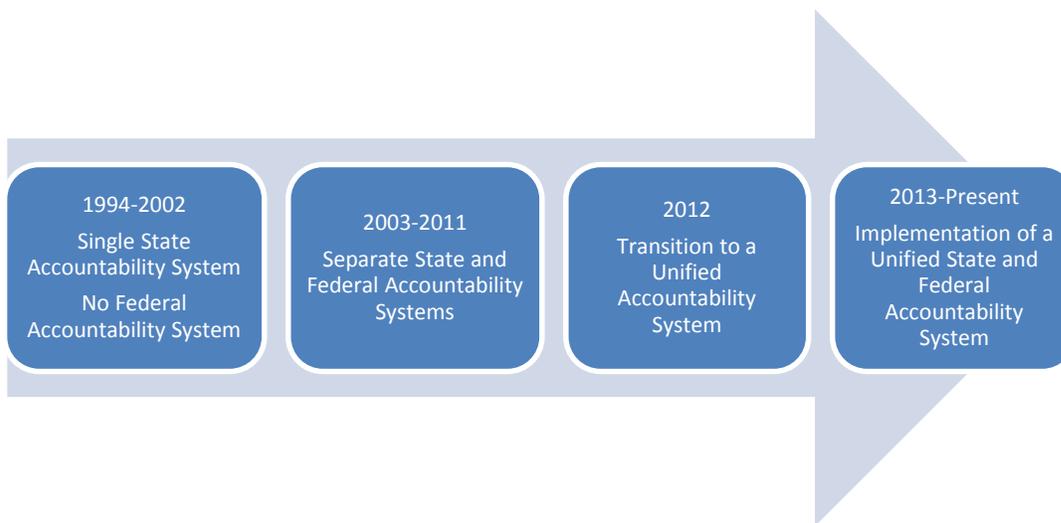
On August 8, 2013, the Texas state accountability ratings, distinction designations, and system safeguard reports were released on the TEA website. For 2013, the state accountability disaggregated safeguard measures included four components: (1) performance rates; (2) participation rates; (3) graduation rates; and (4) limits on use of alternative assessments. The disaggregated performance results of the state accountability system serve as the basis of safeguards for the accountability rating system to ensure that poor performance in one area or one student group is not masked in the performance index.

The 2013 ratings criteria and targets for the performance indexes were applicable to 2013 only, since the rating system could not be fully implemented in the first year because of statutory requirements in HB 3, including the evaluation of advanced performance in closing performance gaps and certain measures of postsecondary readiness. In addition to the planned transitional changes for 2014, HB 5, 83rd Texas Legislature, 2013, made further changes to the rating system. Because of the many issues that need to be addressed, as well as the continuing implementation of the STAAR system and new graduation requirements, development of the new accountability system is ongoing, and it will be several more years before full system stability can be achieved.

Revisions to the accountability system for 2014 included increased rigor with slightly higher index targets, the inclusion of additional ELL student results in the evaluation of the performance indexes, and a postsecondary readiness indicator added to the Postsecondary Readiness index. Also in 2014, an additional four distinction designations (academic achievement in science, academic achievement in social studies, top 25 percent closing performance gaps, and postsecondary readiness), were assigned to campuses, and a new distinction designation based on postsecondary readiness was assigned to districts.

The evolution of Texas' accountability systems from 1994 to the present is summarized in Figure 1.

Figure 1 – Texas Accountability Systems (1994-Present)



Overview of Program Monitoring Systems Implemented Prior to 2003

Prior to 2003, TEA's required program monitoring efforts focused solely on program compliance through the implementation of an on-site monitoring system, District Effectiveness and Compliance (DEC). Under the DEC system, districts were identified cyclically by TEA for on-site visits in which a team of TEA monitors reviewed available district documents (including student folders and financial records), held roundtable discussions with administrators and teachers, and engaged in an on-site assessment of the campus and classroom environments to evaluate whether districts were implementing programs according to state and federal regulations. Program areas monitored through DEC included bilingual education, Career and Technical Education, gifted and talented, migrant, Title programs under ESEA, and special education.

In addition to being time-consuming and resource-intensive for both districts and TEA, the DEC system had other significant shortcomings, including its over-reliance on compliance monitoring, its failure to distinguish between districts that needed on-site intervention from those that did not, its lack of public transparency, its incapacity to

monitor every district annually, and its inability to measure and report whether the districts' programs for special populations were having a positive, quantifiable impact on student performance results. Additionally, concerns were raised about the lack of integration among the various programs being monitored.

Development of a Single, Unified Program Monitoring System (2003-Present)

HB 3459, 78th Texas Legislature, 2003, added TEC §7.027, which placed a limitation on compliance monitoring, effectively discontinuing the DEC system. In addition, this legislation charged local boards of trustees, rather than TEA, with primary responsibility for ensuring districts' adherence to the requirements of state educational programs, which discontinued TEA's previous monitoring of certain state programs such as gifted and talented. Legislation passed in 2005 renumbered TEC §7.027 to TEC §7.028.

Beginning in the fall of 2003, TEA worked closely with several focus groups to develop a program monitoring framework that would address the deficiencies identified in DEC and also meet a diverse set of state and federal monitoring requirements. TEA's work with the focus groups was informed by legislative advice and guidance from TEA's legal counsel. The focus groups were comprised of teachers, principals, administrators, curriculum staff, program directors, superintendents, education service center personnel, and representatives from various other educational and advocacy organizations.

In addition to recommending a series of guiding principles for the new program monitoring system, the focus groups provided critical input on factors they considered to be important indicators of the effectiveness of a district's program for special populations. For the special education program area, the program effectiveness considerations that were identified included the following:

- Do students with disabilities have a high rate of access to the general curriculum and the regular classroom?
- When they have access to the general curriculum, do they perform satisfactorily on the student assessment instruments designed to measure their knowledge and skills?
- Do students with disabilities remain in school through the end of their secondary schooling?
- When they remain in school, are they able to graduate at high rates?
- Do the types of diplomas they earn reflect a meaningful rate of access to the general curriculum?
- Does the district's special education program identify students for special education services based on the student's disability, not the student's English language proficiency or race/ethnicity?

The Performance-Based Monitoring Analysis System (PBMAS)

As the focus groups considered the various programs that would comprise the new monitoring system (bilingual education/English as a Second Language; Career and Technical Education; Title I, Part A; Title I, Part C; and special education³), strong support was expressed for developing a unified approach that would encompass all program areas into a single monitoring system, including the alignment of indicators across program areas whenever possible. To meet this objective, the agency developed the PBMAS, which was implemented for the first time in 2004.

In addition to integrating four diverse program areas into one system, the PBMAS was designed to rely on indicators of *student performance* and *program effectiveness* rather than compliance-based measures, thereby ensuring the overall focus of the new monitoring system would be driven by factors that contribute to positive

³In this report, these programs are also referred to as BE/ESL (bilingual education/English as a Second Language), CTE (Career and Technical Education), NCLB (Title I, Part A and Title I, Part C), and SPED (special education).

results for students. Additionally, the PBMAS was designed to take advantage of the significant amount of reliable and comprehensive data reported annually by districts rather than relying exclusively on expensive, time-consuming, and resource-intensive on-site visits as the primary mechanism to inform monitoring determinations and interventions. On-site monitoring would continue to be used when necessary and appropriate, but it would no longer be the only strategy.

With the PBMAS, the agency transformed program monitoring from a stand-alone, cyclical, compliance, on-site monitoring system to a data-driven, results-based system of coordinated and aligned monitoring activities. This transformation enabled the agency to also implement targeted, rather than arbitrary, interventions based on the extent and duration of student performance and program effectiveness concerns identified by the PBMAS. Additionally, with the implementation of the PBMAS and its graduated approach to interventions, the agency was able to meet its obligation to monitor every school district every year.

In implementing the PBMAS, the agency was also able to address two other critical goals expressed by its focus groups: that the new system needed to be publicly transparent and that it should measure and report whether the districts' programs for special populations were having a positive, quantifiable impact on student performance results. While no DEC information was made public, each component and indicator included in the PBMAS is fully described in an annual PBMAS Manual that is publicly posted on TEA's web site. Additionally, beginning with the first PBMAS released in 2004 and continuing annually since then, every district's PBMAS report has been publicly posted on the agency's website. In 2006, state-level versions of the PBMAS report were developed and publicly posted, and a year later, ESC versions of the PBMAS reports were added. The reports and manuals are available here: [http://tea.texas.gov/Student Testing and Accountability/PBMAS](http://tea.texas.gov/Student_Testing_and_Accountability/PBMAS).

Since 2004, the development and implementation of the PBMAS has occurred within a framework of system evolution. In addition to revisions required over time as new legislation was passed and new assessments were developed, the design, development, and implementation of the agency's program monitoring system has continued to be informed by public advice and evolving needs.

Interventions

While the PBMAS serves as the initial component to identify potential student performance and program effectiveness concerns, a second component—the interventions component—was developed to include the specific processes and activities the agency would implement with individual school districts after the initial PBMAS identification occurred. Like the PBMAS, these interventions, initially developed in 2004, were designed to support the state's goal of promoting positive results for students served in state and federal programs.

Although interventions activities and strategies were designed to be comparable across the PBMAS program areas, they were not initially integrated into one unified interventions system. The first two components of the PBMAS interventions process to be aligned were *monitoring activities* and *interventions stages*. First, regardless of the PBMAS program area, PBMAS monitoring interventions were designed to focus on continuous improvement within a data-driven and performance-based system. In implementing this model, the agency developed a variety of interventions activities for districts to engage in locally, including activities that emphasized data accuracy, data analysis, increased student performance, and improved program effectiveness. Specific required intervention activities were designed to include focused data analyses, submission of local continuous improvement plans for state review, program effectiveness reviews, compliance reviews, provision of public meetings for interested community members, and on-site reviews conducted by agency monitors.

The second component of the PBMAS interventions process that was aligned across the different PBMAS program areas was interventions staging. A graduated interventions approach was developed to ensure that differentiation of intervention staging for districts would ensue based on the degree of program effectiveness

concern initially indicated by the overall results across a program area's PBMAS indicators as well as instances of low performance on individual program-area PBMAS indicators.

A process for assigning districts required levels of intervention or stages 1, 2, 3, or 4 for each PBMAS program area was designed. Districts are assigned a separate intervention stage for each program area to ensure required district monitoring activities are targeted to address unique program needs and to meet state and federal statutory requirements for performance interventions and compliance reviews specific to each program area. All intervention stages require a locally-developed improvement plan for the specific program area identified with program effectiveness concerns, and additional interventions activities are required at the higher stages of intervention.

After evaluating the PBMAS interventions process that was implemented from 2005-2010, the agency recognized that the monitoring activities required in the interventions process could be aligned even further. While the separate program-area staging ensured that unique needs and requirements for each program were suitably addressed, it also had an unintended consequence for districts staged in more than one program area. These particular districts were conducting monitoring activities for each program area separately, which may have resulted in a district conducting four focused data analyses, four program effectiveness reviews, four public meetings, developing four improvement plans, and perhaps receiving multiple on-site visits.

In 2011, to address this unintended consequence and to facilitate districts' implementation of a single, district-wide set of monitoring and improvement activities, the agency revised its PBMAS interventions process so that, for districts staged in multiple programs, *integrated* intervention activities and reviews were initiated. These integrated intervention activities included comprehensive data reviews across all program areas, a student level review, focused data analysis, and the development of a continuous improvement plan. Additionally, if TEA determined that a district in integrated interventions needed further activities to identify causal factors of low performance and program ineffectiveness, agency monitoring staff could develop customized activities on a case-by-case basis.

As the state transitioned to a single, unified accountability system, there was an opportunity to integrate and align the interventions process even further. In 2012, PBMAS and accountability interventions became part of a fully integrated interventions system, the Texas Accountability Intervention System (TAIS). All districts that are staged in the PBMAS interventions system and/or that do not meet accountability standards conduct integrated activities focused on continuous and sustained improvement, including data analysis, needs assessment, and the development of a single, targeted improvement plan to improve performance of all students and increase effectiveness of all programs.

Overview of the State Performance Plan (SPP) and Annual Performance Report (APR)

Regulatory Requirements

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed on December 3, 2004. In accordance with 20 U.S.C. §1416(b)(1), not later than one year after the date of enactment of the reauthorized IDEA, each state was required to have in place a six-year performance plan that evaluates the state's efforts to implement the requirements and purposes of Part B IDEA and that describes how the state will continuously improve upon this implementation. The SPP is updated and submitted each year to the Office of Special Education Programs (OSEP) at the USDE. In February 2007, TEA submitted the first annual progress report related to the SPP, known as the APR, to the Secretary of Education. TEA submitted an APR annually through the 2012-2013 school year and will continue these submissions, as extension of this collection was approved through May 2017. The most recent SPP and APR, along with additional information about the indicators, is

available at: <http://tea.texas.gov/index2.aspx?id=2147497591>. Additionally, in accordance with 20 U.S.C. §1416(b)(2)(C)(ii) each state reports annually to the public on the performance of each of its districts according to the targets in its SPP. These district public reports contain performance against the state targets in select indicators and are posted on the state's website each spring.

Annual Determinations Requirement Under IDEA

Under IDEA, states are required to make annual determinations for every district in the state using the categories of *Meets Requirements*, *Needs Assistance*, *Needs Intervention*, or *Needs Substantial Intervention*. As implied, these categories represent various intensities of required technical assistance and/or intervention.

States must consider the following four federally required elements in assigning annual determinations to districts:

- Performance on SPP compliance indicators 9 (disproportionality in the special education program), 10 (disproportionality by specific disability), 11 (Child Find), 12 (early childhood transition), and 13 (secondary transition);
- Whether data submitted by districts is valid, reliable, and timely;
- Uncorrected noncompliance from other sources (complaints resolution, due process hearings, residential facility monitoring and monitoring activities); and
- Any audit findings.

States may choose to define additional elements in making annual determinations. To more accurately capture districts' performance and program effectiveness, TEA incorporated the following *state defined elements*:

- PBMAS Special Education Intervention Stage
- Significant Disproportionality

OSEP'S New Vision – Results Driven Accountability

While Texas has had a performance-based monitoring (PBM) system in place since 2004, OSEP only recently began to rethink its regulatory system to shift from a compliance-driven framework to one that puts greater emphasis on positive performance results for students. In March 2012, OSEP notified states that it was initiating a revised system of Results-Driven Accountability (RDA) that will align all components of accountability in a manner that better supports states in improving results for students with disabilities.

