

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 *2020 Accountability Manual*.

**BACKGROUND INFORMATION AND JUSTIFICATION:** 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 *2020 Accountability Manual* into rule as a figure. The excerpts, Chapters 1-11 of the *2020 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. Ratings may be revised as a result of investigative activities by the commissioner as authorized under Texas Education Code (TEC), §39.056 and §39.057.

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 2020 accountability and present tense would be applied throughout.

Chapter 1 gives an overview of the entire accountability system. The description of the Accountability Policy Advisory Committee would be updated to note that the committee makes their own recommendations to address policy issues. The description of a *Not Rated* rating would be moved from the Single-Campus Districts section to the Rating Labels section and expanded upon. The label *Not Rated: Declared State of Disaster* would be added to indicate that due to extraordinary public health and safety circumstances, the closure of schools during the state's testing window inhibited the ability of the state to accurately measure district and campus performance. The school types chart would be updated to reflect numbers for 2020.

Chapter 2 describes the Student Achievement domain. The section describing the inclusion of substitute assessments would be updated to state that results from fall 2019 and spring 2020 would not be included. Unschooled asylee, refugee, and students with interrupted formal education (SIFE) inclusion language would be updated to note that these results are included beginning with the student's second year of enrollment in U.S. schools. Clarifying language regarding rounding within the State of Texas Assessment of Academic Readiness (STAAR®) component would be added. The list of College, Career, and Military Readiness (CCMR) indicators would be reorganized to align with other Performance Reporting products. The list of career and technical education courses aligned with an industry-based certification (IBC) would be updated in response to the expansion of the IBC list.

Chapter 3 describes the School Progress domain. Language referencing House Bill 22, 85th Texas Legislature, 2017, would be removed. Unschooled asylee, refugee, and SIFE inclusion language would be updated to note that these results are included beginning with the student's second year of enrollment in U.S. schools. The language describing small numbers analysis for the Academic Growth domain would be updated to indicate that three years would be used. The section describing the inclusion of substitute assessments would be updated to state that results from fall 2019 and spring 2020 would not be included. A sentence reiterating that English learners in their second year in U.S. schools are included would be removed, as it is redundant.

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, as amended by the Every Student Succeeds Act (ESSA). Clarifying language would be added to the minimum size section, noting that a district or campus must meet minimum size for at least five indicators in the Academic Achievement component to be evaluated. Clarifying language would be added to the Current and Former Special Education Students and Current and Monitored English Learners sections regarding the sources used to identify students as such. Unschooled asylee, refugee, and SIFE inclusion language would be updated to note that these results are included beginning with the student's second year of enrollment in U.S. schools. The section describing the inclusion of substitute assessments would be updated to state that results from fall 2019 and spring 2020 would not be included. A sentence describing the minimum number of indicators needed to be evaluated would be added to each section describing the minimum size criteria. The language describing small numbers analysis for the Academic Growth domain would be updated to indicate that

three years would be used. Language would be added to note changes to the graduation rate methodology if the amendment submitted to the U.S. Department of Education is approved. Texas English Language Proficiency Assessment System (TELPAS) Alternate would be added to the English Language Proficiency component descriptions as well as a shift to use 2018 TELPAS composite ratings if 2019 composite ratings are not available. The list of CCMR indicators would be reorganized to align with other Performance Reporting products. Clarifying language would be added to note that only summer 2019 substitute assessments would be included as participants. Additional language would be added to the middle school example calculation to illustrate how to proportionally distribute component weights.

Chapter 5 describes how the overall ratings are calculated. Language would be added to note that the following provision would not apply if the triggering campus is an alternative education accountability campus with a domain or overall rating of *D*. A district may not 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*. In this case, the highest scaled score a district can receive for the overall or in the corresponding domain is an 89. The formatting would be updated for the campus School Progress, Part B: Relative Performance Lookup Tables.

Chapter 6 describes distinction designations. Clarifying language would be added stating that a campus may earn a distinction based on a sole indicator other than attendance. An indicator that evaluates Grade 8 Algebra I end-of-course performance would be added to the mathematics distinction section. The Top 25 Percent distinction methodology language would be updated to state the use of the raw score rather than the scaled score.

