

The Texas Education Agency (TEA) proposes an amendment to §97.1001, concerning the accountability rating system. The proposed amendment would adopt in rule applicable excerpts of the *2019 Accountability Manual*.

BACKGROUND INFORMATION AND JUSTIFICATION: The TEA has adopted its academic accountability manual in rule since 2000. The accountability system evolves from year to year, so the criteria and standards for rating and acknowledging schools in the most current year differ to some degree from those applied in the prior year. The intention is to update 19 TAC §97.1001 annually to refer to the most recently published accountability manual.

The proposed amendment to 19 TAC §97.1001 would adopt excerpts of the *2019 Accountability Manual* into rule as a figure. The excerpts, Chapters 1-11 of the *2019 Accountability Manual*, specify the indicators, standards, and procedures used by the commissioner of education to determine accountability ratings for districts, campuses, and charter schools. These chapters also specify indicators, standards, and procedures used to determine distinction designations on additional indicators for Texas public school campuses and districts. The TEA will issue accountability ratings and distinction designations under the procedures specified in the *2019 Accountability Manual* by August 15, 2019. Ratings and distinction designations may be revised as a result of investigative activities by the commissioner as authorized under Texas Education Code (TEC), §39.056 and §39.057.

The following is a chapter-by-chapter summary of the changes for this year's manual. In every chapter, dates and years for which data are considered would be updated to align with 2019 accountability, present tense would be applied throughout, "fall snapshot" would be replaced with "October snapshot" to provide clarity, references to the Texas English Language Proficiency Assessment System (TELPAS) waiver would be removed as it was denied by the U.S. Department of Education (USDE) in 2018, and campus rating labels would be changed from *Met Standard/Improvement Required* to *A-F* to align with TEC, §39.054(a).

Chapter 1 would give an overview of the entire accountability system. An additional retest inclusion provision would be added; successful OnRamps dual-enrollment course completion, graduates who receive an advanced degree plan and receive special education services, and graduates who earn a Level I or Level II certificate in any workforce education area would be added as College, Career, and Military Readiness (CCMR) indicators. The OnRamps indicator would be added to align with TEC, §39.053(c)(B)(x), whereas the graduates who receive an advanced degree plan and receive special education services as well as graduates who earn a Level I or Level II certificate in any workforce education area are policy choices. Performance-Based Monitoring Analysis System (PBMAS) would be corrected to read PBM, and the Local Accountability Systems section would be moved to Chapter 11.

Chapter 2 describes the Student Achievement domain. The English learner (EL) performance measure would be added, which is a policy choice; clarifying language regarding the definition of annual graduates would be added; OnRamps dual-enrollment course completion, graduates who receive an advanced degree plan and receive special education services, and graduates who earn a Level I or Level II certificate in any workforce education area would be added as CCMR indicators; CCMR small numbers analysis methodology would be updated; and the career and technical education (CTE) transition timeline and aligned course list would be updated to include 19 additional courses. Additional language would be added stating that for designated dropout recovery schools, when a longitudinal graduation rate is unavailable, the annual dropout rate will only be applied as a safeguard.

Chapter 3 describes the School Progress domain. The term *proficiency* would be updated to *performance*; Academic Growth and CCMR small numbers analysis methodology would be updated; clarifying language would be added to the Academic Growth methodology; Relative Performance small numbers analysis methodology would be updated; and clarifying language that the Relative Performance score is rounded to the nearest whole number would be added.

Chapter 4 describes the Closing the Gaps domain. The construction of this domain is based on the need to align to the language of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) state plan and in response to comments from USDE. Clarifying language would be added to the minimum size requirements for evaluation in the Closing the Gaps domain; language regarding the proxy used for ELs in years 3 and 4 of monitoring would be removed, as this information is now available through the Texas Student Data System Public Education Information Management System (TSDS PEIMS); the EL performance

measure would be added to the Academic Achievement and Student Achievement Domain Score: STAAR Only component methodology descriptions, which is a policy choice. Language would be added to clarify that the EL performance measure is not used in the Academic Growth component; Academic Growth small numbers analysis methodology would be updated; language regarding the long-term graduation rate would be removed for brevity; clarifying language would be added to the four-year graduation rate target; a definition for Ever EL would be added for clarity; clarifying language would be added to the assessments evaluated in the English Language Proficiency section; successful OnRamps dual-enrollment course completion, graduates who receive an advanced degree plan and receive special education services, and graduates who earn a Level I or Level II certificate in any workforce education area would be added as CCMR indicators; language would be added to exclude Grade 12 students who are identified as individualized education program (IEP) continuers; CCMR small numbers analysis methodology would be updated; language would be added regarding the limits on the use of alternative assessments to align with federal requirements; clarifying language would be added to the chart showing the middle school example of a Closing the Gaps score calculation; and the section describing the identification of schools for improvement would be removed, as it is now in Chapter 10.

Chapter 5 describes how the overall ratings are calculated. How to combine the ratings and the weight of each domain are required by TEC, §39.054(a-1). Campus methodology would be removed, and rating labels would be updated to align with the district methodology and labels to align with TEC, §39.054(a); page number references would be updated; and labels would be added to tables and references to the labels would be added throughout the methodology for easier use. Overall rating methodology would be updated to align with statute regarding the implementation of letter grades for campuses. Language stipulating that a district cannot receive an overall or domain rating of *A* if the district includes any campus with a corresponding overall or domain rating of *D* or *F* would be added. In this case, the highest scaled score a district can receive for the overall or in the corresponding domain is an 89. The provision that stipulates if an *F* rating is received in three of the four areas of Student Achievement; School Progress, Part A: Academic Growth; School Progress, Part B: Relative Performance; or Closing the Gaps, the highest scaled score a district, open-enrollment charter school, or campus can receive for the overall rating is a 59 would be updated. For 2019 accountability, if the Student Achievement domain rating is a *D* or higher, this provision will not be applied. The graduation rate component conversion table would be updated to include a 100 scaled score, and methodology and tables would be added for alternative education accountability (AEA) bonus points, which are policy choices.