Under RDA, the primary focus of IDEA monitoring will be on improving educational results and functional outcomes for children with disabilities, and ensuring that states meet the IDEA program requirements. Instead of placing a heavy emphasis on procedural compliance without consideration of how procedural compliance affects student learning outcomes, RDA will be guided by the following principles:

- An emphasis on compliance over results in special education fails to acknowledge those states where children with disabilities are achieving and being prepared for a range of college and career options appropriate to their individual needs and preferences.
- The accountability system under the IDEA should provide meaningful information to the public regarding the effectiveness of the state and districts in educating children with disabilities.
- Special education accountability should strengthen and complement other education reform initiatives.

OSEP issued its first state-level RDA determinations in June 2014. Although these initial state determinations were based largely on a series of interim performance measures using data from the National Assessment of

Educational Progress (NAEP), TEA welcomes OSEP's transition to a performance-based, results-driven approach to evaluate special education program effectiveness. In the future, when OSEP's NAEP-based RDA measures are replaced with measures that use regular state assessment data along with state graduation data, OSEP's new vision will align with Texas' long-standing PBM system and will provide TEA with an opportunity to further align district-level determinations with the overall PBM system.

Overview of Residential Facilities (RF) Monitoring

On April 15, 2004, the United States District Court for the Western District of Texas, Austin Division issued a decision in the *Angel G. v. Texas Education Agency* lawsuit and determined that TEA must develop a monitoring system to ensure that students with disabilities residing in RFs receive a free appropriate public education. On May 17, 2004, TEA filed a Notice of Appeal in the United States Court of Appeals for the Fifth Circuit. During the pendency of the appeal, the parties agreed to enter into a consent decree to resolve the dispute and to achieve a common goal of developing and implementing an effective RF monitoring system.

The premise of the consent decree and the RF monitoring system was that students with disabilities residing in RFs were a unique and vulnerable population in that they were often separated from their parents/guardians and had little access to family members who could advocate for the educational services they required. As a result, there was a need to protect the educational rights of RF students through a monitoring system specifically designed to address their unique circumstances.

TEA began implementing the consent decree during the 2005-2006 school year by hiring and training a dedicated RF monitoring staff and developing required products and data collection systems. During the 2006-2007 school year, TEA completed initial development of the RF monitoring system in accordance with the terms of the consent decree, and on-site RF monitoring visits under the terms of the consent decree began.

School districts and charter schools serving students with disabilities residing in RFs located within the districts' geographic boundaries and/or jurisdictions were subject to the RF monitoring system and were referred to as RF districts. Other state agencies that provided special education and related services to students with disabilities were not subject to the RF monitoring system. The definition of an RF for the purposes of the RF monitoring system was a facility that provides 24-hour custody or care of students who reside in the facility for detention, treatment, foster care, or any non-educational purpose. An RF did not include traditional foster homes licensed by the Texas Department of Family and Protective Services as independent foster family homes.

In 2005, a separate data collection system (*RF Tracker*) was implemented for students with disabilities residing in RFs to collect data related to least restrictive environment, commensurate school day, extended school year services, certified and qualified staff, rate of participation in the state assessment system, and related services. Between June and August of each school year from 2006-2010, data collected through *RF Tracker* were used to rank districts for the selection of 30 RF monitoring on-site visits, including some visits that were determined based on a random selection. Beginning with the 2007-2008 school year, some RF monitoring districts were also selected for a corrective action review on-site visit to verify whether corrective actions were being implemented.

Activities during the on-site visits centered on 13 investigatory topics and compliance with federal and state requirements that were mutually agreed upon by the plaintiffs and TEA to determine if students with disabilities residing in RFs were receiving a free appropriate public education. These activities included a review of selected RF students' special education eligibility records; classroom observations; interviews with district staff and RF staff; and focus groups of teachers, related service providers, and parents/surrogate parents.

Subsequent to an on-site visit, districts received a report of on-site findings and were required to develop a corrective action plan. All findings of noncompliance were to be corrected within 12 months of the date of TEA's approval of the district's corrective action plan. The consent decree required a system of enforcement proceedings

and sanctions for any RF district that failed to make timely and substantial progress toward implementation of the corrective action plan, as required by TEA, following the on-site RF monitoring visit.

The terms of the consent decree began in the 2005-2006 school year and continued through the 2009-2010 school year. By December 31, 2010, either party could return to the court to ask for an extension of the decree. Neither party asked for an extension.

However, as a result of the monitoring conducted under the consent decree, TEA identified an ongoing need to oversee and monitor the programs provided to students with disabilities who reside in RFs. Accordingly in 2011, the commissioner of education adopted formal rules through which TEA would continue to meet its federal and state special education monitoring obligations for this population of students. Adopted 19 Texas Administrative Code (TAC) §97.1072 gave TEA authority to continue the RF monitoring system.

The adopted rule also stated the RF monitoring system would be aligned, to the greatest extent possible, with the existing system of program monitoring. Therefore, under 19 TAC §97.1072, the RF monitoring system provided for the implementation of continuous improvement strategies, interventions, and sanctions to improve districts' performance and compliance with federal and state special education requirements. As a result of 19 TAC §97.1072, the RF monitoring system became part of TEA's data-driven, results-based system of coordinated and aligned agency monitoring activities rather than a separate, stand-alone monitoring system.

As occurs in other program areas, the results of TEA's annual data analysis determine the type and extent of intervention activities in which an RF district must engage and the related level of TEA involvement. Intervention activities, aligned with the other program areas monitored by TEA, focus on data analysis and disaggregation to determine and address causal factors that may be contributing to program ineffectiveness or noncompliance. At higher stages of intervention, TEA conducts on-site visits to review a broad array of program effectiveness and compliance issues. When possible, these visits are coordinated with other program area on-site monitoring visits. The result of all intervention activities is the development and implementation of a targeted improvement plan with corrective actions, if needed.

Special Education Monitoring Systems Summary (2004-Present)

The evolution of Texas' monitoring systems from 2004 to the present is summarized in the following two figures. Figure 2 illustrates the three stand-alone systems that were implemented between 2004-2011. Although the PBMAS integrated and unified four diverse program areas into a single monitoring system, the RF monitoring system and federally required district determinations were implemented as separate systems. Interventions were determined separately for each individual PBMAS program area and for RF monitoring and federally required determinations. Additionally, two separate accountability systems with two separate interventions components were implemented during this time.

Figure 3 shows the transition to a unified special education monitoring system that began in 2012. RF monitoring was integrated into the overall PBM framework, and integrated interventions were initiated through the TAIS. The interventions resulting from the single, unified state and federal accountability system were also incorporated into TAIS.

Figure 2 – Implementation of Stand-Alone Special Education Monitoring Systems (2004-2011)

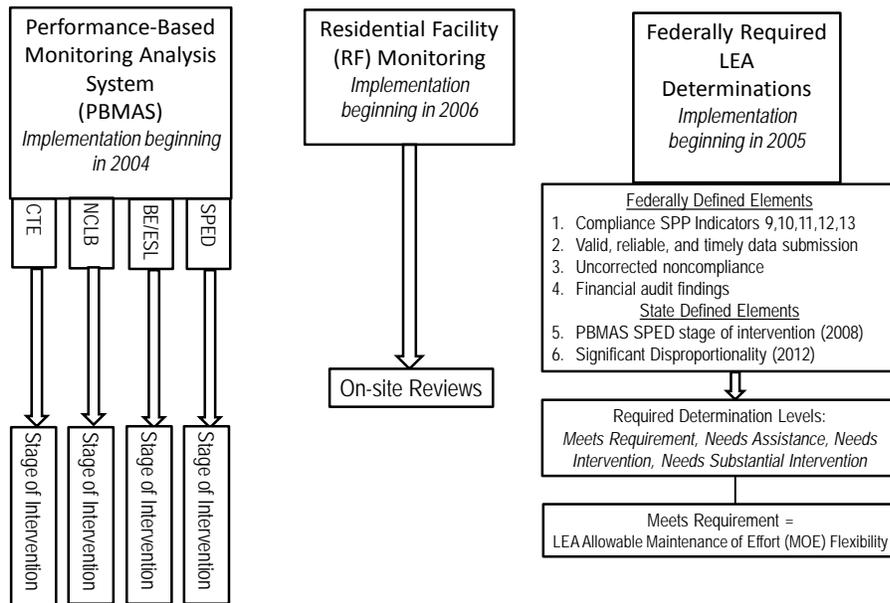
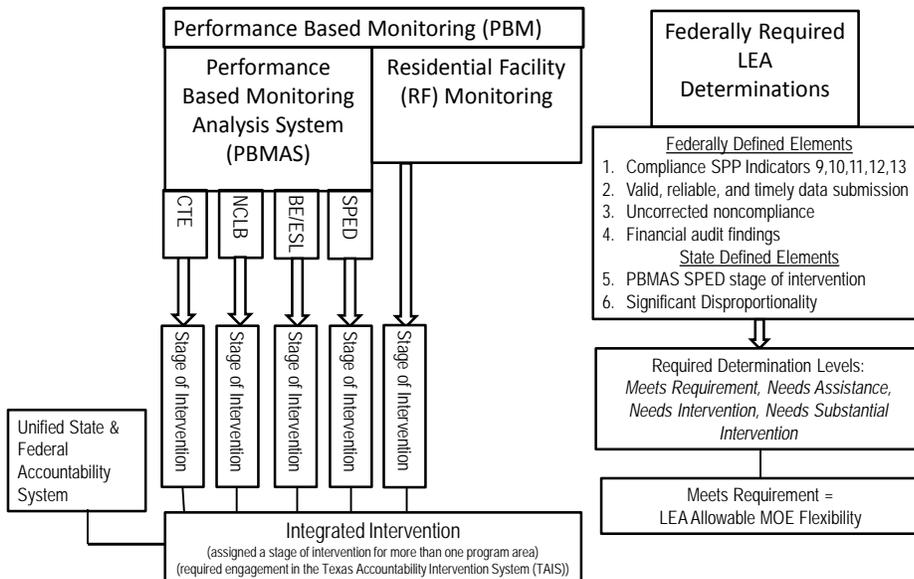


Figure 3 – Transition to a Unified Special Education Monitoring System (2012-Present)



Since 2012, as part of its annual systems review and development process, TEA has continued to align and unify its special education monitoring systems, including aligning specific indicators where appropriate as well as

continuing to identify options for further aligning and unifying the systems themselves. This process supports two of the monitoring systems' guiding principles: system evolution and coordination.

TEA's annual systems review and development process also corresponds directly with the requirements of Rider 70, which provide an opportunity for TEA to present additional recommendations that were received from stakeholders as well as information on further systems alignment being considered for 2015 and beyond. These topics are addressed in the next chapter.

Chapter 2

Adopted Recommendations

Adopted Recommendations

In response to TEA’s request for comments on Rider 70, a number of stakeholders responded. The full set of comments received during the Rider 70 public comment period can be found in Appendix C. Recommendations, including recommendations received outside of the public comment period, that were adopted (either in full or in part) are listed in the following table.

Table 1 – Adopted Recommendations

Recommendation	Status	Comments
1. Ensure duplicative documents and reporting are not requested.	Complete	Although no specific instances of TEA requesting duplicative documents or reporting were identified by the commenters, TEA encourages commenters to submit to TEA specific examples of any requests they believe to be duplicative.
2. Set up structures such that a given document can serve several purposes.	Complete	Refer to the Texas Accountability Intervention System (TAIS) information available on TEA’s Program Monitoring and Interventions web site. ⁴
3. Provide templates for as many documentation requirements as possible.	Complete	Refer to TAIS information available on TEA’s Program Monitoring and Interventions web site.
4. Combine a performance-based system with random, on-site visits to schools.	Complete	The performance-based monitoring (PBM) system has included a random, on-site component since its inception in 2004.
5. Gather input from teachers, other staff, and parents regarding the quality of the school’s overall special education program.	Complete	This occurs locally when districts engage in the interventions process and also occurs when TEA monitors conduct on-site visits or on-site investigations.
6. Combine, link, align, and/or eliminate indicators where possible to ensure a single, unified system for monitoring special education.	Ongoing	Refer to the section below entitled, <i>Proposal for Further Alignment of Special Education Monitoring Systems</i> .

⁴ <http://tea.texas.gov/pmi/>.

