

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 *2022 Accountability Manual*. Earlier versions of the manual will remain in effect with respect to the school years for which they were developed.

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 *2022 Accountability Manual* into rule as a figure. The excerpts, Chapters 1-11 of the *2022 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, §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 2022 accountability. All references to English learners would be updated to emergent bilingual students/English learners to align with updated state statute and federal reporting requirements.

Chapter 1 gives an overview of the entire accountability system. Language referring to the Not Rated: Declared State of Disaster label that was applied in 2021 would be removed as well as language about Academic Growth not being calculated. Language indicating that single-campus districts must meet performance targets required for the campus to demonstrate acceptable performance would be removed. Rating labels D and F would be removed and replaced with Not Rated: Senate Bill 1365. Clarifying language about membership being the basis for accountability calculations would be added. Language would be added regarding the inclusion of students receiving instruction virtually. The summer 2021 State of Texas Assessments of Academic Readiness (STAAR®) administration would be added to the chart depicting the accountability subset rule as well as in the descriptive bullets below the chart. Language about Not Rated: Data Integrity Issues potentially being assigned temporarily would be removed as this would be a permanent label and Not Rated: Data Under Review would be added as a potential temporary label. The provision allowing a district to retest students who achieve Approaches Grade Level on an English I or Algebra I end-of-course would be removed.

Chapter 2 describes the "Student Achievement" domain. Language indicating scaled scores would not be calculated would be removed. References to the Every Student Succeeds Act (ESSA) addendum would be removed. The new version of the Texas Success Initiative assessment (TSIA2) would be added as a means to meet TSI criteria. The writing column would be removed from the STAAR® component example chart. The Student Achievement Domain Rating Calculation section would be added.

Chapter 3 describes the "School Progress" domain. Language indicating raw scores and scaled scores would not be calculated would be removed. All language about the Academic Growth calculation would be added and would be unchanged from the *2020 Accountability Manual* besides the small numbers analysis language which would indicate that it would not be used. Language about the ESSA waiver request would be removed. Small numbers analysis language would be updated to note that it would not be applied to the Relative Performance domain.

Chapter 4 describes the "Closing the Gaps" domain. Language indicating raw scores and scaled scores would not be calculated would be removed. All language about the Academic Growth calculation would be added and would be unchanged from the *2020 Accountability Manual* besides the small numbers analysis language, which would indicate that it would not be used. Language about the use of the 2020 optional Texas English Language Proficiency Assessment System would be moved to the "English Language Proficiency-Methodology" section. Language noting that TEA requested an extension for the participation rate requirements under ESSA would be added. The "Limits on Use of Alternative Assessments" section would be removed. The weights applied to each component, calculation examples, and additional calculation details would be added.

Chapter 5 describes how the overall ratings are calculated. Language about how ratings are calculated would be added and would be unchanged from the 2020 *Accountability Manual* other than references to D/F ratings. Any previous reference to D/F ratings would be replaced with a Not Rated: Senate Bill 1365 label or a scaled score.

Chapter 6 describes distinction designations. Language about the appeals process would be added and would be unchanged from the 2020 *Accountability Manual* with the following exceptions: eligibility requirements would be updated to align with current statute; all references to the writing STAAR® would be removed; an SAT/ACT Results for Accelerated Testers indicator would be added; and clarifying language would be added to the Postsecondary Readiness distinction designation description. Language describing the Career and Technical Education indicator would be removed, and language about the inclusion of the TSIA2 would be added.

Chapter 7 describes the pairing process and the alternative education accountability provisions. Language describing Alternative Education Campuses of Choice would be removed, and a description of the Dropout Recovery School (DRS) discretionary designation application process would be added. Language about the DRS identification process would be updated to align with statutory changes.

Chapter 8 describes the process for appealing ratings. Language about the appeals process would be added and would be unchanged from the 2020 *Accountability Manual* with the following exceptions: language about the option to appeal consecutive years of unacceptable performance would be added; and references to the Covid-19 pandemic and its impact on accountability ratings would be removed, as well as language about the Student Success Initiative STAAR® administration and the writing STAAR® administration. Language describing the order in which appeals would be processed would be removed.

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 "Determination of Multiple Year Unacceptable Status" section would be replaced with "Determination of Count of Consecutive School Years of Unacceptable Performance Ratings," and the description below the section title would be updated to align with current statute. Language would be added about the impact of overall D ratings to align with statutory requirements. The Acceptable and Not Rated: Declared State of Disaster rating labels would be added as well as the Not Rated: Senate Bill 1365 label to be applied to districts and campuses that would have received a D/F rating in 2022. Language would be added indicating that PEG campuses would be identified based on an overall scaled score less than 60. The Campus Identification Numbers would be updated to align with current procedures.

Chapter 10 provides information on the federally required identification of schools for improvement. Language about the 2021 ESSA waiver would be moved to the end of the chapter. The identification and exit criteria for comprehensive support and improvement, targeted support and improvement, and additional targeted support would be added.

Chapter 11 describes the local accountability system (LAS). References to the application of a Not Rated: Declared State of Disaster rating label would be removed. Language would be added noting that LAS ratings would only be applied if the state rating is a C or better. A section describing the appeals process would be added.

FISCAL IMPACT: Jeffrey Cottrill, deputy commissioner for governance and accountability, has determined that 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 limit an existing regulation due to its effect on school accountability for 2022.

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 expand 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: Dr. 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 to continue to inform the public of the existence of annual manuals specifying rating procedures for 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: 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 13, 2022, and ends June 13, 2022. A public hearing to solicit testimony and input on the proposed amendment is scheduled for 9:00 a.m. on May 18, 2022. The public may participate in the hearing virtually by linking to the meeting at <https://us02web.zoom.us/j/82959760745>. Parties interested in testifying must register online by 9:00 a.m. on the day of the hearing and are encouraged to also send written testimony to 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 the TEA Division of Performance Reporting at (512) 463-9704 or performance.reporting@tea.texas.gov.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §39.052(a) and (b)(1)(A), which require the commissioner of education 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, §39.0543, which describes acceptable and unacceptable performance as referenced in law; TEC, §39.0546, which requires the commissioner to assign a Not Rated label to all districts and campuses for 2021-2022 unless the district or campus earns an overall performance rating of C or higher and which maintains student eligibility for the public education grant (PEG) despite an overall Not Rated label; 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; TEC, §29.201 and §29.202, which describe the PEG program and eligibility requirements; 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; 39.0543; 39.0546; 39.0548; 39.055; 39.151; 39.201; 39.2011; 39.202; 39.203; 29.081(e), (e-1), and (e-2); 29.201, 29.202; 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 2022 [~~2021~~] are based upon specific criteria and calculations, which are described in excerpted sections of the 2022 [~~2021~~] *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.