

Texas Education Agency Special Investigations Unit

Investigation Procedures

Purpose

This document contains the procedures for investigations of school districts and charter schools conducted by the Special Investigations Unit (SIU) of the Texas Education Agency (TEA) pursuant to Texas Education Code (TEC) §§ 39.057 and 39.058. These procedures supersede any former procedures issued by or covering the SIU and pertain to all current or future investigations as of the effective date of these procedures. These procedures do not apply to an on-site investigation conducted under TEC § 39.056.

Mission

The mission of the SIU is to use a variety of investigative approaches to gather evidence related to alleged wrongdoing including but not limited to potential violations of state or federal law, rules and regulations, policies and procedures, and other abuses that may negatively impact a school district or charter school.

Investigations will focus on obtaining sufficient factual evidence to determine whether certain enforcement actions should be taken against the district or charter school.

Authority

The authority to investigate school districts and charter schools is specified under Chapter 39 of the TEC. The Commissioner of Education or the Commissioner's designee authorizes the SIU to conduct special accreditation investigations (SAI) pursuant to TEC §§ 39.057 and 39.058.

Procedures

Part I. Initial Review

SIU investigates complaints referred by TEA's Complaints Management Division. SIU also accepts referrals from TEA program areas or executive management based on concerns identified through program area compliance monitoring functions or external referrals. Upon referral, SIU conducts a preliminary inquiry and review of the referral, which may include obtaining or requesting additional documents or information from complainants, witnesses, other agencies, and/or the school district or charter school.

After reviewing the referral, if the SIU determines an SAI is warranted, SIU makes a recommendation to the Commissioner of Education or the Commissioner's designee through the Director of Governance & Investigations for final approval of the SAI.

Part II. Initial Notification

If an SAI is authorized by the Commissioner or the Commissioner's designee, a written notice of investigation is sent by SIU to the superintendent and board president of the school district or charter school. This written notification will include:

- The statement of purpose, mission, and authority of the SIU;
- The allegation(s) or matter(s) under investigation;
- A copy of these procedures;
- Requests for information; and
- Contact information for the investigator(s) assigned to the investigation.

Part III. Conduct of Investigation

Investigation Plan:

Upon opening an SAI, the SIU will develop an investigative plan. The investigative plan may be revised at any time, as new information is received. The investigative plan may include: a request for and review of records and data from the school district or charter school; interviews; the scheduling of an on-site investigation; and/or communication with other agencies outside of the TEA.

On-Site Investigation:

The SIU may determine an on-site investigation is required in order to conduct a thorough investigation of the allegations. Notice of an on-site will be made either in the original notice of investigation or at a later date. If SIU conducts an on-site investigation, the investigator(s) will conduct an entry meeting with the superintendent (or a designee) upon arriving at the district. An overview of the investigative process will be discussed with the superintendent or a designee at that time.

While on-site, or before or after an on-site, interviews may be conducted with school district or charter school staff, parents, students, and other persons with direct and/or relevant knowledge related to a SAI. If SIU determines the need to interview a student, SIU will contact the parent or guardian of that student. Student interviews of a minor child require the written consent and presence of the parent or guardian. If the parent or guardian is unable to attend but gives written consent, the parent or guardian may designate a representative to be present during the interview.

Additional individuals may be identified during an on-site or throughout the course of an investigation. Interviews may be recorded electronically, with the consent of the interviewee. Any person being recorded may request a copy of the recording. If consent is not given, the interview will be conducted without an electronic recording device.

Documents, records, and other relevant information may be identified during the course of the on-site SAI. These items will be reviewed for investigative information which may be pertinent to determining the facts relative to a potential violation. Information and data collected will be documented, organized, and maintained throughout the course of the investigation.

The SIU investigator(s) may meet with the superintendent (or a designee) before exiting the district. During the exit conference SIU staff will remind the superintendent the investigation is ongoing and will give the superintendent contact information for the SIU investigator(s).

Evidence:

Evidence substantiating allegations of non-compliance or a violation of state or federal law, rule, or regulation will be gathered and reported in a preliminary investigative report. If the evidence confirms an allegation of wrongdoing, the evidence will be included as a part of the preliminary and final report submitted to the Commissioner of Education and may be referred to external entities.

Part IV. Investigative Reports

Preliminary Report:

Upon completion of the SAI, the SIU will issue a preliminary report in accordance with Section 39.058 of the TEC and Chapter 157 of the TAC. The preliminary report is a draft and audit working papers of the investigation.

The preliminary report will state the findings of fact and explain why the allegation is or is not substantiated. The preliminary report will also include recommendations to the Commissioner of Education or the Commissioner's designee for any corrective or disciplinary action or interventions for the district. The preliminary report will be provided to the district and to any person the TEA finds has violated a law, rule, or policy, and will include information for requesting an informal review of the report.

If the preliminary report finds no violation of law or rules, the TEA may issue this report as its final report. In addition, if the SIU finds no violations of law, rule, or policy, the SIU may administratively close the investigation without issuing a preliminary or final report. The district will receive notice if the SIU administratively closes the investigation. An administrative closure without preliminary report may be reopened by the SIU at any time, if it is determined to be necessary based on new or additional evidence, a new complaint, or review of data from another program area within TEA.

Informal Review:

The preliminary report will provide an opportunity to request an informal review of the findings to the school district, charter school, or person found to have violated a law, rule, or policy. The preliminary report will include a deadline by which the written request for an informal review must be received by the TEA. The request for an informal review must be in writing and include all information or documentation the school district, charter school, or individual would like the TEA to consider in the review. Following the informal review, a final report will be issued. If a request for informal review is not received by the TEA on or before the deadline, the report and the findings are final.

Final Report:

The TEA will issue a final report in accordance with Section 39.058 of the TEC and Chapter 157 of the TAC. The final report is a public document. The final report will be issued to the district and to any person the TEA finds has violated a law, rule, or policy. The final report will also be issued to the Governor's Office and any substantive Legislative committee, and TEA will provide any additional information to these entities as requested. Any recommendations for sanctions or enforcement will be referred to the Division

of Enforcement Coordination. The Commissioner of Education or the Commissioner's designee will make the final determination regarding any sanctions. Once the final report is issued, the findings in the report are final and no further appeals are available.

Part V. Release of Information, Referrals, Procedural Matters

SIU may refer allegations, evidence, or investigative findings to other areas of the agency, to other state or federal agencies, or to appropriate law enforcement at any time during an investigation, including referring the final report at the conclusion of an investigation. If the report includes suspected criminal violations, the report and the underlying evidence may be submitted to the appropriate law enforcement authority, including the county district attorney. Evidence that one or more educators violated a state or federal law may be referred to the Educator Investigations Division or to the Student Assessment Division for further review and determinations.

TEA complies with the Texas Public Information Act (TPIA) regarding the release of information in response to a request for public information. Information can only be kept confidential to the extent allowed by law. If audit working papers and drafts relating to the investigation are requested by the public, TEA will seek to withhold them from release through the Office of the Attorney General.

Inquiries received from the media will be directed to the TEA Office of Communications. Until a final report is issued, an investigation is ongoing and the SIU will not release any information regarding the investigation until it is final.

A copy of these procedures will be made available to the complainant, if possible, the school district or charter school, and the public.

SIU staff will be trained in the above-listed procedures and will follow these procedures in conducting SAI investigations. These procedures align with the Offices of Inspector General Principles and Standards green book.

Any modifications to these procedures or the complaint resolution procedures may be ratified by the Commissioner or the Commissioner's designee at any time.

Effective date: September 2016