Recommendation	Status	Comments
<p>7. Combine the three separate special education systems—State Performance Plan (SPP), the Performance-Based Monitoring Analysis System (PBMAS), and the Residential Facilities (RF) Monitoring and <i>RF Tracker</i> System—into a single, integrated, non-duplicative monitoring system with a single reporting schedule such that an area is only addressed once.</p>	<p>Ongoing</p>	<p>Refer to the section below, entitled, <i>Proposal for Further Alignment of Special Education Monitoring Systems.</i></p>
<p>8. Consult regularly with a variety of stakeholders regarding the ongoing implementation of accountability, monitoring, and compliance systems related to special education.</p>	<p>Ongoing</p>	<p>Stakeholder consultation has been an integral part of developing and implementing accountability, monitoring, and compliance systems related to special education. TEA will consider if any changes need to be made to existing processes, group membership, and/or group charges to ensure this consultation continues to yield meaningful results.</p>
<p>9. Ensure that changes made to the accountability, monitoring, and compliance systems related to special education are consistent with the goal of ensuring that every student has access to a free appropriate public education.</p>	<p>Ongoing</p>	<p>This priority continues to guide the agency's development and implementation of accountability, monitoring, and compliance systems.</p>
<p>10. Increase transparency and make results easily accessible for stakeholders by providing a standard template to communicate results of performance and compliance indicators.</p>	<p>Ongoing</p>	<p>TEA will provide districts, education service centers (ESCs), advocacy groups, and other organizations with guidance and consultation, as requested, to assist these entities in their efforts to develop relevant, understandable and user-friendly materials appropriate for their specific audiences/customers.</p> <p>Additionally, while TEA will not be able to consider general statements of dissatisfaction regarding the type, format, and extent of TEA's special education performance and compliance data reporting, it continues to welcome suggestions for specific modifications and improvements, including proposed alternatives and suggested templates that stakeholders would like TEA to consider.</p>

Recommendation	Status	Comments
<p>11. Provide technical assistance to school districts struggling to appropriately provide services to students with disabilities, and, when necessary, intervene and enforce sanctions when districts are unable or unwilling to correct noncompliance and violations of the state and federal laws.</p>	<p>Ongoing</p>	<p>This principle has been integral to TEA's special education monitoring system since its inception. ESCs are the entities statutorily required to provide technical assistance to districts under the Texas Education Code (TEC §8.002 and TEC §8.051). School districts with continued performance or program effectiveness concerns are subject to a wide range of interventions and sanctions by TEA as outlined in several Texas Administrative Code (TAC) provisions, including 19 TAC §89.1076 (Interventions and Sanctions) and 19 TAC Chapter 97, Planning and Accountability, Subchapter DD (Investigative Reports, Sanctions, and Record Reviews) and Subchapter EE (Accreditation Status, Standards, and Sanctions).</p>
<p>12. Continue and improve the monitoring of districts that serve students with disabilities who reside in RFs.</p>	<p>Ongoing</p>	<p>Beginning in 2015, TEA will hold a series of stakeholder meetings focused specifically on RF monitoring. (See also Chapter 4, Other Considerations, for additional information on RF monitoring.)</p>
<p>13. Include indicators focusing on passing standards for state assessments in an area that affects a district performance indicator and not just that of "special education."</p>	<p>Complete</p>	<p>A campus and district's overall rating in the state accountability system is determined, in part, on the progress of students with disabilities in reading and mathematics. Additionally, the system safeguard component of the state accountability system includes several campus- and district-level state assessment indicators disaggregated for students with disabilities.</p>
<p>14. Require district and campus improvement teams to review campus and district data related to educating students with disabilities and to include parents of students with disabilities in order to ensure this perspective is included in the planning process.</p>	<p>Adopted, in part/Complete</p>	<p>While district and campus improvement teams are required to review campus and district data related to educating students with disabilities when a performance concern is identified in the special education program area, TEA defers to local control and does not require that parents specifically be included on the district and campus improvement team, although their participation is</p>

Recommendation	Status	Comments
		encouraged.
15. Require the board of trustees to post an agenda item for a public report on its level of intervention and corrective action plan.	Adopted, in part/Complete	While this is an option per 19 TAC §89.1076 based on the extent of performance concern, TEA does not believe it would be appropriate to require it for all districts engaged in the general, ongoing improvement planning process.
16. Formally incorporate the complaint, mediation, and due process hearings data from a school district into the overall review of a district's performance and the need for intervention.	Adopted, in part/Ongoing	Complaints and due process hearings are evaluated in terms of overall determinations and continuous noncompliance. However, TEA has determined it would be inappropriate to define a pre-established formula for complaints, mediation, and due process hearings since these data are not necessarily reflective of the overall quality of the district's special education program. (See also Chapter 3, Rejected Recommendation 1 regarding indicators that would set a standard for the number of complaints filed by staff and parents against a district with TEA.)
17. If an indicator is reported in multiple systems, use a consistent data analysis formula in all systems.	Adopted, in part/Ongoing	TEA will continue to align indicators across systems to the extent possible, practical, and appropriate. However, based on different state and federal requirements, alignment is not always possible. Additionally, depending on state priorities and/or individual program considerations, differences in indicator methodology across systems may continue to be necessary and appropriate.
18. Take into consideration the type of RF located in the district when assigning levels (points) for RF monitoring.	Adopted, in part/Ongoing	Consideration is given for detention facilities and other circumstances that have a direct impact on students' placements in restrictive environments, such as adjudication by the court or medical orders.
19. For the collection of graduation data for 2013-2014 and beyond, modify PBMAS to align with changing graduation requirements in	Adopted, in part/Ongoing	The PBMAS will continue to evolve as needed to incorporate changes to assessments and/or student graduation

Recommendation	Status	Comments
House Bill 5.		requirements.
20. Eliminate PBMAS special education Indicator #7 in favor of Indicator #8 while assuring Indicator #8 data is collected similarly to its corresponding SPP indicator.	Adopted, in part/Ongoing	The 2014 PBMAS, as adopted in 19 TAC §97.1005, includes a new Report Only indicator: Indicator #8—Regular Early Childhood Program Rate (Ages 3-5), which is aligned with the federal SPP methodology. Indicator #7—Placements in Instructional Settings 40/41 (Ages 3-5) will be discontinued when Indicator #8 performance levels are assigned, which is currently anticipated for the 2015 or 2016 PBMAS.
21. Consider a provision that all standards and guidance for any assessment and accountability system or reporting process must be published by September 1 of the year in which the standards are being implemented.	Adopted, in part/Ongoing	TEA is committed to providing districts with information and guidance as soon as possible so that appropriate planning and efficient implementation can occur at the local level. At the same time, there are a number of different circumstances, including statutory changes and federal directives, that have an impact on how much advance notice TEA can provide. As clarified further in Appendix C, TEA will continue to consider in these situations whether an extended due date or other accommodation can be offered to districts.

Proposal for Further Alignment of the Special Education Monitoring Systems

As TEA continues efforts to align and unify its special education monitoring systems, it anticipates further alignment is possible beyond the alignment illustrated in Figure 3 (Chapter 1). Specifically, for 2015 and beyond, TEA proposes to integrate federally required district determinations into the overall PBM system. When this proposal is implemented, it will not only result in districts receiving one intervention stage that incorporates federally required district determinations, but the timeline for data collection and reporting can be greatly streamlined. Additionally, by integrating determinations into the overall PBM system, the separate state-defined element analyzing PBMAS special education stage of intervention will no longer be necessary. The second state-defined element, significant disproportionality, would also be eliminated from the integrated PBMAS intervention stage that incorporates federally required district determinations, and the (current) two separate uncorrected noncompliance components would be merged into one.

After the Results-Driven Accountability (RDA) system is fully implemented by the Office of Special Education Programs (OSEP), TEA will integrate any new federally required elements for district determinations into the overall PBM system to ensure continued system alignment and unification.

The figures below illustrate the additional alignment (Figure 4) and compare the current timeline for data collection and reporting with the timeline that could be implemented under the proposal (Figures 5 and 6). Note that Figure 4 includes the current federally required elements for district determinations, some of which may change after the RDA system is fully implemented. The current federally required elements for district determinations may also change as a result of changes or reauthorizations to current federal laws.

Figure 4 – Unified Special Education Monitoring System (2015 and Beyond)

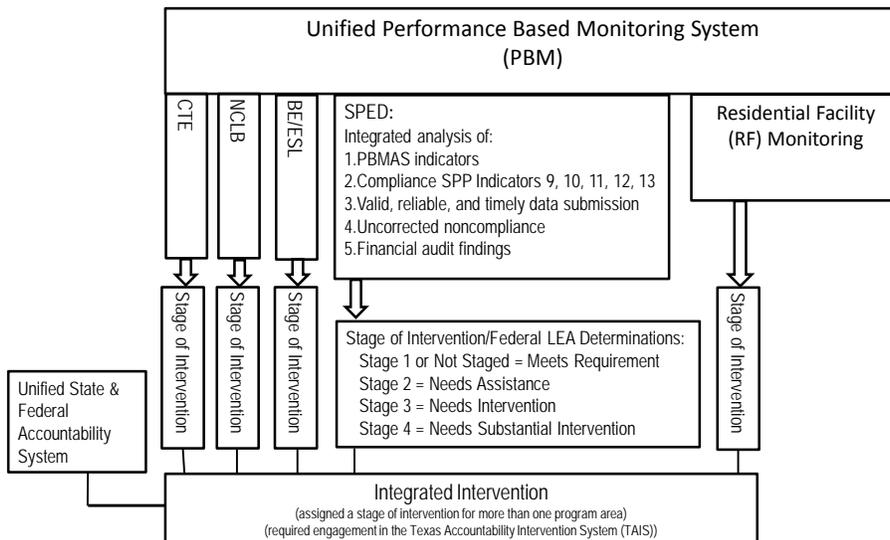


Figure 5 – Current Timeline for Data Collections and Reporting: LEA Determinations

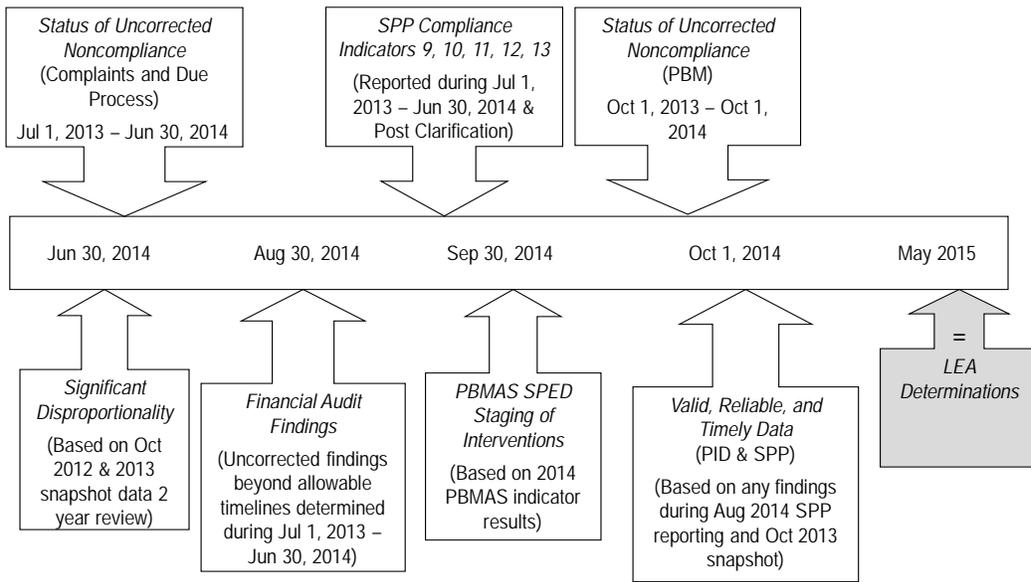
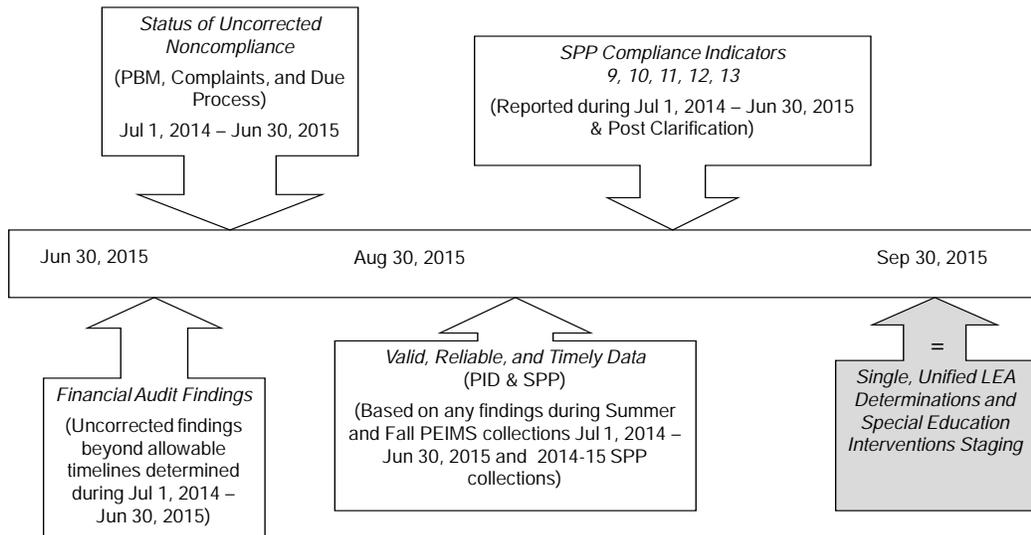


Figure 6 – Proposed Timeline for Data Collections and Reporting: Unified LEA Determination/Special Education Interventions Staging



As shown in Figure 6, the state-defined element, significant disproportionality, would be eliminated under the proposed timeline, and the state-defined element analyzing districts' PBMAS special education stage of intervention would be integrated into a single, unified district determinations and special education interventions staging. Furthermore, the overall timeline for district determinations and special education interventions staging can be implemented in a significantly shorter and timelier period.

In addition to the recommendations in Table 1 that have already been implemented either prior to, or as of, the 2014-2015 school year—as well as the recommendations that can be adopted during the 2015-2016 school year through the implementation of the proposal and timeline outlined in Figure 4 and Figure 6 above—other recommendations received from stakeholders involve longer term considerations. These recommendations are discussed in Chapter 4. Additionally, the recommendations received from stakeholders that were not adopted can be found in Chapter 3.

Chapter 3

Recommendations Not Adopted

Recommendations Not Adopted

The five recommendations received from stakeholders that were not adopted are listed in Table 2.

