

The Texas Education Agency (TEA) proposes amendments to §§97.1055, 97.1057, 97.1059, 97.1067, 97.1069, and 97.1073, concerning accreditation status, standards, and sanctions. The proposed amendments would establish that a superintendent appointed in conjunction with a board of managers assumes office immediately upon appointment and update cross references to statute and other administrative rules.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The proposed amendments to §97.1055 and §97.1059 would update the references to the title of 19 TAC Chapter 157, Hearings and Appeals, Subchapter EE, which was changed from "Informal Review, Formal Review, and Review by State Office of Administrative Hearings" to "Informal Review, Hearing Following Investigation, and Review by State Office of Administrative Hearings" effective April 6, 2022.

Proposed changes to §97.1055 would also update the references to 19 TAC §97.1005, Results Driven Accountability, which was repealed and incorporated into 19 TAC §97.1001, Accountability Rating System, effective November 14, 2023.

The proposed amendment to §97.1057 would update statutory references to align with House Bill 3, 86th Texas Legislature, 2019, which transferred and redesignated Texas Education Code (TEC), §42.258, to TEC, §48.272. The proposed amendment would also update a cross reference to 19 TAC §100.1023, Intervention Based on Charter Violations, which is proposed to be renumbered to 19 TAC §100.1045.

The proposed amendments to §97.1067 and §97.1069 would update statutory references to align with Senate Bill 1488, 85th Texas Legislature, Regular Session, 2017, which transferred and redesignated TEC, §39.107, to TEC, §§39A.152-39A.159, and transferred and redesignated TEC, §39.108, to TEC, §39A.901.

The proposed amendment to §97.1073 would establish that a superintendent appointed in conjunction with a board of managers assumes office immediately upon appointment to clarify when the appointed superintendents take on their responsibilities.

**FISCAL IMPACT:** Steve Lecholop, deputy commissioner of governance, 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 expand an existing regulation by providing for the immediate assumption of powers and duties of a superintendent appointed by the commissioner of education.

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 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. Lecholop 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 ensuring that rule language is based on current law. 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:** 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 24, 2024, and ends June 24, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on May 17, 2024. 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/).

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §39.051, which requires the commissioner to determine accreditation statuses; TEC, §39.052, which establishes the requirements for the commissioner to consider when determining accreditation statuses; TEC, §39A.152, which establishes eligibility requirements an entity to be an alternative manager of a campus; TEC, §39A.153, which establishes requirements for contracting with an alternative managing entity; TEC, §39A.154, which allows the commissioner to require a district to extend a contract with a management entity; TEC, §39A.155, which establishes requirements for evaluating the performance of a management entity; TEC, §39A.156, which establishes the conditions under which a management contract must be cancelled; TEC, §39A.157, which establishes requirements for returning the management of a school district back to the board of trustees; TEC, §39A.158, which establishes that campuses operated by a managing entity are still subject to TEC, Chapters 39 and 39A; TEC, §39A.159, which establishes that the funding for a campus operated by a managing entity may not be less than other campuses in the same district; TEC, §39A.202, which requires the commissioner to appoint a district superintendent when appointing a board of managers; and TEC, §39A.901, which requires the commissioner to annually review the performance of school district or campus undergoing interventions, sanctions, or alternative management to determine appropriate actions.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §§39.051, 39.052, 39A.152-39A.159, 39A.202, and 39A.901.

<rule>

§97.1055. Accreditation Status.

- (a) (No change.)
- (b) Determination of Accredited-Warned status.
  - (1) (No change.)
  - (2) Notwithstanding the district's performance under paragraph (1) of this subsection, a district shall be assigned Accredited-Warned status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:
    - (A) (No change.)
    - (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:

- (i) the district's programs monitored under §97.1001 [~~§97.1005~~] of this title [~~(relating to Results Driven Accountability)~~] exhibit serious or persistent deficiencies that, if not addressed, may lead to probation or revocation of the district's accreditation; or
    - (ii) (No change.)
  - (3) (No change.)
- (c) Determination of Accredited-Probation status.
  - (1) (No change.)
  - (2) Notwithstanding the district's performance under paragraph (1) of this subsection, a district shall be assigned Accredited-Probation status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:
    - (A) (No change.)
    - (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:
      - (i) the district's programs monitored under §97.1001 [~~§97.1005~~] of this title exhibit serious or persistent deficiencies that, if not addressed, may lead to revocation of the district's accreditation; or
      - (ii) (No change.)
  - (3) (No change.)
- (d) Determination of Not Accredited-Revoked status; Revocation of accreditation.
  - (1)-(3) (No change.)
  - (4) A district shall have its accreditation revoked if, notwithstanding its performance under paragraph (1) of this subsection, the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:
    - (A) (No change.)
    - (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:
      - (i) the district's programs monitored under §97.1001 [~~§97.1005~~] of this title exhibit serious or persistent deficiencies that require revocation of the district's accreditation; or
      - (ii) (No change.)
  - (5) (No change.)
  - (6) The commissioner's decision to revoke a district's accreditation may be reviewed under Chapter 157, Subchapter EE, of this title (relating to Informal Review, Hearing Following Investigation [~~Formal Review~~], and Review by State Office of Administrative Hearings). If, after review, the decision is sustained, the commissioner shall appoint a management team or board of managers to bring to closure the district's operation of the public school.
  - (7) (No change.)
- (e)-(f) (No change.)

