

## Chapter 97. Planning and Accountability

### Subchapter EE. Accreditation Status, Standards, and Sanctions

#### Division 1. Status, Standards, and Sanctions

##### §97.1051. Definitions.

For purposes under Texas Education Code (TEC), Chapters 39 and 39A, and this subchapter, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise:

- (1) Board of managers--A board appointed by the commissioner of education to serve as a governing body that must, if possible, include:
  - (A) community leaders;
  - (B) business representatives who have expertise in leadership; and
  - (C) individuals who have knowledge or expertise in the field of education.
- (2) Board of trustees--The definition of this term includes a governing body of a charter holder as defined by TEC, §12.1012.
- (3) Campus--An organizational unit operated by the school district that is eligible to receive a campus performance rating in the state accountability rating system under §97.1001 of this title (relating to Accountability Rating System), including a rating of Not Rated or Not Rated: Data Integrity Issues. The definition of this term includes a charter school campus as defined by §100.1001(3)(C) of this title (relating to Definitions).
- (4) Campus turnaround--A comprehensive change in an academically unacceptable campus that produces significant and sustainable gains in achievement within two years. For the purposes of this chapter, the term "academically unacceptable" performance means a rating of Academically Unacceptable, AEA: Academically Unacceptable, Improvement Required, or Unacceptable Performance or as otherwise indicated in the applicable year's academic accountability manual.
- (5) Charter school--This term has the meaning assigned by §100.1001(3) of this title. References to a charter school in TEC, Chapters 39 and 39A, and rules adopted under it, shall mean either the board of trustees or the school district, as appropriate.
- (6) Charter school site--This term has the meaning assigned by §100.1001(3)(D) of this title.
- (7) District coordinator of school improvement (DCSI)--An employee of a school district in a leadership position in school improvement, in curriculum and instruction, or in another position with responsibility for student performance.
- (8) Newspaper of general circulation--A newspaper, as defined in Texas Government Code, §2051.044, that has more than a minimum number of subscribers among a particular geographic region, that has a diverse subscribership, and that publishes some news items of general interest to the community.
- (9) Person--This term has the meaning assigned by the Code Construction Act, Government Code, §311.005(2), and includes a school district.
- (10) Professional service provider (PSP)-- An approved service provider who has been vetted through an application or a request for qualifications (RFQ) process to provide on-site technical assistance for underperforming schools and districts either by the Texas Education Agency (TEA) or the TEA's technical assistance provider.
- (11) Root cause--The education-related factors resulting in a campus's low performance and lack of progress.

- (12) School district and district--The definition of these terms includes a charter operator, which is the same as a charter holder as defined by TEC, §12.1012.

*Statutory Authority: The provisions of this §97.1051 issued under the Texas Education Code, §§39.051, 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1051 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective November 23, 2008, 33 TexReg 9462; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective November 17, 2016, 41 TexReg 9012; amended to be effective January 28, 2018, 43 TexReg 452.*

**§97.1053. Purpose.**

- (a) The provisions of Texas Education Code (TEC), Chapters 39 and 39A, and this subchapter shall be construed and applied to achieve the purposes of accreditation statuses assigned under TEC, §39.051 and §39.052, and the purposes of accreditation sanctions, which are to:
  - (1) inform the parents of students enrolled in the district, property owners in the district, general public, and policymakers of the academic, fiscal, and compliance performance of each district or campus on the standards adopted by the commissioner of education under TEC, §39.052(b) and (c), and/or listed in §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations);
  - (2) encourage the district or campus to improve its academic, fiscal, and/or compliance performance by addressing each area of deficiency identified by the commissioner of education;
  - (3) enable the parents of students enrolled in the district, property owners in the district, general public, and policymakers to assist the district or campus in improving the district or campus performance by addressing each area of deficiency identified by the commissioner;
  - (4) encourage other districts or campuses to improve their performance so as to avoid similar action and to retain their accreditation; and
  - (5) improve the Texas public school system by eliminating poor academic, fiscal, and compliance performance by districts and campuses on the standards listed in §97.1059 of this title.
- (b) The accreditation status assigned a district under §97.1055 of this title (relating to Accreditation Status) generally reflects performance under the state academic accountability rating system and financial accountability rating system beginning with the district's 2006 ratings. However, performance under these systems for earlier years shall be considered for purposes of accreditation statuses and sanctions under this subchapter. Accordingly:
  - (1) consideration of or failure to consider any rating of the district under §97.1055 of this title does not preclude consideration of that rating when determining accreditation sanctions under this subchapter; and
  - (2) when determining accreditation sanctions under this subchapter, the commissioner shall consider the entire ratings history of the district and its campuses to the extent it is material.
- (c) The provisions of TEC, Chapters 39 and 39A, and this subchapter apply in the same manner to an open-enrollment charter school as to a district.

*Statutory Authority: The provisions of this §97.1053 issued under the Texas Education Code, §§39.051, 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1053 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective November 23, 2008, 33 TexReg 9462; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective January 28, 2018, 43 TexReg 452.*

**§97.1055. Accreditation Status.**

- (a) General provisions.
- (1) Each year, the commissioner of education shall assign to each school district an accreditation status under Texas Education Code (TEC), §39.052(b) and (c). Each district shall be assigned a status defined as follows.
    - (A) Accredited. Accredited means the Texas Education Agency (TEA) recognizes the district as a public school of this state that:
      - (i) meets the standards determined by the commissioner under TEC, §39.052(b) and (c), and specified in §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations); and
      - (ii) is not currently assigned an accreditation status of Accredited-Warned or Accredited-Probation.
    - (B) Accredited-Warned. Accredited-Warned means the district exhibits deficiencies in performance, as specified in subsection (b) of this section, that, if not addressed, will lead to probation or revocation of its accreditation status.
    - (C) Accredited-Probation. Accredited-Probation means the district exhibits deficiencies in performance, as specified in subsection (c) of this section, that must be addressed to avoid revocation of its accreditation status.
    - (D) Not Accredited-Revoked. Not Accredited-Revoked means the TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under TEC, §39.052(b) and (c), and specified in subsection (d) of this section.
  - (2) The commissioner shall assign the accreditation status, as defined by this section, based on the performance of each school district. This section shall be construed and applied to achieve the purposes of TEC, §39.051 and §39.052, which are specified in §97.1053(a) of this title (relating to Purpose).
  - (3) The commissioner shall revoke the accreditation status of a district that fails to meet the standards specified in this section. In the event of revocation, the purposes of the TEC, §39.051 and §39.052, are to:
    - (A) inform the parents of students enrolled in the district, property owners in the district, general public, and policymakers that the TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under TEC, §39.052(b) and (c), and specified in subsection (d) of this section; and
    - (B) encourage other districts to improve their performance so as to retain their accreditation.
  - (4) Unless revised as a result of investigative activities by the commissioner as authorized under TEC, Chapter 39 or 39A, or other law, an accreditation status remains in effect until replaced by an accreditation status assigned for the next school year. An accreditation status shall be revised within the school year when circumstances require such revision in order to achieve the purposes specified in §97.1053(a) of this title.
  - (5) An accreditation status will be withheld pending completion of any appeal or review of an academic accountability rating, a financial accountability rating, or other determination by the commissioner, but only if such appeal or review is:
    - (A) specifically authorized by commissioner rule;
    - (B) timely requested under and in compliance with such rule; and
    - (C) applicable to the accreditation status under review.

- (6) An accreditation status may be withheld pending completion of on-site or other investigative activities in order to achieve the purposes specified in §97.1053(a) of this title.
  - (7) The commissioner may withhold the assignment of an accreditation status to an open-enrollment charter school that is subject to TEC, §12.115(c) or §12.1141(d), or has otherwise surrendered its charter.
  - (8) If an accreditation status is withheld pending completion of an appeal or review as provided by this section, the district's last issued accreditation status remains in effect until otherwise finalized or changed.
  - (9) An accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this chapter or other applicable law.
  - (10) For purposes of determining multiple years of academically unacceptable or insufficient performance, the academic accountability ratings issued for the 2010-2011 school year and for the 2012-2013 school year are consecutive. An accreditation status assigned for the 2012-2013 school year shall be based on assigned academic accountability ratings for the applicable prior school years, as determined under subsections (b)-(d) of this section. Additionally, for purposes of determining multiple years of academically unacceptable or insufficient performance, the academic accountability ratings issued for the 2018-2019 school year and for the 2021-2022 school year are consecutive. An accreditation status assigned for the 2022-2023 school year shall be based on assigned academic and financial accountability ratings for the applicable prior school years, as determined under subsections (b)-(d) of this section.
  - (11) If a lowered accreditation status is assigned and a sanction is imposed, the subsequent issuance of a new accreditation status does not affect the commissioner's authority to proceed with the previously imposed sanction.
  - (12) Accreditation statuses are consecutive if they are not separated by an accreditation period in which the TEA assigned accreditation statuses to districts and charter schools generally. For example, if TEA does not assign accreditation statuses to districts and charter schools generally for the 2012-2013 school year, then the accreditation statuses issued for the 2011-2012 school year and for the 2013-2014 school year are consecutive. Additionally, if TEA does not assign accreditation statuses to districts and charter schools generally for the 2020-2021 school year, then the accreditation statuses issued for the 2019-2020 school year and for the 2022-2023 school year are consecutive.
  - (13) If a rating of Not Rated or similar rating is issued to a school district, the commissioner may withhold the assignment of an accreditation status or withdraw a previously issued accreditation status. For purposes of determining multiple years of unacceptable or insufficient performance, the rating issued for the prior and subsequent school year are consecutive. The next accreditation status assigned shall be based on assigned accountability ratings for the applicable prior school years, as determined under subsections (b)-(d) of this section.
  - (14) When an accreditation status is withheld because either a financial or academic accountability rating is not available or the district is not rated, the commissioner may, but is not required to, consider the rating that is issued when assigning subsequent accreditation statuses in order to achieve the purposes specified in §97.1053(a) of this title. If the commissioner elects not to consider a rating, then the previous and subsequent rating is consecutive.
- (b) Determination of Accredited-Warned status.
- (1) A district shall be assigned Accredited-Warned status if the district is assigned:
    - (A) for two consecutive school years, an unacceptable academic accountability rating as indicated in the applicable year's accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System);