Table 2 – Recommendations Not Adopted

Recommendation	Status	Comments
<p>1. Add indicators to the monitoring system, such as whether districts have established procedures required by 19 Texas Administrative Code (TAC) §89.1075; indicators that would expand the representation indicator to include specific categories of disabilities; indicators that would evaluate the size of the regular education classes; and indicators that would set a standard for the number of complaints filed by staff and parents against a district with TEA.</p>	<p>Not adopted</p>	<p><i>Regarding whether districts have established procedures required by 19 TAC Section §89.1075:</i> Indicators in the state’s monitoring system are designed to evaluate student performance and program effectiveness by focusing on positive results for students. Issues relating to the existence of district procedures are more appropriately evaluated as part of a program compliance review TEA may initiate when performance concerns are identified and/or exercised as part of the responsibility already given to the local board of trustees under Texas Education Code (TEC) §7.028(b), for ensuring that the district or school complies with all applicable requirements of state educational programs.</p> <p><i>Regarding indicators that would expand the representation indicator to include specific categories of disabilities:</i> Since at least 2002-2003, between 60%-70% of all students served in special education have been categorized in only two of the 14 available disability categories: learning disability and speech impairment. Because of the long-standing predominance of these two disability categories, expanding the Performance-Based Monitoring Analysis System (PBMAS) representation indicator to include specific categories of disabilities would, at this time, be overly limited by small numbers and would not result in a sufficient number of districts with viable numbers to be evaluated by specific disability categories.</p> <p>However, districts identified under the PBMAS representation indicator may engage in an analysis of their data to determine whether any disproportionate representation in a specific disability</p>

Recommendation	Status	Comments
		<p>category or categories contributed to their identification under the indicator. Districts are required to (a) ensure the student's disability is appropriately recorded in the student's individualized education program (IEP), meets the criteria for that disability as specified in 19 TAC §89.1040, and that the student has an educational need requiring special education services; and (b) review policies, procedures, and practices related to the identification of students with disabilities to ensure compliance with 34 Code of Federal Regulations (CFR) §§300.111, 300.201, and 300.301 through 300.311. Additionally, evaluating significant disproportionality by race or ethnicity within specific disability categories is an indicator in the State Performance Plan (SPP Indicator #10), as required by 20 U.S.C §1418(d) and 34 CFR §300.646.</p> <p><i>Regarding indicators that would evaluate the size of the regular education classes:</i> In the absence of any data to confirm how adding an indicator "evaluating the size of the regular education classes would allow TEA to better monitor the situations accompanying special education student placement in certain settings," and in consideration of Rider 70's directive, TEA disagrees with the recommendation to add such an indicator to its monitoring system at this time. In addition, to ensure continued validity of the monitoring system, any future indicators must, among other considerations, be quantifiable, reliable, valid, and derivable from official agency data sources.</p> <p><i>Regarding indicators that would set a standard for the number of complaints filed by staff and parents against a district with TEA:</i> There is already a process in place at the agency to track and evaluate characteristics of special education complaints. Additionally, to ensure continued validity, any future indicators must have statewide applicability, cannot be overly limited by small numbers, and must have an expectation that a sufficient</p>

Recommendation	Status	Comments
		<p>number of districts have viable numbers to be evaluated on the indicator-- requirements that the proposed indicators would not meet.</p> <p>With regard to special education complaints, for example, over the last three years, less than 0.1% of families of students with disabilities filed complaints, and fewer than half of those complaints were substantiated. The number of complaints filed by staff and third parties was even smaller, in most cases no more than one or two per education service center (ESC) region. Finally, while the complaints data and the PBMAS are maintained separately, information from both is used collaboratively by TEA to guide its overall state oversight responsibilities and inform its coordinated approach to monitoring of school districts' program effectiveness.</p>
<p>2. Add indicators to the accountability system's district rating regarding the percentage of students with disabilities placed in disciplinary settings as compared to the general population; the number or percentage of students with disabilities arrested by peace officers at school, on school premises, or at school functions; and the number or percentage of students with disabilities placed in behavioral units. Also add indicators indicating the percentage of students with disabilities who are educated in the most segregated settings (students educated in self-contained settings for more than 50% of the day and other more restrictive instructional arrangements); the number or percentage of high school students with disabilities earning an endorsement under House Bill 5; the number or percentage of high school students with disabilities taking a course with modified curriculum; and the number or percentage of students with disabilities under IDEA in relation to the number or percentage of students with disabilities under Section 504 of the Rehabilitation Act. Also indicators should be added that would evaluate transition services and outcomes for students receiving special education services (appropriate goals and services leading to post public school</p>	<p>Not adopted</p>	<p>These recommended indicators are outside the scope of the academic performance ratings. Furthermore, these indicators either (a) are already monitored annually in the PBMAS; (b) are indicators for which data are not currently collected/available; or (c) are overly limited by small numbers and would not result in a sufficient number of districts with viable numbers to be evaluated.</p> <p>However, TEA notes in Adopted Recommendation 19 (see Chapter 2), that the monitoring system's indicators will continue to evolve based on changes to assessments and/or graduation requirements.</p>

Recommendation	Status	Comments
success in higher education, employment, and community living).		
3. Eliminate the SPP Indicator 14, year after graduation.	Not adopted	TEA has no authority to eliminate federal requirements.
4. Add indicators to program areas other than special education, e.g., add in-school suspension indicators to bilingual education/English as a Second Language (BE/ESL) and Career and Technical Education (CTE).	Not adopted	This recommendation is not responsive to Rider 70's charge.
5. Eliminate the early childhood outcomes system as it does not allow for changes in campuses, handicap, instructional arrangements, etc. that occur during the time data is entered and the student is exited.	Not adopted	TEA has no authority to eliminate federal requirements.

The remaining recommendations received from stakeholders involve longer term considerations. These recommendations are discussed in Chapter 4.

Chapter 4

Other Considerations

Other Considerations

Recommendations neither Adopted nor Rejected

Table 3 summarizes the remaining Rider 70 recommendations received. These recommendations were neither adopted nor rejected by TEA because additional information, research, and analysis are needed. TEA anticipates that further consideration of these recommendations will occur in 2015 and beyond.

Table 3 – Summary of Recommendations neither Adopted nor Rejected

Recommendation	Status	Comments
<p>1. If monitoring specific student groups, such as students in residential facilities (RFs), use a Public Education Information Management System (PEIMS) specific code to disaggregate their data within existing systems versus requiring a separate tracking and monitoring system.</p>	<p>Under review</p>	<p>As clarified in Appendix C, the separate <i>RF Tracker</i> data collection was established (a) because the data it collects are not currently available from PEIMS; and (b) to ensure districts are evaluated fairly based on “real-time” data about the highly mobile students they are serving in RFs.</p> <p>In order to reduce, as much as possible, the administrative burden on districts, TEA made every effort to ensure the <i>RF Tracker</i> data collection was concise and limited. Additionally, beginning with the 2005-2006 school year, and continuing for three school years after that, TEA allocated more than \$1 million to reimburse districts for the initial costs they may have incurred to establish a local process for reporting via the new <i>RF Tracker</i> data collection system. Only about a third of the eligible districts requested any of these funds. The scope of the <i>RF Tracker</i> data collection is shown in Figure 7 below.</p> <p>As noted in Chapter 2 (Adopted Recommendation 12), TEA proposes to hold a series of stakeholder meetings focused specifically on RF monitoring. These meetings will include consideration of any recommendations for improving the <i>RF Tracker</i> data collection and/or viable data collection alternatives that can ensure TEA continues to meet its ongoing obligation to implement a monitoring system that addresses the unique circumstances of students with disabilities residing in RFs and ensures that all students with</p>

Recommendation	Status	Comments
		<p>disabilities, including those who reside in RFs, are provided a free appropriate public education.</p>
<p>2. Align and integrate the special education monitoring systems with other state systems, including the state accountability system with reports coming to the district as part of the overall district accountability reporting system.</p>	<p>Under review</p>	<p>Chapter 1 describes TEA's efforts over the past decade to align and integrate its special education monitoring and accountability systems, and Chapter 2 outlines a proposal for additional alignment of the special education monitoring system beginning in 2015.</p> <p>As noted in Chapter 2 (Adopted Recommendation 12), in 2015, TEA proposes to hold a series of stakeholder meetings focused specifically on RF monitoring. These meetings will include consideration of any recommendations for further aligning the RF monitoring system within the overall performance-based monitoring (PBM) system, with the understanding that those recommendations must ensure TEA continues to meet its ongoing obligation to implement a monitoring system that addresses the unique circumstances of students with disabilities residing in RFs and ensures that all students with disabilities, including those who reside in RFs, are provided a free appropriate public education.</p> <p>Given its long-standing record of aligning and integrating, as appropriate, the different state and federal systems, TEA anticipates that additional options for alignment will continue to develop over time. A few preliminary considerations concerning reporting are discussed in Recommendation 5 below.</p> <p>Additionally, TEA is in the process of implementing a redesigned website and anticipates that additional opportunities for alignment of reporting will be appropriate to consider within the newly redesigned web environment.</p>
<p>3. Data reported should be no more than one year old if used to determine a district's</p>	<p>Under review</p>	<p>The data used in the accountability, monitoring, and compliance systems are</p>

Recommendation	Status	Comments
<p>monitoring status, staging status, or required improvement activities.</p>		<p>the most current data available to TEA. Districts, however, have earlier access to their data than TEA does. Therefore, districts that engage in robust and ongoing self-monitoring, <i>prior to</i> TEA's annual reporting of districts' statuses, can best assure the data TEA uses in its accountability, monitoring, and compliance systems reflect, as closely as possible, the most recent state of performance and program effectiveness at the district level.</p> <p>In addition, TEA anticipates that education service centers (ESCs) can provide ongoing technical assistance to facilitate districts' understanding of the PEIMS data collection schedule and its relationship to the data that are used in determining districts' annual monitoring, staging, and improvement required statuses.</p> <p>Nonetheless, TEA assigns this recommendation a status of "under review" because it would certainly report more current data should it become available.</p>
<p>4. Combine RF monitoring into the overall PBM system.</p>	<p>Under review</p>	<p>As described in Chapters 1 and 2, RF monitoring is part of the overall PBM system. However, TEA welcomes specific suggestions for further alignment and integration of RF monitoring, with the understanding that those suggestions must ensure TEA continues to meet its ongoing obligation to implement a monitoring system that addresses the unique circumstances of students with disabilities residing in RFs and ensures that all students with disabilities, including those who reside in RFs, are provided a free appropriate public education. To that end, in 2015, TEA will hold a series of meetings focused specifically on RF monitoring. (See also Recommendation 2 above as well as Chapter 2, Adopted Recommendation 12 regarding RF monitoring.)</p>

Recommendation	Status	Comments
<p>5. Post district special education determinations on the TEA website to increase transparency of district specific special education compliance information.</p>	<p>Under review</p>	<p>Districts' PBM special education monitoring results status is reported annually on the Texas Academic Performance Report (TAPR), which is posted on the TEA website. In addition, as described in Chapter 2, TEA proposes to integrate federally required district determinations into the overall PBM system. As part of the proposal's implementation, TEA will seek input from stakeholders regarding reporting options on the redesigned TEA website.</p> <p>In addition, when the proposal is implemented it will provide other options for aligning and integrating the reporting of special education statuses required under TEC §39.306(a)(3) and §39.332(b)(19).</p>
<p>6. Require districts to report their most recent final special education determination on the district/campus report card sent home with all students.</p>	<p>Under review</p>	<p>As described in Chapter 2, TEA proposes to integrate federally required district determinations into the overall PBM system and consider options for aligning and integrating the reporting of special education statuses required under Texas Education Code (TEC) §39.306(a)(3) and §39.332(b)(19). TEA anticipates this recommendation would be appropriate to consider in the context of those related options. Whether this particular recommendation can be implemented without a change in statute will also need to be considered.</p>

Figure 7 – RF Tracker Data Collection


TEXAS EDUCATION AGENCY

[TEA Home](#) | [TEA Search](#) | [TEA Locator](#) | [TEA Divisions](#)

User: [REDACTED]
[Exit]

[District Selection](#) | [Facilities](#) | [Students](#) | [Reports](#) | [Performance Measures](#) | [Maintenance](#)

[District Selection](#) > [REDACTED] > [Students](#) > [REDACTED] > [New Event](#)

New Event School Year 2014-2015

Event Information

Event Type: Date: 

Basic Student Information

Campus Number of Enrollment:

Home Campus Number for RF:

Grade Level:

Name of Residential Facility:

Is the Student Educated at the Facility? Yes No

Is the Student Educated Only with Other RF Students? Yes No

Does the student require a surrogate parent? Yes No

Number of other students assigned to this student's surrogate parent?

Length of Student's School Day (in minutes):

Length of Home Campus School Day for Non-Disabled Peer (in minutes):

Disabilities

Primary Disability:

Secondary Disability:

Tertiary Disability:

Type of Other Health Impairment:

Multiple Disabilities (per TAC §89.1040(c)(6)) Yes No

Instructional Arrangement

Instructional Arrangement:

Instructional Arrangement Prior to Entering RF:

Speech Therapy Yes No

Direct Related Services

Service	Student Receives Services?
Counsel Services	<input type="radio"/> Yes <input checked="" type="radio"/> No
OT	<input type="radio"/> Yes <input checked="" type="radio"/> No
Psych Services	<input type="radio"/> Yes <input checked="" type="radio"/> No
PT	<input type="radio"/> Yes <input checked="" type="radio"/> No
Social Work	<input type="radio"/> Yes <input checked="" type="radio"/> No
ST	<input type="radio"/> Yes <input checked="" type="radio"/> No

Has all of the information for this record been entered? Yes No

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Appendices

Appendix A – Timeline⁵

2011-2012

- Development and implementation of a unified interventions system, the Texas Accountability Intervention System (TAIS)
- Alignment of State Performance Plan (SPP) and Performance-Based Monitoring Analysis System (PBMAS) indicators-Phase 1

2012-2013

- Development and implementation of a unified state and federal accountability system
- Alignment of SPP and PBMAS indicators-Phase 2

2013-2014

- Implementation of aligned SPP and PBMAS indicators
- Development of a new data analysis system to stage districts for Residential Facilities (RF) monitoring
- Implementation of Senate Bill 1, General Appropriations Act, Rider 70

2014-2015

- Implementation of new data analysis system to stage districts for RF monitoring
- Integration of federally required district determinations into the overall performance-based monitoring system
- Implementation of new timeline for data collections and reporting for unified district determinations and special education interventions staging
- Convening of RF monitoring stakeholder meetings
- Development of unified reporting under TEC §39.306(a)(3) and §39.332(b)(19)
- Ongoing consideration of Chapter 4 recommendations

2015-2016

- Implementation of unified reporting under TEC §39.306(a)(3) and §39.332(b)(19)
- Ongoing consideration and/or implementation of Chapter 4 recommendations

⁵ Each of the years presented also includes a process for modification, as needed, to accountability, monitoring, and compliance systems based on any changes to state or federal laws and regulations.

Appendix B – Performance Gains and Positive Results for Students

The Performance-Based Monitoring Analysis System (PBMAS) was first implemented in 2004. The most current data available from the PBMAS are data from the 2014 PBMAS. The following tables provide longitudinal data summarizing performance gains achieved through the PBMAS as shown in the changes in various indicators' state rates over time.

The tables are summarized by years of comparable data available for a given indicator. As a result of several statutory and policy changes that occurred outside of the PBMAS (particularly changes to the state assessment system), some indicators have as few as three years' of comparable data available while others have as many as ten.

