

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 97. Planning and Accountability

Subchapter EE. Accreditation Status, Standards, and Sanctions

Division 1. Status, Standards, and Sanctions

§97.1073. Appointment of Monitor, Conservator, or Board of Managers.

- (a) The commissioner of education shall appoint a monitor, conservator, management team, or board of managers whenever such action is required, as determined by this section. Action under any other section of this subchapter is not a prerequisite to acting under this section.
- (b) The commissioner may appoint a monitor under Texas Education Code (TEC), §39A.002, when:
 - (1) the district has an accreditation rating of Accredited-Warning or Accredited-Probation;
 - (2) a monitor is needed to ensure district-level support to low-performing campuses and the implementation of the updated targeted improvement plan; or
 - (3) all of the following exist:
 - (A) the deficiencies identified under §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations) require a monitor to participate in and report to the commissioner on the activities of the district's board of trustees and superintendent;
 - (B) the deficiencies identified under §97.1059 of this title are not of such severity or duration as to require direct Texas Education Agency (TEA) oversight of district operations;
 - (C) the district has been responsive to and generally compliant with previous commissioner sanctions and TEA interventions; and
 - (D) stronger intervention is not required to prevent substantial or imminent harm to the welfare of the district's students or to the public interest.
- (c) The commissioner may appoint a conservator or management team under TEC, §§39A.002, 39A.003, 39A.006, and 39A.102, when:
 - (1) the district has an accreditation rating of Accredited-Probation;
 - (2) a conservator or management team is needed to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan;
 - (3) the nature or duration of the deficiencies require that the TEA directly oversee the operations of the district in the area(s) of deficiency;
 - (4) the district has not been responsive to or compliant with TEA intervention requirements; or
 - (5) such intervention is needed to prevent substantial or imminent harm to the welfare of the district's students or to the public interest.
- (d) The decision whether to appoint a conservator or management team under subsection (c) of this section may be based on logistical concerns, including the competencies required and the volume of work involved. The addition of a conservator to form a management team or the addition of additional members to the management team is not a new sanction and does not entitle the district to an additional review.
- (e) The commissioner may appoint a board of managers under TEC, §§39A.004, 39A.006, 39A.102, 39A.107, 39A.111, 39A.256, or 12.116(d)(1), as applicable, when:
 - (1) sanctions under subsection (b) or (c) of this section have been ineffective to achieve the purposes identified in §97.1057 of this title (relating to Interventions and Sanctions; Lowered Rating or Accreditation Status);

- (2) the commissioner has initiated proceedings to close or annex the district;
 - (3) the commissioner has initiated proceedings to close a campus, and such intervention is needed to cease operations of the campus;
 - (4) such intervention is needed to prevent substantial or imminent harm to the welfare of the district's students or to the public interest;
 - (5) a board of managers is needed to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan;
 - (6) the district has a campus that is subject to TEC, §39A.111, and the commissioner does not order the closure of the campus;
 - (7) deficiencies identified in a special accreditation investigation warrant the appointment of a board of managers; or
 - (8) a failure in governance results in an inability to carry out the powers and duties of the board of trustees as outlined in TEC, §11.151 and §11.1511.
- (f) Not later than the second anniversary date of the appointment of the board of managers, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire.
- (g) A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the district in accordance with applicable provisions of law. Except as provided by this subsection, the members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires.
- (1) An individual elected to the board of trustees at an election ordered under this subsection assumes and may exercise all powers and duties of that office at the first official board meeting where the replacement of the member of the board of managers with the elected board of trustees ~~[trustee]~~ member occurs and after satisfying all legal and procedural prerequisites to take office.
 - (2) Any member of the board of trustees elected during the appointment of the board of managers who has not yet assumed the powers and duties of a member of the board of trustees will not be considered for purposes of constitution of a quorum.
 - (3) A board of managers shall order elections for trustees with three-year terms to be held annually in accordance with TEC, §11.059(b). Following each of the last three years of the period of appointment, one-third of the members of the board of managers shall be replaced by the number of members of the school district board of trustees who were elected at an election ordered under this paragraph that constitutes, as closely as possible, one-third of the membership of the board of trustees.
 - (4) A board of managers shall order elections for trustees with four-year terms to be held biennially in accordance with TEC, §11.059(c). Following each of the last three years of the period of appointment, one-third of the members of the board of managers shall be replaced by the number of members of the school district board of trustees who were elected at an election ordered under this paragraph that constitutes, as closely as possible, one-third of the membership of the board of trustees.
 - (5) Upon the appointment of a board of managers to a school district, the commissioner will designate the sequence in which the board of managers' member groups and eligible board of trustees' member groups, the number of which constitutes, as closely as possible, one-third of the membership of the board of trustees, will be replaced by an equal number of elected board of trustees ~~[trustee]~~ members. The commissioner may modify the composition or number of members constituting those groups at any time during the period of the appointment.
 - (6) The commissioner may at any time remove and/or replace a member of the board of managers and may expand or reduce the number of the board of manager members at any time during the appointment of the board of managers.

- (7) On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees of the school district.
- (8) The commissioner may designate the sequence in which an eligible trustee of the board of trustees will replace a member of the board of managers. If the commissioner makes such designation, a trustee replacing a manager would complete the remainder of his or her elected term upon placement to the transitioning board. In the absence of a designation by the commissioner, the trustees elected in an election following each of the last three years of the board of managers' appointment, as determined by the commissioner, shall replace the designated members of the board of managers, except as follows.
 - (A) In the event that the number of trustees elected in the first election exceeds one-third of the total board of ~~trustees~~ ~~[trustee]~~ membership, the board of managers shall determine by lot which of those trustees shall be selected to initially replace members of the board of managers and assume positions on the board.
 - (B) Any remaining trustees elected at the first election ordered under this paragraph shall replace an equivalent number of members of the board of managers and assume positions on the board in the following year, together with any trustees elected in the second election ordered by the board of managers under this paragraph.
 - (C) In the event that the total number of previously elected trustees who have not yet assumed positions on the board exceeds one-third of the total board of ~~trustees~~ ~~[trustee]~~ membership, the trustees elected at the first election ordered under this paragraph shall receive priority in the order of placement on the board, followed by trustees elected at the second election, who shall be selected by lot by the board of managers.
 - (D) Any trustees elected in the third election ordered by the board of managers under this paragraph shall replace an equivalent number of members of the board of managers and assume positions on the board following the last year of the period of the board of managers' appointment.
- (h) The training in effective leadership strategies required under TEC, §39A.205, shall be provided by TEA-approved authorized ~~[registered]~~ providers of school board training to each individual appointed by the commissioner to a board of managers, including board of trustees members appointed under subsection (g)(4) of this section, and, following the expiration of the appointment of the board of managers, to the board of trustees of the school district.
- (i) A board of trustees member appointed under subsection (g)(4) of this section must complete the training required in subsection (h) of this section prior to or within 10 days of the appointment. Failure to do so may result in the removal of the board of trustees member from the board of managers.