- (B) for two consecutive school years, a financial accountability rating of Substandard Achievement as indicated in the applicable year's financial accountability system manual adopted under §109.1001 of this title (relating to Financial Accountability Ratings);
  - (C) for two consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or
  - (D) for one school year, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.
- (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) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:
    - (i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39, 39A, or 48, and rules implementing those chapters;
    - (ii) the reporting of data under TEC, §48.008, and §61.1025 of this title (relating to Public Education Information Management System (PEIMS) Data and Reporting Standards);
    - (iii) other reports required by state or federal law or court order;
    - (iv) awarding high school graduation under TEC, §28.025; or
    - (v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or
  - (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:
    - (i) the district's programs monitored under §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) the district otherwise exhibits serious or persistent deficiencies that, if not addressed, may lead to probation or revocation of the district's accreditation.
- (3) Notwithstanding paragraph (2) 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.
- (c) Determination of Accredited-Probation status.
- (1) A district shall be assigned Accredited-Probation status if the district is assigned:
    - (A) for three consecutive school years, an unacceptable academic accountability rating as indicated in the applicable year's accountability manual adopted under §97.1001 of this title;
    - (B) for three consecutive school years, a financial accountability rating of Substandard Achievement as indicated in the applicable year's financial accountability system manual adopted under §109.1001 of this title;
    - (C) for three consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or
    - (D) for two consecutive school years, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.
  - (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) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:
    - (i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39, 39A, or 48, and rules implementing those chapters;
    - (ii) the reporting of data under TEC, §48.008, and §61.1025 of this title;
    - (iii) other reports required by state or federal law or court order;
    - (iv) awarding high school graduation under TEC, §28.025; or
    - (v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or
  - (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:
    - (i) the district's programs monitored under §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) the district otherwise exhibits serious or persistent deficiencies that, if not addressed, may lead to revocation of the district's accreditation.
  - (3) Notwithstanding paragraph (2) 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.
- (d) Determination of Not Accredited-Revoked status; Revocation of accreditation.
- (1) The accreditation of a district shall be revoked if the district is assigned:
    - (A) for four consecutive school years, an unacceptable academic accountability rating as indicated in the applicable year's accountability manual adopted under §97.1001 of this title;
    - (B) for four consecutive school years, a financial accountability rating of Substandard Achievement as indicated in the applicable year's financial accountability system manual adopted under §109.1001 of this title;
    - (C) for four consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or
    - (D) for three consecutive school years, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.
  - (2) Notwithstanding paragraph (1) of this subsection, the commissioner may abate the assignment of a Not Accredited-Revoked status, issue another accreditation status, or elect to appoint a board of managers to govern the district in lieu of revoking the district's accreditation if the commissioner determines that revocation of the district's accreditation is not reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052.
  - (3) Notwithstanding this section, if the commissioner appoints a board of managers under paragraph (2) of this subsection or as a result of a special investigation, the commissioner shall assign the district accreditation statuses during the period of the appointment of the board of managers as follows.
    - (A) In the school year following the appointment of the board of managers, the commissioner shall assign the district an accreditation status of Accredited.
    - (B) In the school years following the issuance of the accreditation rating under subparagraph (A) of this paragraph, the commissioner shall assign the accreditation status as provided

- by subsections (a)-(d) of this section. However, the commissioner shall not consider any academic rating that was issued for a school year in which the district was operated, in whole or in part, by the suspended board of trustees. The commissioner shall also not consider any financial accountability rating that was issued based on financial data from a fiscal year in which the district was operated, in whole or in part, by the suspended board of trustees. Notwithstanding this provision, the commissioner may consider academic or financial ratings attributable to performance that occurred in a school year in which the district was operated, in whole or in part, by the suspended board of trustees if the commissioner, in his sole discretion, determines such consideration is necessary to achieve the purposes of TEC, §39.051 and §39.052.
- (C) For any district subject to this paragraph, the commissioner may lower the district's accreditation rating to Not Accredited-Revoked at any time if the commissioner determines that the district is not making acceptable progress to correct its academic or financial performance and that closure and annexation is necessary to achieve the purposes of TEC, §39.051 and §39.052, unless the district has earned an Accredited status absent the application of subparagraph (A) or (B) of this paragraph.
- (D) For purposes of this subsection, the period of appointment of the board of managers includes any school year in which any member of the board of managers serves, including the school year during which the appointment of the board of managers expires.
- (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) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:
- (i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39, 39A, or 48, and rules implementing those chapters;
  - (ii) the reporting of data under TEC, §48.008, and §61.1025 of this title;
  - (iii) other reports required by state or federal law or court order;
  - (iv) awarding high school graduation under TEC, §28.025; or
  - (v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or
- (B) after review and/or investigation under TEC, §39.003 or §39.056, the commissioner finds:
- (i) the district's programs monitored under §97.1005 of this title exhibit serious or persistent deficiencies that require revocation of the district's accreditation; or
  - (ii) the district otherwise exhibits serious or persistent deficiencies that require revocation of the district's accreditation.
- (5) Notwithstanding paragraph (3) of this subsection, a district's accreditation shall be revoked if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052.
- (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, 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) Issuance of an accreditation status of Not Accredited-Revoked does not invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the effective date of the annexation of the district.

- (e) Legal compliance. In addition to the district's performance as measured by ratings under §97.1001 and §109.1001 of this title, the accreditation status of a district is determined by its compliance with the statutes and rules specified in TEC, §39.052(b)(2). Notwithstanding satisfactory or above satisfactory performance on other measures, a district's accreditation status may be assigned based on its legal compliance alone, to the extent the commissioner determines necessary. In making this determination, the commissioner:
  - (1) shall assign the accreditation status that is reasonably calculated to accomplish the applicable provisions specified in §97.1053(a) of this title;
  - (2) may impose, but is not required to impose, an accreditation sanction under this subchapter in addition to assigning a status under paragraph (1) of this subsection; and
  - (3) shall lower the status assigned and/or impose additional accreditation sanctions as necessary to achieve compliance with the statutes and rules specified in TEC, §39.052(b)(2).
- (f) Required notification of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked status.
  - (1) A district assigned an accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked shall notify the parents of students enrolled in the district and property owners in the district as specified by this subsection.
  - (2) The district's notice must contain information about the accreditation status, the implications of such status, and the steps the district is taking to address the areas of deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.
  - (3) Notice under this subsection must:
    - (A) not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the notification required by paragraph (2) of this subsection, and remain until the district is assigned the Accredited status; and
    - (B) appear in a newspaper of general circulation, as defined in §97.1051 of this title (relating to Definitions), in the district for three consecutive days as follows:
      - (i) from Sunday through Tuesday of the second week following assignment of the status; or
      - (ii) if the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or
    - (C) not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or
    - (D) not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.
  - (4) A district required to act under this subsection shall send the following to the TEA via certified mail, return receipt requested:
    - (A) the universal resource locator (URL) for the link required by paragraph (3)(A) of this subsection; and
    - (B) copies of the notice required by paragraph (3)(B) of this subsection showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or
    - (C) copies of the notice required by paragraph (3)(C) of this subsection and copies of all mailing lists and postage receipts; or



- (D) copies of the notice required by paragraph (3)(D) of this subsection and copies of the board of trustees meeting notice and minutes for the board meeting in which the notice was presented and publicly discussed.

*Statutory Authority: The provisions of this §97.1055 issued under the Texas Education Code, §§39.051, 39.052, 39.054(a-5), 39.056-39.058, 39.0823, and 39.102-39.115.*

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

- (a) The provisions of Texas Education Code (TEC), Chapters 39 and 39A, and this subchapter shall be construed and applied to achieve the purposes of accreditation sanctions, which are specified in §97.1053 of this title (relating to Purpose).
- (b) If the commissioner of education finds that a district or campus does not satisfy the accreditation criteria under TEC, §39.051 and §39.052, the academic performance standards under TEC, §39.054, or any financial accountability standard as determined by the commissioner, the commissioner may lower the district's accreditation status, academic accountability rating, or financial accountability rating, as applicable, and take appropriate action under this subchapter.
- (c) Regardless of whether the commissioner lowers a district's status or rating under subsection (b) of this section, the commissioner may take action under TEC, Chapters 39 and 39A, or this section if the commissioner determines that the action is necessary to improve any area of performance by the district or campus.
- (d) Regardless of whether a district has satisfied the accreditation criteria, if for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees. For purposes of this subsection, a school year begins on the first day of instruction and includes any portion of the school year.
- (e) Subject to subsections (h)-(k) of this section, once the commissioner takes action under this subchapter, the commissioner may impose on the district or campus any other sanction under TEC, Chapter 39 or 39A, or this subchapter, singly or in combination, to the extent the commissioner determines is reasonably required to achieve the purposes specified in §97.1053 of this title.
- (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) inefficient or ineffectual use of district funds or property;
  - (2) failure to adequately account for funds;
  - (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, §42.258; and
  - (4) inability to implement effective change to improve the performance of students in the district or at the campus.
- (g) In determining whether to impose a particular sanction under TEC, Chapters 39 and 39A, or this subchapter based on resource allocation practices as authorized by TEC, §39.003(a)(12) and (d) and §39.0821, the commissioner shall consider the factors specified in §97.1053 of this title.