Table 4 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2004-2014)

PBMAS Indicator	2004 State Rate	2014 State Rate	Change
RHSP/DAP Diploma Rate	12.8%	25.5%	+12.7 ✓
Special Education Representation Rate	11.6%	8.5%	-3.1 ✓

Table 5 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2004-2013)

PBMAS Indicator	2004 State Rate	2013 State Rate	Change
Less Restrictive Environments for Students (Ages 12-21)	46.8%	63.6%	+16.8 ✓

Table 6 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2005-2014)

PBMAS Indicator	2005 State Rate	2014 State Rate	Change
Less Restrictive Environments for Students (Ages 3-5)	9.6%	16.7%	+7.1 ✓
Discretionary DAEP Placement Rate	1.5 percentage points higher than all students	0.8 percentage points higher than all students	-0.7 ✓
Discretionary ISS Placement Rate	23.2 percentage points higher than all students	12.3 percentage points higher than all students	-10.9 ✓

Table 7 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2007-2013)

PBMAS Indicator	2007 State Rate	2013 State Rate	Change
Less Restrictive Environments for Students (Ages 6-11)	35.5%	39.6%	+4.1 ✓

Table 8 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2007-2014)

PBMAS Indicator	2007 State Rate	2014 State Rate	Change
Annual Dropout Rate (Grades 7-12)	3.2%	2.3%	-0.9 ✓
Graduation Rate	72.7%	77.8%	+5.1 ✓

Table 9 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2008-2014)

PBMAS Indicator	2008 State Rate	2014 State Rate	Change
Discretionary OSS Placement Rate	12.7 percentage points higher than all students	8.1 percentage points higher than all students	-4.6 ✓

Table 10 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2009-2011)

PBMAS Indicator	2009 State Rate	2011 State Rate	Change
TAKS Passing Rate of Students Being Served (Mathematics)	59.5%	68.2%	+8.7 ✓
TAKS Passing Rate of Students Being Served (Reading)	68.1%	75.4%	+7.3 ✓
TAKS Passing Rate of Students Being Served (Science)	51.1%	59.9%	+8.8 ✓
TAKS Passing Rate of Students Being Served (Social Studies)	69.9%	77.5%	+7.6 ✓
TAKS Passing Rate of Students Being Served (Writing)	70.3%	76.6%	+6.3 ✓

Table 11 – PBMAS Performance Gains and Positive Results for Students: Special Education Program Area (2009-2011)

PBMAS Indicator	2009 State Rate	2011 State Rate	Change
TAKS Passing Rate of Students One Year after Being Served (Mathematics)	77.5%	83.4%	+5.9 ✓
TAKS Passing Rate of Students One Year after Being Served (Reading)	83.3%	86.8%	+3.5 ✓
TAKS Passing Rate of Students One Year after Being Served (Science)	73.4%	81.0%	+7.6 ✓
TAKS Passing Rate of Students One Year after Being Served (Social Studies)	90.2%	94.3%	+4.1 ✓
TAKS Passing Rate of Students One Year after Being Served (Writing)	88.1%	89.8%	+1.7 ✓

Appendix C – Stakeholder Input

Rider 70 Public Comments Received during the Public Comment Period (November 1, 2013 – December 2, 2013)

Comments from the Texas Classroom Teachers Association (TCTA)

Rider 70 requires TEA, among other things, to ensure that all accountability, monitoring and compliance systems related to special education will be non-duplicative, unified, and focus on positive results for students in order to ease administrative and fiscal burdens on school districts. Given that the “administrative burdens” to which the rider refers in many cases fall on teachers, TCTA has an interest in making sure that the Agency has a particular focus on teachers in their effort to meet this objective.

For example, given the large amount of documentation which teachers must generate when teaching special education students, it is crucial that the Agency review documentation requirements in each of the three areas identified by the rider in order to streamline these requirements, such as ensuring that duplicative documents aren’t requested throughout the three areas, setting up structures such that a given document can serve several purposes, and providing templates for as many documentation requirements as possible in an effort to reduce the time/effort spent on documentation.

Additionally, TCTA has long advocated that the Agency establish a more comprehensive monitoring/compliance system than the current performance-based monitoring system in which on-site visits are prompted only by problems indicated by a select few indicators. Rider 70’s directive for the Agency to develop a more unified system of accountability, monitoring and compliance systems for special education presents the perfect opportunity for the Agency to combine aspects of each of the three systems in order to enable the Agency to engage in strategies to make the system more comprehensive. Some of the strategies that we suggest are to combine a performance-based system with random, unannounced on-site visits to schools in order to get a more complete and accurate picture about the special education services school districts are providing.

Additionally, we believe that for some time now, the Agency has lacked a method to systematically gather information from educators in the context of monitoring a given school. In special education monitoring in particular, we have not seen formal measures established to gather input from teachers and other staff of a given school, although such formal mechanisms have been in place to gather input from parents. Accordingly we urge that in the Agency’s efforts to devise a more unified system, the Agency give particular focus to implementing formal means of gathering input from staff.

TEA Clarification: *Formal measures to gather input from teachers and other staff have been a part of the monitoring system since its inception and include teacher focus groups and teacher interviews.*

Other actions we suggest the Agency take in order to further the objective of Rider 70 of establishing a more unified system are to combine indicators which have traditionally been treated by the Agency as compliance-only indicators, with the indicators used in PBMAS. We have advocated in the past, for example, that the Agency include an indicator in PBMAS regarding whether districts have established procedures required by 19 TAC section 89.1075, by which a teacher can request assistance in implementing a special education student’s Individualized Education Program (IEP). In response, the Agency has stated that “The agency disagrees with the recommendation to add the additional indicator to the ... PBMAS. Indicators in the PBMAS are designed to evaluate student performance and program effectiveness. Issues of compliance with required district procedures are more appropriately evaluated as part of a program compliance review the agency may initiate when performance concerns are identified...” Given the recent directive by the legislature to ensure that all systems

related to special education are unified, we believe this presents an excellent opportunity for the Agency to meet this directive by including indicators such as this one in its new unified system. Additionally we note that the Agency already includes compliance-oriented indicators identified in its State Performance Plan in PBMAS, including disproportionality in representation indicators and percentages of special education students placed in the regular classroom indicators.

In adopting the indicators in PBMAS related to the percentages of special education students placed in the regular classroom, the Agency stated that they “provide useful information to districts about placement decisions that may be contributing to student success.” If the goal is to provide useful information, then we suggest that these indicators be informed by data reflecting the specific category(ies) of disability of students in that particular placement as well, given the vast array of disabilities represented among special education students. Additionally, an indicator evaluating the size of the regular education classes measured by these indicators should be included in the system in order to allow the Agency to better monitor the situations accompanying special education student placement in certain settings.

Finally, given that PBMAS is designed among other things, according to the Agency, to evaluate program effectiveness, we strongly suggest that an indicator be added to the Special Education indicators which sets a standard for the number of complaints filed by staff and parents against a district with TEA. This also serves to further Rider 70’s objective of establishing a more unified system by “connecting the dots” between the Agency’s special education complaints system and the Agency’s monitoring system by integrating the two together.

Comments from the Arc of Texas, Disability Rights Texas, and the Texas Council for Developmental Disabilities (jointly submitted)

The Arc of Texas, Disability Rights Texas and The Texas Council for Developmental Disabilities respectfully request that TEA develop a workgroup of stakeholders to meet, review, study and make recommendations to ensure all accountability, monitoring, and compliance systems related to special education are non-duplicative and unified and focus on positive results for students in order to ease the administrative and fiscal burden on districts. It is important for the workgroup to meet over a sufficient period of time to study the issues and make recommendations. Several factors contribute to the appropriateness of allocating sufficient time to this task, including Rider 70’s requirement that TEA solicit stakeholder input, the strategic and complicated nature of the task, and the generous deadline of January 12, 2015 for the report to the legislature. The workgroup must incorporate information regarding the new Results Driven Accountability System currently being developed by the United States Department of Education Office of Special Education Programs and information from other states regarding their monitoring and accountability systems. All of the recommendations below should be discussed as part of the workgroup process.

Ensure that any changes made to the accountability, monitoring, and compliance systems related to special education are consistent with the goal of ensuring that every student has access to a Free Appropriate Public Education (FAPE). The Arc of Texas, Disability Rights Texas and The Texas Council for Developmental Disabilities understand the desire to ensure monitoring is non-duplicative and unified and to relieve schools of administrative and fiscal burdens. We believe it is possible to make some changes to the scope and sequence of monitoring activities including eliminating or consolidating duplicative SPP/APR and PBMAS monitoring indicators. However we believe the overall focus of the indicators, to ensure the provision of a Free Appropriate Public Education (FAPE) to all special education students, remains of utmost importance. The specifics of which indicators to eliminate, change or consolidate should be discussed in the work group in relation to the changes in the federal SPP/APR / Results Driven Accountability system.

Monitoring activities should include a process to provide information to and seek and incorporate input from stakeholders and the public. Parents of students with disabilities receiving special education services and local

school district decision-makers and advisory committees (school boards, local special education advisory committees, school district and campus improvement committees) and other stakeholders need better access to data about special education services in their district so they can provide appropriate input to TEA and to their local school district. Most parents are not aware of monitoring and accountability practices including how to locate and understand the schools' monitoring and accountability ratings and how to provide input to their school or TEA regarding their satisfaction with services (outside of the formal dispute resolution processes).

Currently data that are available about the school's performance on specific measures related to special education services from PBMAS and the APR are not easily accessible, understood, or used effectively to support improvements in services to students with disabilities or to make changes to policy and practice at the local district and campus level. Parents and other stakeholders need access to information presented in a usable way. Plain language summaries of a district or campus's achievements and progress would be invaluable. Much of the data available currently is presented in table format, with little context. It is jargon-heavy and relies on acronyms outside the average person's lexicon. The measures used are not familiar to most people. A parent or other stakeholder attempting to make sense of the data without the assistance of someone very familiar with the educational system in Texas would be left floundering.

District and campus improvement teams should be required to review district and campus data related to educating students with disabilities and district and campus improvement teams should be required to include parents of students with disabilities in order to ensure that this perspective is included in the planning process.

TEA monitoring and accountability systems should require consistent ways for all schools to make sure parents have the opportunity to review and provide input to local school district decision-makers and TEA regarding the quality of the school's overall special education program. Some schools currently use parent surveys, special education parent representation on campus/district improvement teams and Parent Teacher Associations, special education parent advisory committees, parent liaisons and parent training to encourage and support parent involvement. Some other methods schools might utilize include focus groups, listening sessions, and special comment period before board of trustees.

TEA administered accountability does not sufficiently reflect how well school districts implement the Individuals with Disabilities Education Act (IDEA) or provide appropriate services for students with disabilities. TEA should consider adding some special education accountability data to the district rating system. This should include data regarding the percentage of students with disabilities placed in Disciplinary Settings (In-School Suspensions, Disciplinary Alternative Education Programs and Juvenile Justice Alternative Education Programs) as compared to the general population and the number or percentage of students with disabilities arrested by peace officers at school, on school premises, or at school functions and the number or percentage of students with disabilities placed in behavioral units. Data should be included indicating the percentage of students with disabilities who are educated in the most segregated settings (students educated in self-contained settings for more than 50% of the day and other more restrictive instructional arrangements). Other data that might be collected to ensure accountability for children with disabilities include the number or percentage of high school students with disabilities earning an endorsement under House Bill 5; the number or percentage of high school students with disabilities taking a course with modified curriculum; and the number or percentage of students with disabilities under the IDEA in relation to the number or percentage of students with disabilities under Section 504 of the Rehabilitation Act. Since the transition planning process mandated by the federal and state special education laws is the best gauge of school success for many students with disabilities, data regarding Transition Services and Outcomes for students receiving special education services (appropriate goals and services leading to post public school success in higher education, employment and community living), should be included.

TEA must improve monitoring and assistance to local education agencies in need of improvements and apply interventions and sanctions to local education agencies when needed. It is important for TEA to provide technical assistance to school districts struggling to appropriately provide services to students with disabilities, and, when

necessary, to intervene and enforce sanctions when districts are unable or unwilling to correct noncompliance and violations of the state and federal laws. Currently, the PBMAS and APR monitoring systems are not always effective in ensuring appropriate educational services for students with disabilities. In almost all instances, TEA only performs desk audits of data submitted by school districts. Currently, in-person visits are very rare and therefore TEA staff has little opportunity to discover and provide expertise to districts that are having trouble implementing appropriate services for students with disabilities. The resources and expertise of Education Service Centers might be better utilized if directed to focus technical assistance and training where indicated by both accountability measures and TEA complaint investigations.

TEA Clarification: *In the Texas Education Code (TEC), education service centers (ESCs) are the entities statutorily required to provide technical assistance to school districts (TEC §8.002 and TEC §8.051), including assistance specifically designed to address deficiencies in districts' special education programs. TEA provides frequent guidance and direction to ESCs regarding areas of low performance and program ineffectiveness so the ESCs' technical assistance efforts can be focused on those areas most in need. TEA monitors every district every year, stages districts into varying intervention levels based on each district's extent and duration of performance concern, and enforces sanctions as appropriate and necessary to ensure appropriate educational services for students with disabilities. TEA staff has sufficient opportunity to identify program effectiveness concerns and utilizes a variety of monitoring strategies to provide expertise to districts. The number of districts staged into required interventions for their special education programs over the most recent three years is 455 in 2012, 480 in 2013, and 372 in 2014. Positive results achieved for students with disabilities since the implementation of the monitoring system are summarized in Appendix B.*

The monitoring system and how schools are placed into levels of intervention is difficult to understand and seems to require schools to be in violation in more than one area in order to result in a higher level of intervention without regard to the specific details/area of intervention. Under the current system, schools must have numerous violations in multiple areas of the monitoring system in order to be placed into a "stage" of intervention that requires closer scrutiny by TEA. When a school district is placed into the intervention process, school districts may continue to have low levels of intervention year after year, developing their own corrective action plans, without any additional or more intensive intervention by TEA. Some areas of noncompliance should rise to a level of importance that requires more intense TEA intervention even if the school has no other areas of violation (ie. discipline, transition planning, least restrictive environment, and residential facilities violations). TEA should consider providing regular onsite monitoring of districts that consistently have trouble providing appropriate special education services. TEA may also consider the need to provide periodic onsite monitoring of all districts as part of the overall monitoring system. In addition, TEA should also ensure awareness of these issues, for example, by requiring that the Board of Trustees post an agenda item for a public report on its level of intervention and corrective action plan.