§97.1057. Interventions and Sanctions; Lowered Rating or Accreditation Status.

- (a)-(e) (No change.)

- (f) In determining whether to impose a particular sanction under TEC, Chapters 39 and 39A, or this subchapter, the commissioner may consider the costs and logistical concerns of the district but shall give primary consideration to the best interest of the district's students. The sanction selected shall be reasonably calculated to address the district's or campus' deficiencies immediately or within a reasonable time, in the best interest of its present and future students. The following shall be considered as being contrary to the best interests of the district's students:
- (1)-(2) (No change.)
  - (3) receipt of a substantial over-allocation of funds for which the district has failed to plan prudently in light of its obligation to repay the funds under TEC, §48.272 [~~§42.258~~]; and
  - (4) (No change.)
- (g) (No change.)
- (h) The commissioner shall notify the school district or open-enrollment charter school in writing of a sanction imposed under this subchapter or §100.1045 [~~§100.1023~~] of this title (relating to Intervention Based on Charter Violations). The notice must state the basis for finding that the district or open-enrollment charter school does not satisfy the applicable criteria as indicated in this subchapter or §100.1045 [~~§100.1023~~] of this title. The finding(s) may be made in the notice or in a final investigative report or based on a final investigative report.
- (i)-(k) (No change.)

§97.1059. Standards for All Accreditation Sanction Determinations.

- (a) (No change.)
- (b) In making a determination under subsection (a) of this section, the commissioner shall consider the seriousness, number, extent, and duration of deficiencies identified by the Texas Education Agency (TEA) and shall impose one or more accreditation sanctions on a district and its campuses as needed to address:
  - (1) each material deficiency identified by the TEA through its systems for district and campus accountability, including:
    - (A)-(E) (No change.)
    - (F) the results of an investigative report under Chapter 157, Subchapter EE, of this title (relating to Informal Review, Hearing Following Investigation [~~Formal Review~~], and Review by State Office of Administrative Hearings); complaint investigation; special education due process hearing; or data integrity investigation, including an investigation of assessment or financial data;
    - (G)-(H) (No change.)
  - (2)-(4) (No change.)
- (c)-(e) (No change.)

§97.1067. Alternative Management of Campuses.

- (a) (No change.)
- (b) A contract under this section must be executed by the district and the service provider and must:
  - (1) (No change.)
  - (2) comply with TEC, §§39A.153-39A.159 [~~§39.107(m) (e)~~]; this section; and the requirements and performance measures established by the Texas Education Agency (TEA) under §97.1069 of this title;
  - (3)-(8) (No change.)

- (c) The service provider may perform the duties and responsibilities of a principal, and in addition may make requests and recommendations to the district concerning all aspects of campus administration, including personnel and budget decisions.
  - (1) (No change.)
  - (2) The commissioner may implement additional sanctions under this subchapter and consider such reports under TEC, §39A.901 [~~§39.108~~] and §39A.155 [~~§39.107(n)~~], as well as §97.1065(b) of this title.
- (d)-(e) (No change.)
- (f) The commissioner shall order closure of a campus when alternative management of the campus was ordered under this section and:
  - (1) the district resumed operation of the campus under TEC, §39A.155 [~~§39.107(n)~~]; and
  - (2) (No change.)
- (g)-(h) (No change.)

§97.1069. Providers of Alternative Campus Management.

- (a) Each school year, the Texas Education Agency (TEA) will issue a request for qualifications (RFQ) to solicit proposals from qualified non-profit management entities to assume the management of campuses identified for sanction under §97.1067 of this title (relating to Alternative Management of Campuses). The commissioner of education may solicit proposals from qualified for-profit entities to assume management of a campus subject to this section if a non-profit entity has not responded to the RFQ.
  - (1) To be approved as a provider of alternative campus management services, a non-profit entity must meet the requirements of Texas Education Code (TEC), §39A.152 [~~§39.107~~], and any additional qualifications and procedural requirements specified by the TEA in the RFQ.
  - (2) (No change.)
- (b)-(d) (No change.)

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

- (a)-(b) (No change.)
- (c) The commissioner may appoint a conservator or management team under TEC, §§39A.002, 39A.003, [~~39A.006,~~] and 39A.102, when:
  - (1)-(5) (No change.)
- (d)-(e) (No change.)
- (f) The superintendent, upon appointment, immediately assumes all powers, duties, rights, and responsibilities of the superintendent of the district to which the superintendent is appointed.
- (g) [~~(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.
- (h) [~~(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)-(8) (No change.)
- (i) [~~(h)~~] The training in effective leadership strategies required under TEC, §39A.205, shall be provided by TEA-approved authorized 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 (h)(4) [~~(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.

- (j) ~~(g)~~ A board of trustees member appointed under subsection (h)(4) ~~(g)(4)~~ of this section must complete the training required in subsection (i) ~~(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.