- (h) The commissioner shall notify the school district or open-enrollment charter school in writing of a sanction imposed under this subchapter or §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 §100.1023 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) If a finding is made for the first time in the notice required by subsection (h) of this section, the Texas Education Agency shall comply with Chapter 157, Subchapter EE, Division 1, of this title (relating to Informal Review) with respect to the new finding.
- (j) A determination under this section must be made in writing and may be included in a written notice under subsection (h) of this section. The determination may be made in the notice or in a final investigative report or based on a final investigative report. A determination under this section may be based on a report on the progress of a prior action under this subchapter.
- (k) The commissioner shall annually review a sanction imposed under subsection (h) of this section and shall increase the sanction, as required by TEC, §39A.901. The commissioner shall quarterly review the need for a conservator or a management team imposed under this subchapter, as required by TEC, §39A.003. If reviews are required under both TEC, §39A.901 and §39A.003, a quarterly review under TEC, §39A.003, may satisfy the annual review under TEC, §39A.901. An annual or quarterly review is not subject to the requirements of this section.

*Statutory Authority: The provisions of this §97.1057 issued under the Texas Education Code, §§39.051, 39.052, 39.054(a-5), 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1057 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective January 28, 2018, 43 TexReg 452; amended to be effective January 11, 2022, 47 TexReg 26.*

#### **§97.1059. Standards for All Accreditation Sanction Determinations.**

- (a) The commissioner of education shall impose district and campus accreditation sanctions under this subchapter individually or in combination as the commissioner determines necessary to achieve the purposes identified in §97.1053 of this title (relating to Purpose).
- (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) an accreditation status under §97.1055 of this title (relating to Accreditation Status);
    - (B) an academic accountability rating under §97.1001 of this title (relating to Accountability Rating System);
    - (C) a financial accountability rating under §109.1001 of this title (relating to Financial Accountability Ratings) or a financial audit or investigation;
    - (D) program effectiveness under §97.1071 of this title (relating to Special Program Performance; Monitoring, Review, and Supports) or other law;
    - (E) the results of a special investigation under Texas Education Code, §39.003;
    - (F) the results of an investigative report under Chapter 157, Subchapter EE, of this title (relating to Informal Review, 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) an inability to implement effective change to improve the performance of students in the district or at the campus; or
- (H) other information related to subparagraphs (A)-(G) of this paragraph.
- (2) any ongoing failures to address deficiencies previously identified or patterns of recurring deficiencies;
- (3) any lack of district responsiveness to, or compliance with, current or prior interventions or sanctions; and
- (4) any substantial or imminent harm presented by the deficiencies of the district or campus to the welfare of its students or to the public interest.
- (c) If the commissioner identifies a district and one or more of its campuses for accreditation sanction under subsection (a) of this section, the commissioner may elect to combine activities to be undertaken at the district and campus levels as needed to achieve the purposes of each sanction.
- (d) When making any campus-level determination under this subchapter, the commissioner shall also consider the district-level performance of the district on applicable academic, fiscal, and compliance standards.
- (e) The commissioner must review at least annually the performance of a district for which the accreditation status or academic accountability rating has been lowered due to insufficient student performance and may not raise the accreditation status or rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

*Statutory Authority: The provisions of this §97.1059 issued under the Texas Education Code, §§39.051, 39.052, 39.054(a-5), 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1059 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective November 17, 2016, 41 TexReg 9012; amended to be effective January 28, 2018, 43 TexReg 452; amended to be effective January 11, 2022, 47 TexReg 26.*

**§97.1061. Interventions and Sanctions for Campuses.**

- (a) If a campus's performance is below any standard under Texas Education Code (TEC), §39.054(e), the campus shall engage in interventions as described by the Texas Education Agency (TEA).
- (b) A school district, open-enrollment charter school, district campus, or charter school campus that is assigned a rating of D that qualifies under TEC, §39.0543(b), shall develop and implement a local improvement plan using the guidance provided by TEA. The school district, open-enrollment charter school, district campus, or charter school campus shall:
  - (1) conduct a data analysis related to areas of low performance;
  - (2) conduct a needs assessment based on the results of the data analysis, as follows.
    - (A) The needs assessment shall include a root cause analysis.
    - (B) Root causes identified through the needs assessment will be addressed in the local improvement plan; and
  - (3) create a local improvement plan, as follows.
    - (A) Input must be gathered from the principal; campus-level committee established under TEC, §11.251; parents; and community members, prior to the development of the local improvement plan, using the following steps.
      - (i) The campus must hold a public meeting at the campus. The campus shall take reasonable steps to conduct the meeting at a time and in a manner that would

- allow a majority of stakeholders to attend and participate. The campus may hold more than one meeting if necessary.
- (ii) The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus.
  - (iii) All input provided by family and community members should be considered in the development of the final local improvement.
- (B) The completed local improvement plan must be presented at a public hearing and approved by the board of trustees.
- (c) The commissioner shall assign members to a campus intervention team (CIT) as outlined in §97.1063 of this title (relating to Campus Intervention Team) and TEC, §39A.052.
  - (d) The campus shall establish a campus leadership team (CLT) that includes the campus principal and other campus leaders responsible for the development, implementation, and monitoring of the targeted improvement plan.
  - (e) The campus intervention team shall:
    - (1) conduct a data analysis related to areas of low performance;
    - (2) conduct a needs assessment based on the results of the data analysis, as follows.
      - (A) The needs assessment shall include a root cause analysis.
      - (B) Root causes identified through the needs assessment will be addressed in the targeted improvement plan and, if applicable, campus turnaround plan;
    - (3) assist in the creation of a targeted improvement plan, as follows.
      - (A) Input must be gathered from the principal; campus-level committee established under TEC, §11.251; parents; and community members, prior to the development of the targeted improvement plan, using the following steps.
        - (i) The campus must hold a public meeting at the campus. The campus shall take reasonable steps to conduct the meeting at a time and in a manner that would allow a majority of stakeholders to attend and participate. The campus may hold more than one meeting if necessary.
        - (ii) The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus.
        - (iii) All input provided by family and community members should be considered in the development of the final targeted improvement plan submitted to the TEA.
      - (B) The completed targeted improvement plan must be presented at a public hearing and approved by the board of trustees.
      - (C) The targeted improvement plan must be submitted to the commissioner of education for approval according to TEA procedures and guidance; and
    - (4) assist the commissioner in monitoring the implementation of the targeted improvement plan. The campus will submit updates to the TEA as requested that include:
      - (A) a description of how elements of the targeted improvement plan are being implemented and monitored; and
      - (B) data demonstrating the results of interventions from the targeted improvement plan.
  - (f) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a second consecutive year, the campus must engage in the processes outlined in subsections (a), (c), (d), and (e) of this section, and the

campus must develop a campus turnaround plan to be approved by the commissioner as described in §97.1064 of this title (relating to Campus Turnaround Plan).

- (g) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a third or fourth consecutive year, the campus must engage in the processes outlined in subsections (a), (c), (d), and (e) of this section, and the campus must implement the commissioner-approved campus turnaround plan as described in §97.1064 of this title.
- (h) If a campus is assigned an unacceptable rating under TEC, §39.054(e), for a fifth consecutive year, the commissioner shall order the appointment of a board of managers to govern the district or closure of the campus.
- (i) Based on a campus's progress toward improvement, the commissioner may order a hearing if a campus's performance is below any standard under TEC, §39.054(e).
- (j) Interventions and sanctions listed under this section begin upon release of preliminary ratings and may be adjusted based on final accountability ratings.

*Statutory Authority: The provisions of this §97.1061 issued under the Texas Education Code, §§39A.051, 39A.052-39A.056, 39.0543, 39A.058-39A.060, 39A.065, 39A.101, 39A.107(a-1) and (a-2), 39A.110(c), 39A.115, 39A.251, 39A.252, and 39A.902.*

*Source: The provisions of this §97.1061 adopted to be effective November 17, 2016, 41 TexReg 9012; amended to be effective March 31, 2020, 45 TexReg 2164; amended to be effective June 7, 2022, 47 TexReg 3252.*

#### **§97.1062. Applicability of Intervention Pause under District Partnerships or Mathematics Innovation Zones.**

- (a) A campus under this section does not include a campus of an open-enrollment charter school unless specifically indicated when applying an intervention pause under Texas Education Code (TEC), §11.174. A campus under this section includes a campus of an open-enrollment charter school when applying an intervention pause under TEC, §28.020.
- (b) A campus shall not qualify for an intervention pause pursuant to TEC, §11.174(f), unless during the school year prior to the operation of a partnership as provided by §97.1077(a) of this title (relating to School Year Under Contract to Operate a District Campus), the campus received an unacceptable performance rating, except as provided by §97.1077(e) of this title.
- (c) A campus that qualifies for an intervention pause pursuant to TEC, §28.020(c), starting with the school year for which the campus received an unacceptable performance rating that followed a school year for which the campus received an acceptable rating, will be subject to any intervention arising from the first unacceptable performance rating and, subject to the campus remaining eligible for the intervention pause, will be provided a one-year intervention pause for interventions that arise from a second consecutive year of unacceptable performance ratings.
- (d) The Texas Education Agency (TEA) will not withdraw or postpone issuing any orders or determinations required or authorized that arise due to the performance rating from the school year prior to the school year in which the campus qualifies for the intervention pause, and any order or determination will resume upon expiration of the intervention pause under subsection (e) of this section.
- (e) Except as otherwise provided by this section and unless extended by the commissioner of education, the TEA will cease to enforce the interventions under TEC, §§39A.101-39A.111, until conclusion of the second consecutive school year of operation under:
  - (1) a partnership as defined by §97.1077(a)(2), (b), or (c) of this title; or
  - (2) designation as a mathematics innovation zone under TEC, §28.020, and applicable rules.
- (f) Any intervention or sanction not covered by subsection (e) of this section shall continue.
- (g) If a campus ceases to qualify for the intervention pause at any point during a school year, the TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