Chapter 6 describes distinction designations. The eligibility of districts for distinction designations is established in TEC, §39.054(a) and §39.201(b). Clarifying language would be added for campuses with scores that tie in the top 25%; the Student Growth indicator would be updated to Student Progress; and a correction from mathematics to science would be made for the AP/IB indicator evaluated in the Academic Achievement in Science distinction designation.

Chapter 7 describes the pairing process and the alternative education accountability provisions. There are no substantial changes from the 2018 manual.

Chapter 8 describes the process for appealing ratings. Language regarding the compensatory nature of the system would be removed as it no longer applies; language stipulating that scaled scores and federal identifications will not be changed as a result of appeal would be added; student course completion would be added to the list of TSDS PEIMS data submissions; the EL performance measure calculation would be added to the list of unfavorable reasons for appeal; clarifying language would be added throughout the section regarding special circumstance appeals; additional language would be added for what is needed for appeals processing; PBMAS would be corrected to read PBM and Texas Accountability Intervention System (TAIS) would be replaced with the Effective Schools Framework; and TEA Secure Environment (TEASE) would be changed to TEA Login (TEAL).

Chapter 9 describes the responsibilities of TEA, the responsibilities of school districts and open-enrollment charter schools, and the consequences to school districts and open-enrollment charter schools related to accountability and interventions. There are no substantial changes from the 2018 manual.

Chapter 10 provides information on the federally required identification of schools for improvement. This chapter would include revised and expanded information on minimum size and exiting requirements that was included in the

2018 manual at the end of Chapter 4. In the 2018 manual, Chapter 10 described the Hurricane Harvey Provision, which is no longer applicable.

Chapter 11 is new for 2019. This chapter would describe local accountability systems and include expanded information that was included in the 2018 manual at the end of Chapter 1.

FISCAL IMPACT: Jeff Cottrill, deputy commissioner for academics standards and engagement, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Cottrill has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be continuing to inform the public of the existence of annual manuals specifying rating procedures for the public schools by including this rule in the *Texas Administrative Code*. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins May 3, 2019, and ends June 3, 2019. A public hearing on the proposal will be held at 8:30 a.m. on May 22, 2019, in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Anyone wishing to testify at the hearing must sign in between 8:15 a.m. and 9:00 a.m. on the day of the hearing. The hearing will conclude once all who have signed in have been given the opportunity to comment. Questions about the hearing should be directed to Performance Reporting at (512) 463-9704. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §39.052(a) and (b)(1)(A), which require the commissioner to evaluate and consider the performance on achievement indicators

described in TEC, §39.053(c), when determining the accreditation status of each school district and open-enrollment charter school; TEC, §39.053, which requires the commissioner to adopt a set of performance indicators related to the quality of learning and achievement in order to measure and evaluate school districts and campuses; TEC, §39.054, which requires the commissioner to adopt rules to evaluate school district and campus performance and to assign a performance rating; TEC, §39.0541, which allows the commissioner to adopt indicators and standards under TEC, Subchapter C, at any time during a school year before the evaluation of a school district or campus; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §29.081(e), (e-1), and (e-2), which define criteria for alternative education programs for students at risk of dropping out of school and subjects those campuses to the performance indicators and accountability standards adopted for alternative education programs; and TEC, §12.104(b)(2)(L), which subjects open-enrollment charter schools to the rules adopted under public school accountability in TEC, Chapter 39.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§39.052(a) and (b)(1)(A); 39.053; 39.054; 39.0541; 39.0548; 39.055; 39.151; 39.201; 39.2011; 39.202; 39.203; 29.081(e), (e-1), and (e-2); and 12.104(b)(2)(L).

<rule>

§97.1001. Accountability Rating System.

- (a) The rating standards established by the commissioner of education under Texas Education Code (TEC), §§39.052(a) and (b)(1)(A); 39.053, 39.054, 39.0541, 39.0548, 39.055, 39.151, 39.201, 39.2011, 39.202, 39.203, 29.081(e), (e-1), and (e-2), and 12.104(b)(2)(L), shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine ratings will be annually published in official Texas Education Agency publications. These publications will be widely disseminated and cover the following:
 - (1) indicators, standards, and procedures used to determine district ratings;
 - (2) indicators, standards, and procedures used to determine campus ratings;
 - (3) indicators, standards, and procedures used to determine distinction designations; and
 - (4) procedures for submitting a rating appeal.
- (b) The procedures by which districts, campuses, and charter schools are rated and acknowledged for 2019 ~~[2018]~~ are based upon specific criteria and calculations, which are described in excerpted sections of the 2019 ~~[2018]~~ *Accountability Manual* provided in this subsection.
Figure: 19 TAC §97.1001(b) ~~[Figure: 19 TAC §97.1001(b)]~~
- (c) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.057.
- (d) The specific criteria and calculations used in the accountability manual are established annually by the commissioner ~~[of education]~~ and communicated to all school districts and charter schools.
- (e) The specific criteria and calculations used in the annual accountability manual adopted for prior school years remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.