TEA Clarification: *School districts with continued low performance in one or more areas of the monitoring and accountability systems are subject to more intensive intervention by TEA as outlined in several Texas Administrative Code (TAC) provisions, including 19 TAC §89.1076 (Interventions and Sanctions) and 19 TAC Chapter 97, Planning and Accountability, Subchapter DD (Investigative Reports, Sanctions, and Record Reviews) and Subchapter EE (Accreditation Status, Standards, and Sanctions).*

In addition, TEA must ensure the complaint, mediation and due process data from a school district is formally incorporated into the overall review of a districts [sic] performance and the need for intervention.

TEA must continue and improve the monitoring of residential facilities. Children with disabilities in residential facilities (RF) are among the most isolated and segregated children with disabilities and cannot be forgotten and lost in the system. A dedicated RF monitoring system must continue and must be improved. RF monitoring should be parent friendly, aid program administration, and contribute to policy improvement. The current system lacks transparency in public reporting and is too dependent on paper and document review. The membership of

the core analysis teams should not be so heavily dominated by district and institutional representatives and should include an independent member beyond the parent. The membership of the core analysis teams should not be so heavily dominated by district and institutional representatives and should include an independent member beyond the parent *[sic]*. The scope of student-level reviews should always include accountability and monitoring data to ensure the involvement of parents and the assignment of surrogate parents per the requirements of the IDEA.

In conclusion, we believe that Rider 70 offers the promise of improving the administration of the special education system at both the state and local levels. We hope that the TEA does not limit the public to a sole 30-day written comment period for input. Interactive dialog between the TEA and stakeholders should be pursued and we stand ready to contribute and elaborate upon this statement.

Comments from the Texas Council of Administrators of Special Education (TCASE)

TCASE members understand states are required by federal law to ensure local education agencies (LEAs) are in compliance with rules related to the Individuals with Disabilities Education Act (IDEA) and that some systems such as the State Performance Plan (SPP) are a direct result of federal requirements. Texas has been a leader in compliance monitoring with the development of the Performance Based Monitoring Analysis System (PBMAS) well in advance of the SPP requirements. TCASE respects the need for monitoring to ensure compliance and as such the comments offered are aimed not at escaping oversight but streamlining systems within the authority of the state education agency.

As part of the systems review, TCASE conducted a member survey to solicit special education practitioners' insights regarding the current accountability and monitoring systems and possible alternative practices for the future. Some of the preliminary findings are identified below.

Dual reporting of performance and compliance indicators in SPP and PBMAS were not identified as helpful in supporting district's *[sic]* efforts to improve positive student outcomes.

Items solely reported in PBMAS seen as most useful in supporting district's *[sic]* efforts to improve positive student outcomes include percentage of students identified as special education, LRE as measured by instructional arrangement and students with LEP identified for special education.

The element in the accountability system seen as most useful in improving positive student outcomes was information from Index 2, Student Progress.

The majority of respondents reported that elements of the residential facilities system were not useful in improving positive student outcomes.

The majority of respondents disagreed that written materials explaining the various special education monitoring systems are provided in a timely manner, easy to locate and easy to understand.

The majority of respondents disagreed that reports to districts indicating compliance with the indicators in each system are provided in a timely manner and are linked to provide focus for improvement.

Additionally parents, and specifically the Governor appointed Continuing Advisory Council on Special Education, have consistently asked for transparency of district specific special education compliance information. System alignment, unification and streamlining could increase transparency and understanding for parents, community members and district staff alike.

Recommendations:

Combine and link elements of SPP, PBMAS and RF Tracker/Monitoring into a single unified system for monitoring special education.

If an indicator is reported in multiple systems, use a consistent data analysis formula in all systems.

If monitoring specific student groups such as students in residential facilities, use a PEIMS specific code to disaggregate their data within existing systems versus requiring a separate tracking and monitoring system.

Align the special education monitoring systems with the State Accountability System with reports coming to the district as part of the overall district accountability reporting system.

Annually convene a group of stakeholders directly impacted by the special education compliance, monitoring and accountability systems to review current indicators and systems and make recommendations for needed changes. Recommendations from this group should be made public.

Increase transparency and make results easily accessible for stakeholders by providing a standard template to communicate results of performance and compliance indicators. For example, TEA develops template to present data in clear, comprehensible format; TEA uses the template to post information about statewide indicators on the TEA website with links to districts' results; TEA provides template for districts' use; districts use template to communicate monitoring status of special education programs to parents, educators and other stakeholders.

Comments from School District Personnel

[Special Services Executive Director, Lufkin ISD] It is understood that states are required by federal law to ensure local education agencies (LEAs) are in compliance with rules related to the Individuals with Disabilities Education Act (IDEA) and that some systems such as the State Performance Plan (SPP) are a direct result of federal requirements and as such are non-negotiable. It is also clear that Texas was a leader in compliance monitoring with the development of the Performance Based Monitoring Analysis System (PBMAS) well in advance of the SPP requirements. TCASE respects the need for monitoring to ensure compliance and as such the comments offered are aimed not at escaping oversight but streamlining systems within the authority of the state education agency to focus on improving positive student outcomes.

As a member of TCASE, I participated in a member survey to solicit special education practitioners' insights regarding the current accountability and monitoring systems and possible alternative practices for the future. Some of the preliminary findings are identified below.

SPP performance indicators seen as most useful in improving positive student outcomes were STAAR/EOC proficiency rate, Least Restrictive Environment and special education graduation rate.

SPP compliance indicators seen as most useful in improving positive student outcomes were transition requirements for students ages 16 years and older and disproportionate assignment of students in special education to disciplinary placements.

The SPP compliance indicator seen as least useful in supporting district's efforts to improve positive student outcomes was the survey of post graduates to determine enrollment in training or employment.

Dual reporting of performance and compliance indicators in SPP and PBMAS were not identified as helpful in supporting district's efforts to improve positive student outcomes.

Items solely reported in PBMAS seen as most useful in supporting district's efforts to improve positive student outcomes include percentage of students identified as special education, LRE as measured by instructional arrangement and students with LEP identified for special education.

The element in the accountability system seen as most useful in improving positive student outcomes was information from Index 2, Student Progress.

The majority of respondents reported that elements of the residential facilities system were not useful in improving positive student outcomes.

The majority of respondents disagreed that written materials explaining the various special education monitoring systems are provided in a timely manner, easy to locate and easy to understand.

The majority of respondents disagree that reports to districts indicating compliance with the indicators in each system are provided in a timely manner and are linked to provide focus for improvement.

Additionally parents, and specifically the Governor appointed Continuing Advisory Council on Special Education, have consistently asked for transparency of district specific special education compliance information. System alignment, unification and streamlining would increase transparency and understanding for parents, community members and district staff alike.

Recommendations:

Combine and link elements of SPP, PBMAS and RF Tracker/Monitoring into a single unified system for monitoring special education.

If an indicator is reported in multiple systems, use a consistent data analysis formula in all systems.

If monitoring specific student groups such as students in residential facilities, use a PEIMS specific code to disaggregate their data within existing systems versus requiring a separate tracking and monitoring system.

Residential Facility monitoring should take into consideration the type of facility being monitored when assigning levels (points). There is a tremendous difference in JJAEPs, nursing homes, treatment facilities, and State Supported Living Centers as to what type of students reside in the facilities. Our district should not be penalized when all RF students we serve are very significantly cognitively disabled and are appropriate for self-contained and appropriate for STAAR Alt test. A district should also not be penalized for adding a new residential facility to the RF Tracker when one has opened up in the district during the school year; this makes no sense.

Eliminate the SPP 14, year after graduation.

Eliminate ECO system as it does not allow for changes in campuses, handicap, instructional arrangements, etc that occur during the time data is entered and the student is exited. It also does not give districts any results.

Align the special education monitoring systems with the State Accountability System with reports coming to the district as part of the overall district accountability reporting system.

Increase transparency and make results easily accessible for stakeholders by providing a standard template to communicate results of performance and compliance indicators. For example, TEA develops template to present data in clear, comprehensible format; TEA uses the template to post information about statewide indicators on the TEA website with links to districts' results; TEA provides template for districts' use; districts use template to communicate monitoring status of special education programs to parents, educators and other stakeholders.

[Special Services Executive Director, Spring ISD] The PBMAS system should be revamped and a unified system of accountability and monitoring needs to be developed.

PBMAS is a moving target. Cut points are developed after the fact. The district has no idea what the target is, as it changes from year to year.

The standards should be the same as passing standards for all students. This year the passing standard for STAAR in PBMAS in grades 3-8 was 70% or 65% depending on the test. The state essentially raised the accountability standards for the students who struggle the most. When questioned about the discrepancy, districts were told that this was the state's decision. Example - passing standard for STAAR Mathematics was 50%, a district's special education passing rate was 47.5%, the district received a performance indicator 3 for 2.5% of the population not meeting the state passing standard.

TEA Clarification: Performance-Based Monitoring Analysis System (PBMAS) performance levels and cut-points are adopted annually in the Texas Administrative Code (19 TAC §97.1005). This process includes a 30-day public comment period. In addition, 19 TAC §97.1005 includes a PBMAS Standards Table outlining three years of standards. PBMAS STAAR 3-8 passing standards are the same for all students evaluated in the PBMAS and have not changed since the STAAR was first implemented. Only school districts with STAAR 3-8 mathematics passing rates more than 20 percentage points lower than the standard are assigned a performance level of 3.

It is difficult to know what to focus on - State Accountability, PBMAS, SPP, RFT. With so many different requirements, initiatives and corrective action plans, the focus of staff becomes splintered. The students lose because precious time is spent filling out forms and not providing services to students.

The special education monitoring system does not make sense and should be completely reconfigured.

The Angel G lawsuit was settled years ago and the state is under no legal obligation to continue to follow students in residential facilities.

Tracking students in residential facilities puts an unfair burden on districts with a large population of students residing in these facilities.

The mobility rates for these students is exponentially higher than any other student yet the quality of the special education program is put under scrutiny because of students who often stay for less than 60 days.

SPP should not be tied to RFT.

TEA Clarification: While TEA is no longer under the consent decree in the Angel G. case, it continues to be obligated under the Individuals with Disabilities Education Act to ensure that all students with disabilities, including those who reside in residential facilities (RFs), are provided a free appropriate public education. When TEA previously did not have a separate system for monitoring students residing in RFs, the federal district court in the Angel G. case concluded that TEA did not monitor this small and highly mobile population of students effectively. Specifically, the court concluded that TEA's monitoring plan did not look systemically or comprehensively at how the needs of these students were met or the settings in which services were provided. Students in RFs are a unique and vulnerable population in that they are often separated from family and have little access to family members who can advocate for the educational services they require. Furthermore, least restrictive environment is a particularly significant issue for students residing in RFs. Accordingly, there is a continued responsibility to have a monitoring system that addresses the unique circumstances of this population of students.

The monitoring has been inconsistent. Spring ISD was recently put on escalated oversight even though we have corrected the noncompliance and were 100% for all SPP indicators. Requests to change the determination were denied with no reason given for the denial.

Too much power rests with individuals and decisions are not based on data.

TEA Clarification: School districts are staged for interventions annually based on available data. Districts are advised that any data submitted or reported after interventions determinations have been made are considered for interventions determinations applicable to that year's data.

[Special Education Coordinator, Clear Creek ISD] There is a concern regarding RF Tracker points against a district if a new Residential Facility moves into the district. There is no district control over whether or not a new facility moves into the attendance zone for the district; therefore, this should not count against a district in the formula.

Another concern regarding RF Tracker points against the district is that points are automatically added against a district if the district has not met state performance plan criteria. This appears to be double jeopardy.

Thank you for considering these comments when reviewing the RF Tracker rating system.

[Director of Special Programs, Dickinson ISD] This is my 8th year as a Director of Special Programs. As the years have passed, I have become increasingly concerned about the amplified accountability reporting requirements, which are often duplicative and confusing. When I testified before the Senate Education Committee this past spring, I brought 4 of the three-inch binders that contained only *some* of the data required for the RF Tracker submission. I also brought an 8-page fold out from Region 13 that showed the 4 federal accountability systems (AYP, AMAO, Sp.Ed LEA determination, SPP) and the 5 state accountability systems (AEIS, FIRST, PBMAS, DVM, and state accreditation). This means that each district must report data for TEN different and frequently duplicative accountability systems.

TEA Clarification: *The monitoring and accountability reporting required of school districts is generally limited to two components: (1) Public Education Information Management System (PEIMS) data and (2) student assessment data. TEA does not require districts to report any additional data for Adequate Yearly Progress (AYP) determinations, which were discontinued in 2013; the three Annual Measurable Achievement Objectives (AMAOs) for English Language Learners only; the Academic Excellence Indicator System (AEIS) report, which was replaced in 2013 with the Texas Academic Performance Report (TAPR); statuses issued under the School Financial Integrity Rating System of Texas (School FIRST⁶); the Performance-Based Monitoring Analysis System (PBMAS) report; the Data Validation Monitoring System (DVM) reports, or accreditation statuses. For students with disabilities, districts currently have two additional reporting requirements: (1) data associated with the State Performance Plan (SPP); and (2) residential facilities (RFs) data reported through RF Tracker. These separate data collections are used either because the data they collect are not available from PEIMS or to ensure districts are evaluated fairly based on “real-time” data about the highly mobile students they are serving in RFs. The limited set of data districts report through RF Tracker is shown in the RF Tracker collection form presented in Chapter 4.*

My argument when I testified is the same I propose in the comments I make in this letter – we need to **end** the duplicative reporting requirements and align ALL state reporting requirements to federal reporting requirements.

Specifically, my recommendations are as follows:

Align PBMAS and RF tracker to the SPP requirements and do not require additional data submissions.

Use data already reported in PEIMS or in the TEASE system to monitor RF tracker students (e.g. instructional arrangements, related services, FIE dates).