- (h) The TEA will not pursue interventions under TEC, §§39A.101-39A.109 and 39A.111, for a campus eligible for an intervention pause if one of the school years eligible for an intervention pause results in an acceptable or higher overall rating.
- (i) If, after the expiration of the intervention pause, a campus receives an unacceptable rating, the TEA will apply the requisite interventions that apply to the consecutive year that corresponds to the campus's actual number of consecutive years of unacceptable performance minus the number of intervention pause years and, if applicable, accounting for the modification under subsection (c) of this section.
- (j) If a campus qualifies for an intervention pause for a school year after the conclusion of the school year in which an order is authorized under TEC, §39A.111, the intervention under TEC, §39A.111, will not pause.
- (k) A campus that receives an intervention pause will still receive an accountability rating for that school year.
- (l) Performance of students at a campus that receives an intervention pause shall be considered in the accountability rating of the school district or the open-enrollment charter school, and the application of an intervention pause to a campus shall not pause or alter any intervention applicable to the school district, open-enrollment charter school, or other campuses.
- (m) A determination under this section that arises from the application of TEC, §28.020, is final and may not be appealed.
- (n) The provisions of this subsection expire on September 1, 2023. A partial school year that results in an intervention pause under §97.1077(b) or (c) of this title constitutes one full year of a pause.

*Statutory Authority: The provisions of this §97.1062 issued under the Texas Education Code, §§11.174, 28.020, 39.001, and 39A.115.*

*Source: The provisions of this §97.1062 adopted to be effective November 18, 2018, 43 TexReg 7459.*

#### **§97.1063. Campus Intervention Team.**

- (a) The campus intervention team (CIT) shall perform the duties outlined in Texas Education Code (TEC), §§39A.053, 39A.054, 39A.055, 39A.056, 39A.058, 39A.059, 39A.060, and 39A.101, and oversee the activities outlined in §97.1061(a) of this title (relating to Interventions and Sanctions for Campuses) and §97.1064 of this title (relating to Campus Turnaround Plan).
- (b) The CIT must include:
  - (1) a district coordinator of school improvement (DCSI). The DCSI must submit qualifications to the Texas Education Agency (TEA) for approval; and
  - (2) the campus principal's direct supervisor, if the DCSI is not the campus principal's direct supervisor.
- (c) An education professional, approved through an application either by the Texas Education Agency (TEA) or the TEA's technical assistance provider, who is not an employee of the campus or district, shall assist with the needs assessment as described in TEC, §39A.053.
- (d) The CIT shall perform the duties referenced in subsection (a) of this section in collaboration with the campus leadership team (CLT) as outlined in §97.1061(c) of this title and §97.1064 of this title.
- (e) CIT members as defined in subsection (b) of this section and the campus principal shall attend TEA-sponsored trainings on interventions and sanctions.

*Statutory Authority: The provisions of this §97.1063 issued under the Texas Education Code, §§39A.051, 39A.052-39A.056, 39A.058-39A.060, 39A.101, 39A.107(a-1) and (a-2), 39A.115, 39A.251, 39A.252, and 39A.902.*

*Source: The provisions of this §97.1063 adopted to be effective November 17, 2016, 41 TexReg 9012; amended to be effective March 31, 2020, 45 TexReg 2164.*

**§97.1064. Campus Turnaround Plan.**

- (a) If a campus is assigned an unacceptable rating under Texas Education Code (TEC), §39.054(e), for two consecutive years, the campus must develop a campus turnaround plan to be approved by the commissioner of education in accordance with TEC, §§39A.103-39A.107.
- (b) A charter campus subject to this section must revise its charter in accordance with §100.1033 of this title (relating to Charter Amendment). The governing board of the charter performs the function of the board of trustees for this section.
- (c) The district may request assistance from a regional education service center or partner with an institution of higher education in developing and implementing a campus turnaround plan.
- (d) Within 60 days of receiving a campus's preliminary accountability rating the district must notify parents, community members, and stakeholders that the campus received an unacceptable rating for two consecutive years and request assistance in developing the campus turnaround plan. All input provided by family, community members, and stakeholders must be considered in the development of the final campus turnaround plan submitted to the Texas Education Agency (TEA).
- (e) The district shall notify stakeholders of their ability to review the completed plan and post the completed plan on the district website at least 30 days before the final plan is submitted to the board of trustees as described in TEC, §39A.104. The district shall provide the following groups an opportunity to review and comment on the completed plan before it is submitted for approval to the board of trustees:
  - (1) the campus-level committee established under TEC, §11.251. If the campus is not required to have a campus-level committee under TEC, §11.251, the district shall provide an opportunity for professional staff at the campus to review and comment on the campus turnaround plan;
  - (2) teachers at the campus;
  - (3) parents; and
  - (4) community members.
- (f) A campus turnaround plan must include:
  - (1) a detailed description of the method for restructuring, reforming, or reconstituting the campus;
  - (2) a detailed description of the academic programs to be offered at the campus, including instructional methods, length of school day and school year, academic credit and promotion criteria, and programs to serve special student populations;
  - (3) a detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources;
  - (4) written comments received from stakeholders described in subsection (e) of this section;
  - (5) the term of the charter, if a district charter is to be granted for the campus under TEC, §12.0522; and
  - (6) a detailed description for developing and supporting the oversight of academic achievement and student performance at the campus, approved by the board of trustees under TEC, §11.1515.
- (g) Upon approval of the board of trustees, the district must submit the campus turnaround plan electronically to the TEA by March 1 unless otherwise specified.
- (h) Not later than June 15 of each year, the commissioner must either approve or reject any campus turnaround plan prepared and submitted by a district.
  - (1) The commissioner's approval or rejection of the campus turnaround plan must be in writing.
  - (2) If the commissioner rejects a campus turnaround plan, the commissioner must also send the district an outline of the specific concerns regarding the turnaround plan that resulted in the rejection.

- (3) In accordance with TEC, §39A.107(a), the commissioner may approve a campus turnaround plan if the commissioner determines that the campus will satisfy all student performance standards required under TEC, §39.054(e), not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. In order to make that determination, the commissioner will consider the following:
  - (A) an analysis of the campus and district's longitudinal performance data, which may be used to measure the expected outcomes for the campus;
  - (B) the district's success rate in turning around low-performing campuses, if applicable; and
  - (C) evaluation of the efficacy of the plan, with consideration given to whether the turnaround plan is sufficient to address the specific and expected needs of the campus.
- (i) A district must submit a modified campus turnaround plan if the commissioner rejected the district's initial submission.
  - (1) The modified plan must be created with assistance from TEA staff, as requested by the district.
  - (2) The modified plan must be made available for stakeholder comment prior to board approval and be approved by the board prior to submission to the TEA.
  - (3) The district must submit the plan no later than the 60th day from the date the commissioner rejected the initial campus turnaround plan.
  - (4) The commissioner's decision regarding the modified plan must be given in writing no later than the 15th day after the commissioner receives the plan.
- (j) A campus may implement, modify, or withdraw its campus turnaround plan with board approval if the campus receives an academically acceptable rating for the school year following the development of the campus turnaround plan.
- (k) A campus that has received an unacceptable rating for the school year following the development of the campus turnaround plan must implement its commissioner-approved campus turnaround plan with fidelity until the campus operates for two consecutive school years without an unacceptable rating.
- (l) A campus may modify its campus turnaround plan with commissioner approval if it is determined that due to a change in circumstances occurring after the plan's approval under TEC, §39A.107, a modification of the plan is necessary to achieve the plan's objectives.
  - (1) A change in circumstance may be the following, but not limited to:
    - (A) a campus that has written a turnaround plan but has not yet been ordered to implement it and has received a Not Rated; Declared State of Disaster rating for two consecutive years prior to receiving its next F rating; or
    - (B) a campus that has implemented its turnaround plan for no more than one year prior to receiving a Not Rated; Declared State of Disaster rating for two consecutive years.
  - (2) A campus that has modified its turnaround plan under this subsection may only request additional modifications to the plan based on circumstances that have changed since the last commissioner-approved modification.
  - (3) Any modification of a turnaround plan must be effective no sooner than the beginning of the next school year.
- (m) The commissioner may appoint a monitor, conservator, management team, or board of managers for a school district that has a campus that has been ordered to implement an updated targeted improvement plan. The commissioner may order any of the interventions as necessary to ensure district-level support for the low-performing campus and the implementation of the updated targeted improvement plan. The commissioner may make the appointment at any time during which the campus is required to implement the updated targeted improvement plan.