Chapter 7 describes the pairing process and the alternative education accountability (AEA) provisions. The Pairing section would be updated to state that traditional campuses may not be paired with AEA campuses. A section regarding magnet campuses and programs would be added to detail the attribution of assessment results. Clarifying language would be added to the AEA of choice description. Language describing the AEA registration process would be revised to note that if a campus was registered in 2019 using the at-risk safeguard and it does not meet the at-risk enrollment criterion in 2020, the campus would not be eligible for AEA and would not be re-registered in 2020. Language would be added stating that campuses that were not registered in 2019 but meet eligibility requirements for AEA in 2020 would be automatically registered along with the requirement for a district to rescind the registration if they do not wish for the campus to be evaluated under AEA provisions. The number of at-risk criteria would be updated from thirteen to fourteen to reflect statutory changes.

Chapter 8 describes the process for appealing ratings. A deadline of June 5, 2020, for TELPAS rescore requests and a deadline of June 19, 2020, for STAAR® rescore requests would be added. Additionally, rescore requests submitted after the deadline would not be considered during the appeals process. Language would be added stating that all preliminary ratings are subject to change due to an investigation or an appeal. The *Local Accountability System Manual* would be changed to *Local Accountability System Guide*. A paragraph describing special program campuses would be added to the Special Circumstance Appeals section, and a paragraph describing rescoring would be removed. Clarifying language would be added to note that distinction designations would not be reprocessed for districts and campuses that receive a granted appeal for an *A-D* rating. The example of a satisfactory appeal would be updated to reflect a satisfactory appeal recently received. A sentence would be added to state that certain appeal requests may lead to audits and/or investigations.

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. The reference to House Bill 22, 85th Texas Legislature, 2017, would be removed. Language would be added stating that due to the lack of 2020 accountability ratings, the campuses identified for Public Education Grant (PEG) based on 2019 ratings would remain on the 2021-2022 PEG List. The Campus Intervention Requirements under the TEC, Chapter 39A, section would be revised to reference TEC, Chapter 39A, rather than TEC, §39A.101, and to address campuses with a *D* rating. The Actions Required Due to Low Ratings or Low Accreditation Status sections would be updated to include *D* ratings along with *F* ratings. Language would be added to the Campus Intervention Requirements section and the Actions Required Due to Low Ratings section noting that when a district or campus receives a rating of *Not Rated*, *Not Rated: Declared State of Disaster*, or *Not Rated: Data Integrity Issues*, the district or campus shall continue to implement the previously ordered sanctions and interventions. If a campus has been ordered to prepare a turnaround plan and then receives a rating of *Not Rated*, *Not Rated: Declared State of Disaster*, or *Not Rated: Data Integrity Issues*, that campus is strongly encouraged, but not required, to

implement the approved turnaround plan. Language would be revised to clarify the policy for updating campus identification numbers.

Chapter 10 provides information on the federally required identification of schools for improvement. Language and charts would be revised to detail changes to additional targeted support, targeted support and improvement, and comprehensive support and improvement identification methodology, if the submitted ESSA amendment is approved. Language would be revised to note that all students, former education, continuously enrolled, and non-continuously enrolled student groups would not be evaluated for additional targeted and targeted support and improvement. For targeted support and improvement and additional targeted support sections, minimum size requirement language would be removed for the all students group, as it would not be evaluated. Language regarding the exit criteria for comprehensive support and improvement would be revised to clarify that campuses must have an improved Closing the Gaps domain letter grade by the end of the second year.

Chapter 11 describes local accountability systems. Language would be added to clarify that local accountability plans may vary by campus type and by school group but must apply equally to all campuses by type and group. Language noting that an independent panel consisting of representatives from current participating districts would participate in the review process would be removed. The *Local Accountability System Manual* would be replaced with the *Local Accountability System Guide*. References to a "what if" rating would be removed. Language indicating that districts must submit scaled scores for each component would be added.

**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 expand an existing regulation by providing for an additional rating type related to disasters.

The proposed rulemaking 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. 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 1, 2020, and ends June 1, 2020. 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. A public hearing on the proposal is scheduled for 8:30 a.m. on May 22, 2020. The public may participate in the hearing virtually by linking to the meeting at [https://zoom.us/meeting/register/vpYsd-6hqTMux0hZ13YSgJo32h9UFjPK4w](https://zoom.us/join/zoom/register/vpYsd-6hqTMux0hZ13YSgJo32h9UFjPK4w). Parties interested in testifying must register online between 8:15 a.m. and 9:00 a.m. on the date of the hearing and are encouraged to also send written testimony to [performance.reporting@tea.texas.gov](mailto:performance.reporting@tea.texas.gov). The hearing will conclude once all who have registered have been given the opportunity to comment. Questions about the hearing should be directed to Performance Reporting at (512) 463-9704.

**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)(3)(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)(3)(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 2020 [~~2019~~] are based upon specific criteria and calculations, which are described in excerpted sections of the 2020 [~~2019~~] *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 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.