The current student level analysis required by RF Tracker is ridiculously expansive. My district is the county fiscal agent for the juvenile detention facility. The 50+ current questions per student go back up to six years. For students that we may only have for 10 days, it is unrealistic to expect us to have six years of history on a student from a surrounding district, especially when TEA *already* has access to most of these data.

TEA Clarification: *The limited set of data districts report through RF Tracker is shown in the RF Tracker collection form presented in Chapter 4. The student level analysis the commenter refers to was implemented following the Angel G. lawsuit. As part of the consent decree in the Angel G. case, the plaintiffs and TEA agreed upon 13 investigatory topics that districts in the RF monitoring system would be required to review to determine if students with disabilities residing in RFs were receiving a free appropriate public education. The district’s RF monitoring interventions stage determines the number of topics that must be reviewed. Each topic has an average of 12 questions to be answered based on students’ current individualized education programs (IEPs). None of the investigatory topics requires information dating back six years. Data from the student level analysis are maintained locally and are not required to be submitted to TEA.*

Use the special education information already available in the State Accountability system for RF tracker and PBMAS requirements.

Create a standing task force or committee that represents various sized districts and areas of the state, as well as other stakeholders, such as a representative from the Governor’s Special Education Advisory Committee, that will address how to streamline and simplify the accountability system and to review the impact of TEA monitoring requirements. This task force/committee should be open to the public to support the transparency needed by all public agencies.

⁶ In addition to PEIMS data, School FIRST ratings are based on the annual financial and compliance report (AFR) required in statute (TEC §44.008).

[Special Services Director, Channelview ISD] I greatly appreciate the efforts by TEA to streamline and align accountability systems. I know that TEA has experienced manpower and funding cuts just as the districts have. There is one area in which further improvement could be made and which would benefit both district and state agency personnel, and that is the timing of guidance and training on new or revised processes, procedures, and requirements.

Please consider a provision that all standards and guidance for any accountability system or reporting process must be published by September 1st of the year in which the standards are to be implemented. Too often districts waste manpower in reworking data and retraining as new guidance unfolds during the school year. Sanctions and noncompliance may occur when districts are unclear as to expectations. Clear, unchanging processes and procedures should be provided by September 1st each year or they should take effect in the following school year to allow for appropriate planning and efficient implementation. For example, the recent changes in standards for the State Performance Plan were changed late in May 2013, which caused many districts to have to recall staff to work in the summer to reconfigure data. Timely notification of changing requirements would have allowed the districts to avoid this expense.

TEA Clarification: *In response to federal guidance and changes in state statute, TEA implemented a change to the data collection application for State Performance Plan (SPP) Indicator 11. This change was communicated to education service center (ESC) special education directors in early 2013. TEA requested that any district with difficulty implementing the change submit a request for an extended timeline and/or ESC technical assistance. No requests were received.*

Additionally, information on state assessment often arrives after many ARDs have been held for the year. Additional retraining and review ARDs are sometimes necessary to make changes. This process is not rapid. TETNs are held by TEA, then IEP data systems are revised by the vendors, and additional retraining of staff occurs. Guidance for state assessment needs to be provided by September 1st so that all ARDs are in compliance with state standards without the need to inconvenience parents and remove staff from the classroom for additional ARD committee meetings.

A requirement to provide all guidance and training materials for new or revised processes, procedures, and requirements by September 1st of the year of initial or revised implementation will enable the districts to avoid costly rework and utilize their staff more efficiently and with much less anxiety and uncertainty regarding expectations. This time would also allow TEA to consider stakeholder input prior to implementation. Thank you so much for your consideration of this request.

[Special Education Director, Kilgore ISD] The integrated intervention system for improvement has been a favorable change to the Special Education PBM process. Unfortunately; however, it appears that too many Special Education Directors are still taking on the responsibility for drafting and writing the plans for improvement. Although the Special Education Directors are capable and quite frankly accustomed to writing the plans, they typically do not carry any authority over making "change happen". *[sic]*

Although system safeguards will include poor performance of special education students, special education departments are "double whammied" by the inclusion of this indicator on the PBM. I feel that the indicators focusing on passing standards for state assessments should be included in an area that affects a district performance indicator and not that of "special education". The same is true for our ELL student indicators. Making this change would make it that ELL and special education student groups would be thought of as another group within "our kids" instead of "those kids" that blemish the district's ratings.

As the Modified assessment disappears, this becomes even more important. Special education students not performing well on state assessments is not a special education issue as much as it is an overall district issue, somewhat like poor performance of economically disadvantaged and/or African American students. All of us need to look more closely at closing the gaps of all student groups.

I like what is being looked at for the LRE issues. We should not be penalized for serving speech only students in the groups 3-5 and 6-11. With the shortage of speech service providers, we are all trying to find ways to meet student needs in this area. Having said that, even in an attempt to be conservative, we are being faced with students that have significant needs and in an effort to meet the individual student needs there is an increase in special education referrals and placements.

Thank you for your time and attention to "feelings" of those of us in the field. Facing the daily challenges associated with meeting student needs should be the MAIN area of focus for special education personnel across the State.

[Special Education Director, Texas City ISD] Why does special education have 23 indicators while every other area has 10? I feel if an indicator is being addressed in another accountability system, why are we duplicating this indicator in fact punishing those of us who did not meet multiple times on multiple indicators?

In order to meet all PBM reporting requirements, it takes over 80 man hours...this costs districts valuable money that should be spent on students and with students, making the classrooms and instruction better instead of completing paperwork.

If we had to follow only the indicators as every other area (bilingual, CTE, NCLB,) our time could be spent with students.

Indicators that we have that are extra are as follows: Indicator 4,5,6,7,8,9, 10, 11,12,13,15,18,19,20,21,22,23.

TEA Clarification: *The Performance-Based Monitoring Analysis System (PBMAS) contains a core set of program effectiveness and student performance indicators that are applicable across program areas as well as specific indicators applicable only to the special education program area because its program has a unique, and clearly explicit, obligation to ensure all students with disabilities have access to a free appropriate public education.*

The ISS, DAEP, and OSS indicator (21,22,23) are trailing indicators and look at data from *[sic]* 2 years ago. It is extremely difficult to correct a plan based on data from two years ago. Quite frankly, it is not best practice. For example, two years ago, I ran our numbers and knew that we would be in danger in this area two years later. I created a plan to address this. As of today, our numbers have gone from 33% placements in ISS to 16%. However, my district does not receive any credit for the work we have so diligently been doing last year because the indicator is from two years ago. This is difficult for my administrators to swallow because they know they have made huge gains in this area, yet, we continue to have to write a plan based on old and outdated data. On another note, why is Bilingual and CTE not being monitored on how many students they have in ISS? This is a prejudice against special education.

TEA Clarification: School districts have been provided with data on their disproportionate discipline placements of students with disabilities, including in-school suspensions, since 2004 in the Performance-Based Monitoring Analysis System (PBMAS) which, contrary to the statement above, always reports the most current data available. Furthermore, since districts report their own data, they are uniquely situated because they have real-time access to the discipline placements they are making as well as the potentially disproportionate impact those placements are having on students with disabilities, well in advance of each year's PBMAS release. Districts that have used their discipline data over the past decade to engage in robust and ongoing self-monitoring are unlikely to be identified in the PBMAS for disproportionate discipline placements of students with disabilities.

The PBMAS, by design, has a built-in improvement component whereby districts that demonstrate improvement from one year to the next can progress from one performance level (PL) to another. If the district were, in fact, to lower its disproportionate ISS placement rate from 33% to 16%, it would move from a PL 3 to a PL 1. In addition to the PBMAS' built-in improvement component, the PBMAS also includes a "required improvement" component whereby districts that are making sufficient improvement toward the standard over two years will receive a designation of having met required improvement. Students with disabilities in the district above were reported with ISS placements rates that were, over the last four years, 29.6, 26.0, 35.7, and 37.6 percentage points higher than the ISS placement rates for all students. The district did not make sufficient progress to receive a performance level lower than 3 or meet required improvement.

Passing standards for special education: The bottom line is that students are in special education because they have a significant cognitive impairment. However, PBM, does not recognize this impairment and expects the same level of performance from [sic] these students. This is extremely discriminatory against our students who struggle cognitively.

TEA Clarification: The vast majority of students with disabilities have the cognitive ability to achieve the same academic standards as their non-disabled peers if they are given high-quality instruction, appropriate access, as well as the supports and accommodations required by law.

This year, I have paperwork to complete even on indicators that I received a 0 rating on. I am not certain as to what improvement TEA is wanting from me since we scored a 100 on the indicator.

In addition, we were staged 2 months late and only received a 2 week extension to get the plans together.

TEA Clarification: School districts are not required to complete any interventions or paperwork for indicators on which they earn a Performance-Based Monitoring Analysis System (PBMAS) performance level 0.

Comments from Education Service Center Personnel

[Special Education Specialist, Region 13 Education Service Center] Continue combining all accountability, monitoring and compliance systems for special education to reduce the burden on LEAs and increase understanding and compliance by LEAs.

In order to continue improving the system:

Combine Residential Facility (RF) monitoring into the overall Performance-Based Monitoring system. RF should not stand alone as a separate monitoring system. The IDEA compliance requirements (LRE, Commensurate Day, Related Services, etc) are the same whether a student lives in a RF or lives at home. The LEA should be responsible for all IDEA compliance requirements regardless of where the student lives.

Keeping a separate system implies that LEAs should undertake more compliance activities or be more accountable for one group of students rather than meeting the standards for all.

The monitoring system could require that any required improvement activities include the sub group in its considerations, i.e., data analysis, needs assessment, student level reviews, improvement plan. In this manner, compliance for this group of students could be monitored without maintaining a complete separate system.

The RF Monitoring system was effective in meeting its original goal and should now be combined with TAIS to reduce duplicity.

Regardless of whether RF monitoring is kept separate or combined into the TAIS system, the methodology for RF staging needs revision. The RF matrix should be revised; the matrix penalizes LEAs for factors beyond their control, e.g., generates points if a new facility enters the LEA's boundaries. LEA that systematically and consciously seek out and report new facilities automatically receive points for this which may trigger staging.

Combining Special Education and RF Monitoring will simplify communication (one TEA department, and one email) and encourage ownership and compliance (one system, one plan)

TEA Clarification: *In response to a previous comment, TEA clarified that it has an ongoing obligation to have a monitoring system that addresses the unique circumstances of students with disabilities residing in residential facilities (RFs).*

Comments from Legislators

State of Texas
House of Representatives

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Myra Crownover
District 64

December 2, 2013

Michael Williams
Commissioner
Texas Education Agency

RE: Rider 70, Senate Bill 1, General Appropriations Act, 83rd Texas Legislature

Dear Commissioner Williams,

As the author of Rider 70, Senate Bill 1, General Appropriations Act, I write today to express the legislative intent of Rider 70. I worked with the Texas Council of Administrators of Special Education to draft Rider 70.

The intent of Rider 70 was to lessen the administrative burden on teachers and administrators of special education. It is my hope that during the rulemaking process that the Texas Education Agency will make every effort to ensure that Texas' reporting requirements are not duplicative of similar federal requirements. All effort should be made to streamline the process so that wherever possible the administrative burden on teachers is reduced.

Please make the teachers who work every day with our most vulnerable students the priority in the rulemaking process. Rider 70 was designed to reduce their burden so that they can dedicate their time to the students of Texas.

Sincerely,

A handwritten signature in cursive script that reads "Myra Crownover".

Myra Crownover

Appendix D – Statutory References

Texas Education Code, §7.021, Texas Education Agency Powers and Duties.

- (b) (1) The agency shall administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs.

Texas Education Code, §7.028, Limitation on Compliance Monitoring.

- (a) Except as provided by Section 29.001(5), 29.010(a), 39.056, or 39.057, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section 38.003, and the use of funds provided for such a program under Subchapter C, Chapter 42, only as necessary to ensure:
 - (1) compliance with federal law and regulations;
 - (2) financial accountability, including compliance with grant requirements; and
 - (3) data integrity for purposes of:
 - (A) the Public Education Information Management System (PEIMS); and
 - (B) accountability under Chapter 39.
- (b) The board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs.

Texas Education Code, §29.001, Statewide Plan (excerpts).

The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

- (5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete.

Texas Education Code, §29.010, Compliance (excerpt).

- (a) The agency shall adopt and implement a comprehensive system for monitoring school district compliance with federal and state laws relating to special education. The monitoring system must provide for ongoing analysis of district special education data and of complaints filed with the agency concerning special education services and for inspections of school districts at district facilities. The agency shall use the information obtained through analysis of district data and from the complaints management system to determine the appropriate schedule for and extent of the inspection.

Texas Education Code, §29.062. Compliance (excerpts).

- (a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, in accordance with the policy of the state, the agency shall evaluate the effectiveness of programs under this subchapter based on the student achievement indicators adopted under Section 39.053, including the results of assessment instruments. The agency may combine evaluations under this section with federal accountability measures concerning students of limited English proficiency.
- (c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district or open-enrollment charter school and to the division of accreditation.
- (d) The agency shall notify a school district or open-enrollment charter school found in noncompliance in writing, not later than the 30th day after the date of the on-site monitoring. The district or open-enrollment charter school shall take immediate corrective action.
- (e) If a school district or open-enrollment charter school fails to satisfy appropriate standards adopted by the commissioner for purposes of Subsection (a), the agency shall apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both.

Texas Education Code, §29.081, Compensatory, Intensive, and Accelerated Instruction (excerpts):

- (e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must:
 - (1) provide not less than four hours of instructional time per day;
 - (2) employ as faculty and administrators persons with baccalaureate or advanced degrees;
 - (3) provide at least one instructor for each 28 students;
 - (4) perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and
 - (5) comply with this title and rules adopted under this title except as otherwise provided by this subsection.

Texas Education Code, §39.051, Accreditation Status.

Accreditation of a school district is determined in accordance with this subchapter. The commissioner by rule shall determine in accordance with this subchapter the criteria for the following accreditation statuses:

- (1) accredited;
- (2) accredited-warned; and
- (3) accredited-probation.

Texas Education Code, §39.052, Determination of Accreditation Status or Performance Rating.