*Statutory Authority: The provisions of this §97.1064 issued under the Texas Education Code, §§39A.051, 39A.052-39A.056, 39.0543, 39A.058-39A.060, 39A.065, 39A.101, 39A.107(a-1) and (a-2), 39A.110(c), 39A.115, 39A.251, 39A.252, and 39A.902.*

*Source: The provisions of this §97.1064 adopted to be effective November 17, 2016, 41 TexReg 9012; amended to be effective March 31, 2020, 45 TexReg 2164; amended to be effective June 7, 2022, 47 TexReg 3252.*

**§97.1065. Commissioner Determinations for Decisions Preceding Alternative Management, Campus Closure, or Board of Managers.**

- (a) Action required. The commissioner of education shall order:
  - (1) alternative management or closure of a campus or appoint a board of managers to govern the district if the campus turnaround plan is not approved as outlined in §97.1064 of this title (relating to Campus Turnaround Plan); and
  - (2) closure of a campus or appoint a board of managers to govern the district if the campus is assigned an unacceptable performance rating under the state academic accountability system for three consecutive school years after the campus is ordered to submit a campus turnaround plan as outlined in §97.1064 of this title.
- (b) Review. An action ordered under subsection (a) of this section is subject to the applicable review procedures provided in Chapter 157 of this title (relating to Hearings and Appeals).
- (c) Other actions permitted. In combination with action under this section, the commissioner may impose on the district or campus any other sanction under Texas Education Code (TEC), Chapter 39 or 39A, or this subchapter, singly or in combination, to the extent the commissioner determines is reasonably required to achieve the purposes specified in §97.1053 of this title (relating to Purpose). In particular, the commissioner may assign a monitor, conservator, management team, or board of managers in order to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan and the campus turnaround plan.
- (d) Petition allowed. In accordance with TEC, §39A.112, for a campus subject to an order of closure or appointment of a board of managers to govern the district under subsection (a) of this section, if a written petition, signed by the parents of a majority of the students enrolled at the campus and specifying the action requested under subsection (a) of this section, is presented to the commissioner in accordance with this section and related procedures adopted by the Texas Education Agency (TEA), the commissioner shall, except as otherwise authorized by this section, order the specific action requested. If the board of trustees of the school district in which the campus is located presents to the commissioner, in accordance with this section and related procedures adopted by the TEA, a written request that the commissioner order a specific action under subsection (a) of this section other than the action requested by the parents in a valid petition, along with a written explanation of the basis for the board's request, the commissioner may order the action requested by the board of trustees.
  - (1) A written petition under this subsection must be:
    - (A) finalized and submitted to the district superintendent no later than October 15 for purposes of validation;
    - (B) certified by the superintendent as a valid petition in accordance with paragraph (2) of this subsection; and
    - (C) if determined to be a valid petition, submitted by the district superintendent to the commissioner no later than December 1.
  - (2) Only a written petition determined to be valid in accordance with this section and TEA procedures may be submitted to the commissioner. At a minimum, the following criteria must be met for a petition to be determined valid.
    - (A) The petition must include all information required by the TEA as reflected in TEA model forms and related procedures and must be submitted to the district superintendent in accordance with the deadline established in paragraph (1)(A) of this subsection.

- (B) The petition must clearly state the sanction action under subsection (a)(2) of this section being requested by the parents.
- (C) In accordance with this subparagraph, the parent(s) of more than 50% of the students enrolled at the campus must provide the handwritten or typed name and an original signature on the petition.
  - (i) For the purposes of the petition, a parent means the parent who is indicated on the student registration form at the campus.
  - (ii) A student will be considered enrolled at the campus for the purposes of the petition if the student is enrolled and in membership at the campus on a TEA-determined enrollment snapshot date, as reflected in TEA procedures.
  - (iii) For the purposes of determining whether parents of more than 50% of the students enrolled at the campus have signed the petition, only one parent signature per enrolled student can be counted by the district in its calculation assuring validity of the petition.
  - (iv) A signature is valid if the person signed the petition on or after the date on which a preliminary rating indicating four or more consecutive years of unacceptable performance at the campus was issued.
- (3) If the board of trustees of the school district requests that the TEA consider a specific action under subsection (a) of this section other than the action requested by the parents in a valid petition and submitted to the TEA in accordance with this subsection, the board must submit a written request to the commissioner and include a written explanation of the basis for the board's request for an action other than the one reflected in a valid parent petition. Any written request must be:
  - (A) approved by a majority of the board members in an action taken in a public meeting conducted in compliance with the Texas Open Meetings Act; and
  - (B) submitted to the commissioner no later than December 15 in accordance with procedures established by the TEA.
- (4) If a valid parent petition under paragraph (1) of this subsection or board of trustees submission under paragraph (3) of this subsection requests that the commissioner order campus closure, the district must submit, no later than January 30, a comprehensive plan for campus closure that meets the requirements of the TEC, §39A.113, and §97.1066 of this title (relating to Campus Closure).
- (5) Following the submission to the TEA of a valid petition and any subsequent board request under this section, the commissioner will order, no later than February 15, a sanction in compliance with the TEC, §39A.111, and this section. The sanction shall be implemented for the current year or, if necessary, for the subsequent school year regardless of the state academic accountability rating assigned to the campus in that school year.
- (6) Notwithstanding this subsection, in the case of a charter school granted under the TEC, Chapter 12, Subchapter D or E, the commissioner shall retain authority under the TEC and Chapter 100, Subchapter AA, Division 2, of this title (relating to Commissioner Action and Intervention) to take any adverse action allowed by statute and rule and to approve or disapprove any proposed change in campus or charter structure resulting from a petition or board request under this subsection.
- (e) Targeted technical assistance. In addition to the grounds specified in TEC, §39A.114, if the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance, including, but not limited to, the district's regional education service center and/or an institution of higher education.

*Statutory Authority: The provisions of this §97.1065 issued under the Texas Education Code, §§39.051, 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1065 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective July 17, 2012, 37 TexReg 5268; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective November 17, 2016, 41 TexReg 9012; amended to be effective January 28, 2018, 43 TexReg 452.*

#### **§97.1066. Campus Closure.**

- (a) Closure ordered under §97.1065 of this title (relating to Commissioner Determinations for Decisions Preceding Alternative Management, Campus Closure, or Board of Managers) will take effect at a date determined by the commissioner of education.
- (b) A closed campus may still be used if the campus:
  - (1) serves a majority of grade levels not served at the original campus;
  - (2) serves a majority of students who did not attend that campus the previous year; and
  - (3) offers a distinctly different academic program.
- (c) Any student assigned to the closed campus must be allowed to attend any other campus in the district.
- (d) The commissioner may grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll.

*Statutory Authority: The provisions of this §97.1066 issued under the Texas Education Code, §§39.052, 39.056, 39.104, 39.106, 39.107, 39.109, and 39.112.*

*Source: The provisions of this §97.1066 adopted to be effective November 17, 2016, 41 TexReg 9012.*

#### **§97.1067. Alternative Management of Campuses.**

- (a) By January 1 of the school year for which alternative management of a campus is ordered under §97.1065 of this title (relating to Commissioner Determinations for Decisions Preceding Alternative Management, Campus Closure, or Board of Managers), the school district shall:
  - (1) execute a contract, not to exceed five years, in compliance with this section; and
  - (2) relinquish control over the campus to a service provider approved under §97.1069 of this title (relating to Providers of Alternative Campus Management).
- (b) A contract under this section must be executed by the district and the service provider and must:
  - (1) relinquish all authority to perform the duties and responsibilities of a principal under Texas Education Code (TEC), §11.202(b)(1)-(6), with respect to the campus;
  - (2) comply with TEC, §39.107(m)-(o); this section; and the requirements and performance measures established by the Texas Education Agency (TEA) under §97.1069 of this title;
  - (3) provide for the creation, maintenance, retention, and transfer of all public records concerning the campus;
  - (4) include provisions governing liability for damages, costs, and other penalties for acts or omissions by the service provider, including failure to comply with federal or state laws;
  - (5) provide for termination of the contract if:
    - (A) the campus is assigned an unacceptable rating under the state academic accountability system for two consecutive school years; or
    - (B) the commissioner of education orders campus closure under §97.1065 of this title;
  - (6) specify additional roles or responsibilities assumed by the service provider, if any;
  - (7) be approved by written resolution of the district's board of trustees; and
  - (8) be approved in writing by the commissioner.

- (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) If a request is denied or a recommendation is not implemented by the district, the service provider shall report to the TEA both its request or recommendation and the district's action in response.
  - (2) The commissioner may implement additional sanctions under this subchapter and consider such reports under TEC, §39.108 and §39.107(n), as well as §97.1065(b) of this title.
- (d) The funding for the campus must be not less than the funding of the other campuses operated by the district on a per-student basis so that the service provider receives at least as much funding as the campus would otherwise have received. The district must continue to support:
  - (1) campus maintenance and operations;
  - (2) transportation;
  - (3) food services;
  - (4) extracurricular activities;
  - (5) central office support services;
  - (6) state assessment administration; and
  - (7) similar operational expenses of the campus.
- (e) A campus operated by a service provider under this section remains a campus of the district. Educators and staff assigned to work at the campus are district employees for all purposes. The campus is not subject to TEC, §11.253.
- (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, §39.107(n); and
  - (2) for the school year immediately following resumption of operations, the campus is assigned an unacceptable performance rating under the state academic accountability system.
- (g) A district subject to this section shall comply fully with TEA requests for information for the purpose of evaluating implementation of the contract, student performance, and management of the campus.
- (h) A district that violates the terms of its contract under this section is subject to further sanctions under this subchapter.

*Statutory Authority: The provisions of this §97.1067 issued under the Texas Education Code, §§39.051, 39.052, 39.056-39.058, 39.0823, and 39.102-39.115.*

*Source: The provisions of this §97.1067 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective July 17, 2012, 37 TexReg 5268; amended to be effective November 17, 2016, 41 TexReg 9012.*

**§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), §39.107, and any additional qualifications and procedural requirements specified by the TEA in the RFQ.

- (2) The commissioner may appoint a school district in the same education service center region as the campus to provide alternative management services under this section. A district appointed under this subsection shall assume management of the campus in the same manner as a non-profit entity.
- (b) Contact information for each approved provider of alternative campus management services will be posted to the TEA website. The TEA will notify approved providers before posting the providers' information to the website.
- (c) In addition to any action by the district on the contract, a service provider failing to comply with the terms of a contract under this section, or to perform services as specified in the RFQ, shall be removed from the TEA list of approved service providers.
- (d) A service provider shall comply fully and promptly with TEA requests for information for the purpose of evaluating implementation of the contract, student performance, and management of the campus.