- (a) Each year, the commissioner shall determine the accreditation status of each school district.
- (b) In determining the accreditation status of a school district, the commissioner:
 - (1) shall evaluate and consider:
 - (A) performance on student achievement indicators described by Section 39.053(c); and

- (B) performance under the financial accountability rating system developed under Subchapter D; and
- (2) may evaluate and consider:
 - (A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:
 - (i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (ii) the high school graduation requirements under Section 28.025; or
 - (iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;
 - (B) the effectiveness of the district's programs for special populations; and
 - (C) the effectiveness of the district's career and technology program.
- (c) Based on a school district's performance under Subsection (b), the commissioner shall:
 - (1) assign each district an accreditation status; or
 - (2) revoke the accreditation of the district and order closure of the district.
- (d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.
- (e) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.
- (f) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.
- (g) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Texas Education Code, §39.053, Performance Indicators: Student Achievement.

- (a) The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.
- (b) Performance on the student achievement indicators adopted under this section shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status.
- (c) Indicators of student achievement adopted under this section must include:
 - (1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:
 - (A) for the performance standard determined by the commissioner under Section 39.0241(a):

- (i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and
 - (ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area; and
- (B) for the college readiness performance standard as determined under Section 39.0241:
 - (i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and
 - (ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area;
- (2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;
- (3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);
- (4) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;
- (5) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1); and
- (6) at least three additional indicators of student achievement to evaluate district and campus performance, which must include either:
 - (A) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or
 - (B) the number of students who earn:
 - (i) at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);
 - (ii) at least 30 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);
 - (iii) an associate's degree; or
 - (iv) an industry certification.

- (c-1) An indicator adopted under Subsection (c) that would measure improvements in student achievement cannot negatively affect the commissioner's review of a school district or campus if that district or campus is already achieving at the highest level for that indicator.
- (c-2) The commissioner by rule shall determine a method by which a student's performance may be included in determining the performance rating of a school district or campus under Section 39.054 if, before the student graduates, the student:
 - (1) satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or
 - (2) performs satisfactorily on an assessment instrument under Section 39.023(c), notwithstanding Subsection (d).
- (d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.
- (d-1) In aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.
- (e) Performance on the student achievement indicators under Subsections (c)(1) and (2) shall be compared to state standards and required improvement. The state standard shall be established by the commissioner. Required improvement is the progress necessary for the campus or district to meet state standards and, for the student achievement indicator under Subsection (c)(1), for its students to meet each of the performance standards as determined under Section 39.0241.
- (f) Annually, the commissioner shall define the state standard for the current school year for each student achievement indicator described by Subsection (c) and shall project the state standards for each indicator for the following two school years. The commissioner shall periodically raise the state standards for the student achievement indicator described by Subsection (c)(1)(B)(i) for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:
 - (1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and
 - (2) student performance, with no significant achievement gaps by race, ethnicity, and socioeconomic status.
- (g) In defining the required state standard for the indicator described by Subsection (c)(2), the commissioner may not consider as a dropout a student whose failure to attend school results from:
 - (1) the student's expulsion under Section 37.007; and
 - (2) as applicable:
 - (A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or
 - (B) conviction of and sentencing for an offense under the Penal Code.

- (g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:
- (1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;
 - (2) students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out;
 - (3) students in attendance who are not in membership for purposes of average daily attendance;
 - (4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);
 - (5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and
 - (6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.
- (h) Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter.
- (i) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241(a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l).

Texas Education Code, §39.054, Methods and Standards for Evaluating Performance.

- (a) The commissioner shall adopt rules to evaluate school district and campus performance and assign each district a performance rating of A, B, C, D, or F. In adopting rules under this subsection, the commissioner shall determine the criteria for each designated letter performance rating. A district performance rating of A, B, or C reflects acceptable performance and a district performance rating of D or F reflects unacceptable performance. The commissioner shall also assign each campus a performance rating of exemplary, recognized, acceptable, or unacceptable. A campus performance rating of exemplary, recognized, or acceptable reflects acceptable performance, and a campus performance rating of unacceptable reflects unacceptable performance. A district may not receive a performance rating of A if the district includes any campus with a performance rating of unacceptable. Not later than August 8 of each year, the performance rating of each district and campus shall be made publicly available as provided by rules adopted under this subsection. If a district or campus received a performance rating that reflected unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.
- (b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053, other than, to the greatest extent possible, the student achievement indicator adopted under Section 39.053(c)(1).
- (b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):

- (1) must:
 - (A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and
 - (B) include the results of assessments required under Section 39.023; and
 - (2) may be based on the results of a special accreditation investigation conducted under Section 39.057.
- (c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:
- (1) student performance in the current school year; or
 - (2) student performance as averaged over the current school year and the preceding two school years.
- (d) In evaluating performance under Subsection (c), the commissioner:
- (1) may assign an acceptable performance rating if the campus or district:
 - (A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and
 - (B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;
 - (2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or
 - (3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.
- (d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.
- (e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:
- (1) standards established for each indicator; and
 - (2) required improvement as defined under Section 39.053(e).
- (f) In the computation of dropout rates under Section 39.053(c)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the

school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

Texas Education Code, §39.055, Student Ordered by a Juvenile Court or Student in Residential Facility Not Considered for Accountability Purposes.

Notwithstanding any other provision of this code except to the extent otherwise provided under Section 39.054(f), for purposes of determining the performance of a school district, campus, or open-enrollment charter school under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity or any student who is receiving treatment in a residential facility is not considered to be a student of the school district in which the program or facility is physically located or of an open-enrollment charter school, as applicable. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located or an open-enrollment charter school, as applicable.

Texas Education Code, §39.056, On-Site Investigations.

- (a) The commissioner may:
 - (1) direct the agency to conduct on-site investigations of a school district at any time to answer any questions concerning a program, including special education, required by federal law or for which the district receives federal funds; and
 - (2) as a result of the investigation, change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation under Subchapter G.
- (b) The commissioner shall determine the frequency of on-site investigations by the agency according to annual comprehensive analyses of student performance and equity in relation to the student achievement indicators adopted under Section 39.053.
- (c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the school district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt rules for:
 - (1) obtaining information from parents and using that information in the investigator's report; and
 - (2) obtaining information from teachers in a manner that prevents a district or campus from screening the information.
- (d) The agency shall give written notice to the superintendent and the board of trustees of a school district of any impending investigation of the district's accreditation.
- (e) The investigators shall report orally and in writing to the board of trustees of the school district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.
- (f) A district which takes action with regard to the recommendations provided by the investigators as prescribed by Subsection (e) shall make a reasonable effort to seek assistance from a third party in

developing an action plan to improve district performance using improvement techniques that are goal oriented and research based.

Texas Education Code, §39.057, Special Accreditation Investigations, [As amended by Action 2013, 83rd Leg., ch. 509].

- (a) The commissioner may authorize special accreditation investigations to be conducted:
 - (1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
 - (2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;
 - (3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;
 - (4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;
 - (5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;
 - (6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;
 - (7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);
 - (8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;
 - (9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);
 - (10) when excessive numbers of students graduate under the minimum high school program;
 - (11) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other course determined by the commissioner as distinguishing between students participating in the recommended high school program from students participating in the minimum high school program;
 - (12) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;
 - (13) in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter; or
 - (14) as the commissioner otherwise determines necessary.
- (b) If the agency's findings in an investigation under Subsection (a)(6) indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

- (c) The commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.
- (d) Based on the results of a special accreditation investigation, the commissioner may:
 - (1) take appropriate action under Subchapter E;
 - (2) lower the school district's accreditation status or a district's or campus's accountability rating; or
 - (3) take action under both Subdivisions (1) and (2).
- (e) Regardless of whether the commissioner lowers the school district's accreditation status or a district's or campus's performance rating under Subsection (d), the commissioner may take action under Sections 39.102(a)(1) through (8) or Section 39.103 if the commissioner determines that the action is necessary to improve any area of a district's or campus's performance, including the district's financial accounting practices.

Texas Education Code, §39.058, Conduct of Investigations.

- (a) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.
- (b) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

Texas Education Code, §39.102, Interventions and Sanctions for Districts.

- (a) If a school district does not satisfy the accreditation criteria under Section 39.052, the academic performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:
 - (1) issue public notice of the deficiency to the board of trustees;
 - (2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the interventions and sanctions that may be imposed under this section if the performance does not improve;
 - (3) order the preparation of a student achievement improvement plan that addresses each student achievement indicator under Section 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and implementation of the plan;
 - (4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;
 - (5) arrange an on-site investigation of the district;
 - (6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;
 - (7) appoint a conservator to oversee the operations of the district;

- (8) appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;
- (9) if a district has a current accreditation status of accredited-warned or accredited-probation, fails to satisfy any standard under Section 39.054(e), or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;
- (10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has failed to satisfy any standard under Section 39.054(e), or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:
 - (A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or
 - (B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or
- (11) if a district has failed to satisfy any standard under Section 39.054(e) due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:
 - (A) ordering the development of a dropout prevention plan for approval by the commissioner;
 - (B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;
 - (C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and
 - (D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.
- (b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

Texas Education Code, §39.104, Interventions and Sanctions for Charter Schools.

- (a) Interventions and sanctions authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.
- (b) The commissioner shall adopt rules to implement procedures to impose any intervention or sanction provision under this chapter as those provisions relate to open-enrollment charter schools.
- (c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:
 - (1) be automatically revoked if the charter school is ordered closed under this chapter; and
 - (2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.
- (d) If interventions or sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.

Texas Education Code, §39.116, Transitional Interventions and Sanctions.

- (a) During the period of transition to the accreditation system established under H.B. No. 3, Acts of the 81st Legislature, Regular Session, 2009, to be implemented in August 2013, the commissioner may suspend assignment of accreditation statuses and performance ratings for the 2011-2012 school year.
- (b) As soon as practicable following the 2011-2012 school year, the commissioner shall report district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B).
- (c) For the 2012-2013 school year, the commissioner shall:
 - (1) report district and campus performance under the student achievement indicator under Section 39.053(c)(1)(B); and
 - (2) evaluate district and campus performance under the student achievement indicator under Section 39.053(c)(1)(A) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.
- (d) Beginning with the 2013-2014 school year, the commissioner shall evaluate district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.
- (e) During the 2011-2012 and 2012-2013 school years, the commissioner shall continue to implement interventions and sanctions for districts and campuses identified as having unacceptable performance in the 2010-2011 school year in accordance with the performance standards applicable during the 2010-2011 school year and may increase or decrease the level of interventions and sanctions based on an evaluation of the district's or campus's performance.
- (f) For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions under this subchapter, the performance ratings and accreditation statuses issued in the 2010-2011 and 2012-2013 school years shall be considered consecutive.
- (g) This section expires September 1, 2014.

Texas Education Code, §39.201, Distinction Designations.

- (a) Not later than August 8 of each year, the commissioner shall award distinction designations for outstanding performance as provided by this subchapter. A distinction designation awarded to a district or campus under this subchapter shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the performance ratings as provided by rules adopted under Section 39.054(a).
- (b) A district or campus may not be awarded a distinction designation under this subchapter unless the district or campus has acceptable performance under Section 39.054.
- (c) In addition to the condition prescribed by Subsection (b), an open-enrollment charter school may not be awarded a distinction designation under this subchapter if the charter school is evaluated under alternative education accountability procedures adopted by the commissioner.

Texas Education Code, §39.202, Academic Distinction Designation for Districts and Campuses.

The commissioner by rule shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness. The commissioner shall adopt criteria for the designation under this section, including:

- (1) percentages of students who:
 - (A) performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area; or
 - (B) met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area, for students who did not perform satisfactorily as described by Paragraph (A);
- (2) percentages of:
 - (A) students who earned a nationally or internationally recognized business or industry certification or license;
 - (B) students who completed a coherent sequence of career and technical courses;
 - (C) students who completed a dual credit course or an articulated postsecondary course provided for local credit;
 - (D) students who achieved applicable College Readiness Benchmarks or the equivalent on the Preliminary Scholastic Assessment Test (PSAT), the Scholastic Assessment Test (SAT), the American College Test (ACT), or the ACT-Plan assessment program; and
 - (E) students who received a score on either an advanced placement test or an international baccalaureate examination to be awarded college credit; and
- (3) other factors for determining sufficient student attainment of postsecondary readiness.

Texas Education Code, §39.203, Campus Distinction Designations.

- (a) The commissioner shall award a campus a distinction designation for outstanding performance in improvement in student achievement if the campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement as determined under Section 39.034.
- (b) In addition to the distinction designation described by Subsection (a), the commissioner shall award a campus a distinction designation for outstanding performance in closing student achievement differentials if the campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses in this state under the performance criteria described by this subsection. The commissioner shall adopt rules related to the distinction designation under this subsection to ensure that a campus does not artificially diminish or eliminate performance differentials through inhibiting the achievement of the highest achieving student subpopulation.
- (c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner

for outstanding performance in academic achievement in English language arts, mathematics, science, or social studies.

- (d) In addition to the distinction designations otherwise described by this section, the commissioner may award a distinction designation for outstanding performance in advanced middle or junior high school student achievement to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c).

Monitoring citations from federal laws and regulations include the following:

- 1) Americans with Disabilities Act (ADA) of 1990 and the implementation of 28 CFR, Part 35.
- 2) Office of Special Education and Rehabilitative Services Regulations: Subpart F—Monitoring, Enforcement, Confidentiality, and Program Information: §300.149 SEA Responsibility for General Supervision; §300.600 State Monitoring and Enforcement.
- 3) Public Law 109-270, the Carl D. Perkins Career and Technical Education Improvement Act of 2006.
- 4) 20 U.S.C. 2322: Sec. 112(a)(2)(B-D): Reviewing Local Plans, Monitoring and Evaluating Program Effectiveness, and Assuring Compliance with all applicable Federal Laws.
- 5) Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs, March 21, 1979 (34 CFR, Part 100, Appendix B).
- 6) Elementary and Secondary Education Act (ESEA): Title I, Part A; Title I, Part C; and Title III.
- 7) Title VI of the Civil Rights Act of 1964 and implementing regulations (34 CFR, Part 100).
- 8) Title IX of the Education Amendments of 1972 and the implementation of 34 CFR, Part 106.
- 9) Section 504 of the Rehabilitation Act of 1973 and implementing regulations (34 CFR, Part 104).
- 10) The Age Discrimination Act of 1975 and implementing regulations (45 CFR, Part 90).



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