*Statutory Authority: The provisions of this §97.1069 issued under the Texas Education Code, §§39.051, 39.052, 39.056-39.058, 39.0823, and 39.102-39.115.*

*Source: The provisions of this §97.1069 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523.*

**§97.1070. Increasing Intensity of Interventions and Sanctions.**

- (a) If a school district, open-enrollment charter school, or campus thereof does not exhibit improvement in student performance, the commissioner of education may increase the intensity of intervention and sanction that would otherwise be required by statute or rule, including ordering campus closure, school district annexation, or appointment of a board of managers for the school district or open-enrollment charter school.
- (b) For purposes of this section, improvement means an increase in the scaled score for the overall academic performance rating under Texas Education Code (TEC), Chapter 39.
- (c) The commissioner may exercise authority under this section when:
  - (1) a school district, open-enrollment charter school, or campus thereof has exceeded statutory or rule limits on consecutive years of poor performance, excluding any transition provisions allowed under statute or rule;
  - (2) circumstances suggest that the lack of improvement requires an increased level of intervention or sanction, even if the performance in a school year would not otherwise count toward consecutive years of unacceptable performance that would be considered in determining the level of intervention or sanction; or
  - (3) the commissioner determines that increasing the intensity of intervention and sanction would better fulfill the purposes of accreditation statuses and accreditation sanctions established under §97.1053(a) of this title (relating to Purpose).
- (d) The commissioner may determine that good cause exists to maintain the current level of intervention or sanction. Exercising authority under this section constitutes a determination that no good cause exists to maintain the current status. The commissioner may base the determination that no good cause exists to maintain the current status on any information available to the commissioner and may make the determination at any time.

*Statutory Authority: The provisions of this §97.1070 issued under the Texas Education Code, §§39A.251, 39A.252, and 39A.901.*

*Source: The provisions of this §97.1070 adopted to be effective December 5, 2018, 43 TexReg 7761.*

**§97.1071. Special Program Performance; Monitoring, Review, and Supports.**

- (a) School districts and open-enrollment charter schools are subject to general supervision and monitoring activities for compliance with state law and federal regulation and review of program implementation and effectiveness within certain special populations of students. Activities may include:

- (1) random, targeted, or cyclical reviews authorized under Texas Education Code (TEC), §39.056, conducted remotely or on-site to identify problems implementing state and federal requirements and to provide support for development of reasonable and appropriate strategies to address identified problems; and/or
- (2) intensive or special investigative remote or on-site reviews authorized under TEC, §39.057.
- (b) Activities described in subsection (a) of this section are applicable for compliance with requirements for reading diagnosis in TEC, §28.006, and dyslexia and related disorders in TEC, §38.003, and §74.28 of this title (relating to Students with Dyslexia and Related Disorders).
- (c) The commissioner of education shall assign school districts, including open-enrollment charter schools, an annual determination level based on performance levels of certain special populations student groups under §97.1005 of this title (relating to Results Driven Accountability) according to the following general criteria:
  - (1) the degree to which the district's performance reflects a need for targeted or intensive supports, as indicated by the seriousness, number, extent, and duration of the student performance, program effectiveness, and/or program compliance deficiencies identified by the Texas Education Agency (TEA);
  - (2) a comparison of the district's performance relative to aggregated state performance and state performance standards;
  - (3) a statistical distribution of districts exhibiting a comparable need for targeted support; and
  - (4) the length of time the performance standard has been in place and the length of time the district has exhibited deficiencies under the standard.
- (d) In addition to performance levels determined under §97.1005 of this title, the commissioner may consider any other applicable information, such as:
  - (1) complaints investigation results;
  - (2) special education due process hearing decisions;
  - (3) data validation activities;
  - (4) integrity of assessment or financial data;
  - (5) longitudinal intervention history; and
  - (6) other federally required elements.
- (e) The standards used to assign districts to specific determination levels under this section are established annually by the commissioner and communicated to all school districts. Determination level categories for assignment include:
  - (1) meets requirements;
  - (2) needs assistance;
  - (3) needs intervention; and
  - (4) needs substantial intervention.
- (f) In addition to determination levels described in subsections (c) and (e) of this section, the commissioner may develop a system of cyclical monitoring to ensure every district participates in general supervision activities. Based on a district's assigned determination level, as part of its cyclical monitoring process, or as part of compliance monitoring activities, a district may be required to implement and/or participate in:
  - (1) focused self-analysis of district data and program effectiveness;
  - (2) focused remote and/or on-site review;
  - (3) required stakeholder engagement;
  - (4) focused compliance reviews;

- (5) strategic support and continuous improvement planning; and/or
- (6) corrective action plan development.
- (g) The commissioner shall notify in writing each district identified for review under this section as a result of assigned determination level or cyclical selection prior to requiring a district to implement or participate in any activities included in subsection (f)(1)-(6) of this section.
- (h) Actions taken under this section are intended to assist the district in raising its performance and/or achieving compliance under §97.1005 of this title, statutory requirements in TEC, §28.006 and §38.003, and §74.28 of this title and do not preclude or substitute for a sanction under another provision of this subchapter.
- (i) Actions taken under this section do not preclude or substitute for other responses to or consequences of program ineffectiveness or noncompliance identified by the TEA, such as:
  - (1) required fiscal audit of specific program(s) and/or of the district, paid for by the district;
  - (2) required submission of improvement and/or corrective action plan(s), including the provision of compensatory services as appropriate, paid for by the district;
  - (3) expanded oversight, including, but not limited to, frequent follow-up contacts with the district, submission of documentation verifying implementation of intervention activities and/or an improvement plan, and submission of district/program data;
  - (4) public release of monitoring review findings;
  - (5) denial of requests under TEC, §7.056 and/or §12.114;
  - (6) reduction, suspension, redirection, or withholding of program funds;
  - (7) lowering of the special education determination level of the district; and/or
  - (8) lowering of the district's accreditation status, academic accountability rating, and/or financial accountability rating.

*Statutory Authority: The provisions of this §97.1071 issued under Texas Education Code, §§7.028, 28.006, 38.003, and 39.056-39.058.*

*Source: The provisions of this §97.1071 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective January 5, 2021, 46 TexReg 161.*

#### **§97.1072. Residential Facility Monitoring; Determinations, Investigations, and Sanctions.**

- (a) Students with disabilities residing in residential facilities (RFs) are a unique and vulnerable population that often has limited access to family members who can advocate for their educational needs. Accordingly, the commissioner of education hereby establishes the Residential Facility Monitoring (RFM) system, through which the Texas Education Agency (TEA) will meet its federal and state special education monitoring obligations under 34 Code of Federal Regulations §300.149 and §300.600 and Texas Education Code (TEC), §29.010, for this population. The definition of an RF for purposes of the RFM system will be included in the Residential Facility Monitoring (RFM) Manual provided in subsection (f) of this section. Districts serving students with disabilities residing in RFs located within the districts' geographic boundaries and/or jurisdictions will be subject to the RFM system. These districts are referred to as RF districts.
- (b) RF districts shall report data, as directed by the TEA, in a data collection system accessible through the TEA secure website.
- (c) The commissioner shall determine which RF districts will be subject to RFM activities based on a review of available information according to the following general criteria or other factors set forth in the Residential Facility Monitoring (RFM) Manual:

- (1) the degree to which the district's data reflect a need for monitoring and intervention, as indicated by the number of RF students with disabilities enrolled in the district; the presence of new RFs within the district; and the district's performance on certain critical indicators related to compliance with special education program requirements;
  - (2) a comparison of the district's performance to aggregated state performance and to the performance of other districts;
  - (3) a review of the district's longitudinal performance;
  - (4) the availability of state and regional resources to intervene in all districts exhibiting a comparable need for intervention; and
  - (5) the length of time since the district was last subject to RFM activities.
- (d) In addition to the criteria under subsection (c) of this section, the commissioner may use random district selection as a method of system validation and/or may consider any other applicable information such as:
- (1) complaints investigation results;
  - (2) special education due process hearing decisions;
  - (3) data validation activities;
  - (4) monitoring results under §97.1071 of this title (relating to Special Program Performance; Monitoring, Review, and Supports);
  - (5) the degree to which the district has achieved timely correction of previously identified noncompliance with program requirements;
  - (6) longitudinal intervention history; and
  - (7) other relevant factors.
- (e) The commissioner may use graduated monitoring and intervention activities to implement the RFM system. In addition to any investigation, intervention, or sanction authorized by TEC, Chapter 39, or §89.1076 of this title (relating to Interventions and Sanctions), such intervention may require an RF district to implement and/or participate in:
- (1) focused analysis of district data;
  - (2) reviews of district program effectiveness;
  - (3) public meetings;
  - (4) focused compliance reviews conducted by review teams established by the TEA;
  - (5) on-site reviews; and/or
  - (6) corrective action planning.
- (f) The specific criteria, standards, and procedures for implementing the RFM system are described in the Residential Facility Monitoring (RFM) Manual, dated August 2011, provided in this subsection. The specific criteria, standards, and procedures used in the RFM manual adopted for use prior to 2011 remain in effect for all purposes with respect to the applicable period of adoption.
- [Figure: 19 TAC §97.1072\(f\)](#)
- (g) RFM activities under this section are intended to assist the RF district in achieving compliance with federal and state special education requirements and do not preclude or substitute for a sanction under another provision of this subchapter.
- (1) The TEA will implement sanctions authorized under TEC, Chapter 39, or this subchapter as necessary to promote timely and complete correction of identified noncompliance.



- (2) A decision to impose sanctions shall be based on the accreditation and compliance performance of the district, as determined under §89.1076 of this title, §97.1057 of this title (relating to Interventions and Sanctions; Lowered Rating or Accreditation Status), and this subchapter.
- (h) RFM actions taken under this section do not preclude or substitute for other responses to or consequences of program ineffectiveness or noncompliance identified by the TEA such as:
- (1) assignment of required professional services, paid for by the district;
  - (2) required submission of an improvement and/or corrective action plan, including the provision of compensatory services as appropriate, paid for by the district;
  - (3) expanded oversight, including, but not limited to, frequent follow-up contacts with the district, submission of documentation verifying implementation of intervention activities and/or a corrective action plan, and submission of district/program data;
  - (4) public release of RFM review findings;
  - (5) issuance of a public notice of deficiencies and planned corrective actions to the district's board of trustees;
  - (6) denial of requests under TEC, §7.056 and/or §12.114;
  - (7) appointment of a monitor, conservator, management team, or board of managers under TEC, Chapter 39, and/or §97.1073 of this title (relating to Appointment of Monitor, Conservator, or Board of Managers);
  - (8) reduction, suspension, redirection, or withholding of program funds;
  - (9) lowering of the district's special education monitoring status; and/or
  - (10) lowering of the district's accreditation status.
- (i) As a system safeguard, the TEA will conduct desk review or on-site verification activities through random or other means of selection to verify system effectiveness and/or district implementation of RFM requirements, including, but not limited to, accuracy of data reported through the data collection system accessible through the TEA secure website and other data reporting, timely and sufficient implementation of monitoring and intervention activities, implementation of corrective action plans, and continued district compliance after completion of a corrective action plan.

*Statutory Authority: The provisions of this §97.1072 issued under the Texas Education Code, §§29.010, 39.051, 39.052, 39.054(a-5), 39.056-39.058, 39.0823, and 39.102-39.115, and 34 Code of Federal Regulations §300.149 and §300.600.*

*Source: The provisions of this §97.1072 adopted to be effective December 22, 2010, 35 TexReg 11231; amended to be effective August 2, 2011, 36 TexReg 4800; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective January 11, 2022, 47 TexReg 26.*

### **§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 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 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 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 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 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 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.

*Statutory Authority: The provisions of this §97.1073 issued under the Texas Education Code, §§39.051, 39.052, 39.054(a-5), 39.057, 39.102, 39A.001-39A.007, 39A.051-39A.063, 39A.101-39A.115, 39A.151-39A.161, 39A.201-39A.209, 39A.251-39A.260, 39A.301, and 39A.901-39A.907.*

*Source: The provisions of this §97.1073 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523; amended to be effective February 5, 2015, 40 TexReg 437; amended to be effective February 29, 2016, 41 TexReg 1442; amended to be effective January 28, 2018, 43 TexReg 452; amended to be effective February 4, 2019, 44 TexReg 477; amended to be effective January 11, 2022, 47 TexReg 26.*

## Division 2. Contracting to Partner to Operate a District Campus

### §97.1075. Contracting to Partner to Operate a Campus under Texas Education Code, §11.174.

- (a) **Applicability.** This section applies only to an independent school district that intends to contract to partner to operate a campus and receive benefits under Texas Education Code (TEC), §11.174 and §48.252.
- (b) **Definitions.** For purposes of this division, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise.
  - (1) **Operating partner**--Either a state-authorized open-enrollment charter school or an eligible entity as defined by TEC, §12.101(a).
  - (2) **Open-enrollment charter holder**--This term has the meaning assigned in TEC, §12.1012(1).
  - (3) **Governing body of a charter holder**--This term has the meaning assigned in TEC, §12.1012(2).
  - (4) **Governing body of a charter school**--This term has the meaning assigned in TEC, §12.1012(3).
  - (5) **Contract to partner to operate a campus**--This term means the partner must operate the campus in accordance with subsection (c) of this section under a performance contract as outlined in subsection (d) of this section.
  - (6) **Campus**--This term has the meaning assigned in §97.1051(3) of this title (relating to Definitions).
- (c) **Conferred authority.** In order to qualify as operating a district campus under TEC, §11.174, the district must confer, at a minimum, the following enhanced authorities to the operating partner.
  - (1) **Staffing authorities.**
    - (A) The operating partner must have authority to employ and manage the campus chief operating officer, including initial and final non-delegable authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.
    - (B) The operating partner must have authority over the employees of the operating partner, including initial and final non-delegable authority for the operating partner to employ and/or manage all of the operating partner's own administrators, educators, contractors, or other staff. Such authority includes the authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.
    - (C) The operating partner must have sole authority over the assignment of all district employees to the campus, including initial and final authority to approve the assignment of all district employees or contractors to the campus.
    - (D) The operating partner must have initial, final, and sole authority to supervise, manage, evaluate, and rescind the assignment of any district employee or district contractor from the campus. If the operating partner rescinds the assignment of any district employee or district contractor, the district must grant the request within 20 working days.
    - (E) The operating partner must directly manage the campus principal or chief operating officer, including having the sole responsibility for evaluating the performance of the campus principal or chief operating officer.
  - (2) **Other authorities.** The operating partner must have:
    - (A) initial, final, and sole authority to approve all curriculum decisions beyond the minimum requirements outlined in §74.2 of this title (relating to Description of a Required Elementary Curriculum) or §74.3 of this title (relating to Description of a Required Secondary Curriculum), lesson plans, instructional strategies, and instructional materials, as defined in TEC, §31.002(1), to be used at that campus;

- (B) initial, final, and sole authority over educational programs for specific, identified student groups, such as gifted and talented students, students of limited English proficiency, students at risk of dropping out of school, special education students, and other statutorily defined populations;
  - (C) initial, final, and sole authority to set the school calendar and the daily schedule, which may differ from those in other district campuses;
  - (D) initial, final, and sole authority to select and determine the use of any and all assessments to be used on the campus that are not required by the state of Texas;
  - (E) initial, final, and sole authority to determine how the entire campus budget, including any and all federal and state grant funds due the campus, is allocated. The governing body of the operating partner shall approve the campus budget in a meeting held under the Texas Open Meetings Act, Texas Government Code, Chapter 551. Notwithstanding such budget authority, the operating partner's expenditures must comply with applicable restrictions on the use of state and federal funds; and
  - (F) initial, final, and sole authority to implement and adjust the campus budget.
- (d) Performance contract. To contract to partner to operate under TEC, §11.174, the independent school district's board of trustees must grant the operating partner a campus charter under TEC, Chapter 12, Subchapter C. The charter must include performance expectations memorialized in a performance contract, as required by TEC, §12.0531. This performance contract must include, at a minimum, the following provisions:
- (1) a clear and unambiguous description of enhanced authorities as outlined in subsection (c) of this section;
  - (2) academic performance expectations and goals, which shall include, but are not limited to:
    - (A) for campuses that are paired for accountability purposes, specific annual targets for improved student academic performance;
    - (B) for campuses issued an accountability rating under TEC, §39.054, a specific annual target for the overall campus academic rating; and
    - (C) specific consequences in the event that the operating party does not meet the academic performance expectations and goals described in the performance contract;
  - (3) annual financial performance expectations and goals, which shall include, but are not limited to:
    - (A) the completion of an annual independent financial report, including an audit, of the operating partner organization, limited to matters directly related to the management or operation of the campus or campuses;
    - (B) receipt of an unqualified audit opinion, in connection with the annual financial report required in subparagraph (A) of this paragraph; and
    - (C) specific consequences in the event that the operating partner does not meet the annual financial performance expectations and goals described in the performance contract;
  - (4) a description of the campus enrollment and expulsion policies that must comply with TEC, §11.174(i);
  - (5) a contract term of up to 10 years as required by TEC, §12.0531, with a provision(s) specifying:
    - (A) a requirement for a public hearing at least 30 days prior to any district action to terminate the contract for an operating partner that successfully met the performance expectations and goals described in the performance contract; and
    - (B) a requirement for a public hearing at least 30 days prior to any district action to extend the contract for an operating partner that failed to meet the performance expectations and goals described in the performance contract;

- (6) a contract term stating that the campus is exempt from laws and rules to the fullest extent allowed by TEC, Chapter 12, Subchapter C, and is exempt from all district policies except for laws, rules, and policies that are specifically identified as applicable to the campus in the performance contract;
  - (7) a section that describes the funding structure of the partnership. This section must specify:
    - (A) a reasonable per pupil amount or percentage of the revenue generated by attendance at the campus from the district to the operating partner of all federal, state, and local funds due the campus, to be paid to the operating partner for managing the campus or campuses each year;
    - (B) the total budget for the first year of operation; and
    - (C) the authority of the partner over the entire campus budget, which includes all federal, state, and local funds due the campus as described in subparagraph (A) of this paragraph;
  - (8) service-level agreements that list the resources and services the operating partner intends to purchase from the district and the specific costs of such services by pupil, square foot, campus, or the percentage of the total district budget for the specific resource or service. The resources and services may include:
    - (A) facility use and related matters;
    - (B) transportation;
    - (C) specific education program services, such as providing special education services; and
    - (D) access to other resources and services as agreed between the parties;
  - (9) a section that describes the educational plan or academic model that the operating partner will implement on the campus or campuses;
  - (10) an assurance that the district has consulted with campus personnel regarding the provisions included in the performance contract and that the rights and protections afforded by current employment contracts or agreements shall not be affected by this contract as required by TEC, §11.174(c), unless the district is partnering with an entity described in TEC, §11.174(a)(2); and
  - (11) a description of the specific and material consequence(s) in the instance that either the district or the operating partner breaches the contract.
- (e) Capacity to operate. In order to qualify as an eligible partnership under TEC, §11.174, the district must demonstrate that the operating partner has the necessary capacity to successfully manage campuses.
  - (f) Contract notification to the TEA. In order to qualify as an eligible partnership under TEC, §11.174, notification of contracts related to TEC, §11.174(a)(1), must meet the deadlines published by the TEA staff.
  - (g) Contract amendments. Eligible partnerships under TEC, §11.174, must notify the TEA of amendments to performance contracts related to TEC, §11.174(a)(1) and (2), within 30 calendar days of the amendment of the contract.
  - (h) Performance ratings. The commissioner of education shall continue to evaluate and assign overall and domain performance ratings under TEC, §39.054, to the campus.
  - (i) Monitoring. In order to qualify for ongoing benefits, subsequent to initial eligibility validation or approval, the eligible partnership campus must comply with all information requests or monitoring visits deemed necessary by the TEA staff to monitor the ongoing eligibility of the partnership.
  - (j) Continued eligibility. To receive benefits under TEC, §11.174(f) and (g) and §48.252, the district must continuously meet the requirements in subsections (c)-(i) of this section.
  - (k) Decision finality. A decision of the commissioner made under this section is a final administrative decision and is not subject to appeal under TEC, §7.057.

*Statutory Authority: The provisions of this §97.1075 issued under the Texas Education Code, §11.174 and §48.252.*

*Source: The provisions of this §97.1075 adopted to be effective April 4, 2018, 43 TexReg 1993; amended to be effective September 1, 2019, 44 TexReg 4477; amended to be effective March 31, 2020, 45 TexReg 2168.*

**§97.1077. School Year Under Contract to Operate a District Campus.**

- (a) A campus is eligible under Texas Education Code (TEC), §11.174(f) or (g), for an exemption from applicable sanctions or actions under TEC, §39A.101(a) and §39A.111, if:
  - (1) the campus and the partnership to operate the campus meet all applicable requirements; and
  - (2) the campus was operated under the partnership from the first to the last day of the school year of the campus.
- (b) The provisions of this subsection expire on September 1, 2022. Notwithstanding any other provision, if a partnership agreement is executed prior to the first day of the 2018-2019 school year, the campus will be eligible for an exemption under TEC, §11.174(f) and (g), from applicable sanctions or actions under TEC, §39A.101(a) or §39A.111, based on failure to satisfy the academic performance standards during the 2017-2018 school year if:
  - (1) the campus and the partnership to operate the campus meet all applicable requirements;
  - (2) the partnership agreement is executed prior to April 30, 2018; and
  - (3) the campus is operated under the partnership agreement during a portion of the 2017-2018 school year.
- (c) The provisions of this subsection expire on September 1, 2023. Notwithstanding any other provision, if a partnership agreement is executed prior to the first day of the 2019-2020 school year, the campus will be eligible for an exemption under TEC, §11.174(f) and (g), from applicable sanctions or actions under TEC, §39A.101(a) or §39A.111, based on failure to satisfy the academic performance standards during the 2018-2019 school year if:
  - (1) the campus and the partnership to operate the campus meet all applicable requirements;
  - (2) the partnership agreement is executed prior to November 30, 2018; and
  - (3) the campus is operated under the partnership agreement during a portion of the 2018-2019 school year.
- (d) A school year under subsection (a)(2) of this section must include, at a minimum:
  - (1) all minutes of operation and instructional time conducted on the campus for purposes of TEC, §25.081 and §42.005; and
  - (2) all the days for which the instructional workforce of the campus that provides educational services for students under paragraph (1) of this subsection was employed.
- (e) While the performance of a campus operated under a partnership for less than a school year as described by subsections (a)(2) and (d) of this section may not qualify for an exemption from applicable sanctions or actions under TEC, §11.174(f), it may be used to meet the threshold necessary to receive the exemption for the following two school years of operation under a partnership.
- (f) Upon request of the commissioner of education, a school district shall provide information to substantiate a school year for the campus.

*Statutory Authority: The provisions of this §97.1077 issued under the Texas Education Code, §11.174.*

*Source: The provisions of this §97.1077 adopted to be effective April 4, 2018, 43 TexReg 2006.*

**§97.1079. Determination Processes and Criteria for Eligible Entity Approval under Texas Education Code, §11.174.**

- (a) **Applicability.** This section applies only to independent school districts that intend to contract to partner to operate a campus and receive benefits under Texas Education Code (TEC), §11.174(a)(2).



- (b) Definitions. For purposes of this division, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise.
- (1) Eligible entity--This term has the meaning assigned in TEC, §12.101(a).
  - (2) Campus--This term has the meaning assigned in §97.1051(3) of this title (relating to Definitions).
  - (3) Applicant--This term refers to an independent school district seeking approval to receive benefits for an eligible entity to contract to partner to operate a campus.
  - (4) Proposed operating partner--This term refers to the eligible entity seeking approval in coordination with an independent school district to contract to partner to operate a campus.
- (c) Institutions of higher education. This subsection applies to entities meeting the definition of an institution of higher education as described in TEC, §61.003.
- (1) For applicants seeking eligibility approval of an institution of higher education, which has been granted a charter in accordance with TEC, Chapter 12, Subchapter E, as the proposed operating partner, the commissioner of education will treat the institution of higher education as an open-enrollment charter school under TEC, §11.174(a)(1).
  - (2) The commissioner may approve an eligibility approval request under this section if the commissioner determines that the approval of the eligibility approval request will improve student outcomes at the campus.
- (d) Private or independent institutions of higher education that are not described in subsection (c) of this section, non-profits, and governmental entities. This subsection applies to entities meeting the definitions described in TEC, §12.101(a)(2), (3), and (4).
- (e) Application requirements.
- (1) Prior to each eligibility approval cycle, the commissioner shall approve an application package for submission by applicants seeking eligibility approval as specified in TEC, §11.174. The application package may contain, but is not limited to, any of the following:
    - (A) an application form;
    - (B) the timeline for submission of completed forms;
    - (C) requirements, including mandatory training sessions for districts and proposed operating partners, that must be met in order for applications to be approved;
    - (D) scoring criteria and procedures for use by the review panel selected under paragraph (6) of this subsection; and
    - (E) eligibility approval criteria, including the minimum score necessary for approval.
  - (2) The Texas Education Agency (TEA) shall review application packages submitted under this section. If the TEA determines that an application package is not complete and/or the applicant does not meet the eligibility criteria in TEC, §11.174, the TEA shall notify the applicant and allow ten business days for the applicant to submit any missing or explanatory documents.
    - (A) If, after giving the applicant the opportunity to provide supplementary documents, the TEA determines that the eligibility approval request remains incomplete and/or the eligibility requirements of TEC, §11.174, have not been met, the eligibility approval request will be denied.
    - (B) If the documents are not timely submitted, the TEA shall remove the eligibility approval request without further processing. The TEA shall establish procedures and schedules for returning eligibility approval requests without further processing.
    - (C) Failure of the TEA to identify any deficiency or notify an applicant thereof does not constitute a waiver of the requirement and does not bind the commissioner.

- (D) A decision made by the TEA to deny, remove, or return an eligibility approval request is a final administrative decision of the TEA and may not be appealed under TEC, §7.057.
- (3) Upon written notice to the TEA, an applicant may withdraw an application package.
- (4) All parts of the district's application package are releasable to the public under the Texas Public Information Act, Texas Government Code, Chapter 552, and will be posted to the TEA website. Therefore, the following must be excluded or redacted from an application package submission:
  - (A) personal email addresses;
  - (B) proprietary material;
  - (C) copyrighted material;
  - (D) documents that could violate the Family Educational Rights and Privacy Act (FERPA) by identifying potential students of the partnership school, including, but not limited to, sign-in lists at public meetings about the school, photographs of existing students if the school is currently operating or photographs of prospective students, and/or letters of support from potential charter school parents and/or students; and
  - (E) any other information or documentation that cannot be released in accordance with Texas Government Code, Chapter 552.
- (5) TEA will remove from review any application packages that:
  - (A) include plagiarism;
  - (B) are from districts that did not submit a letter of intent by the TEA published deadline;
  - (C) are from districts that did not participate in TEA required trainings;
  - (D) are from districts whose proposed operating partners did not attend TEA required trainings;
  - (E) are not submitted by the TEA published deadline;
  - (F) include an operating partner that does not have the following:
    - (i) a governing board with a minimum of three members. All partner governing board members must meet the requirements outlined in subsection (e)(9)(C)(vi) of this section; and
    - (ii) at least one full-time equivalent dedicated to the management of the campus or campuses. The full-time equivalent may be employed by the district only if they are under contractual obligation with the operating partner board and the district can demonstrate that they are solely dedicated to planning the launch of the campus at the time of application for benefits; or
  - (G) include performance contracts that are contingent on approval of benefits under TEC, §11.174(a)(2), or a performance rating assigned to the campus based on performance that occurred prior to the operation of the campus by the operating partner.
- (6) Applicants with complete application packages satisfying the requirements in paragraph (5) of this subsection will be reviewed by a review panel selected by the commissioner. The panel may include TEA staff or external stakeholders. The panel shall review application packages in accordance with the procedures and criteria established in the application package and guidance form. Review panel members shall not discuss eligibility approval requests with anyone except TEA staff. Review panel members shall not accept meals, entertainment, gifts, or gratuities in any form from any person or organization with an interest in the results of an application package review. Members of the review panel shall disclose to the TEA immediately the discovery of any past or present relationship with an applicant, including any current or prospective employee, agent, officer, or director of the eligible entity, an affiliated entity, or other party with an interest in the approval of the application package.

- (7) TEA staff may interview applicants, may specify individuals from the district and proposed operating partner required to attend the interview, and may require the submission of additional information and documentation prior to an interview.
- (8) No recommendation, ranking, or other type of endorsement by a member or members of the review panel is binding on the commissioner.
- (9) The commissioner will consider criteria that include the following when determining whether to approve an applicant.
  - (A) The criteria described in this subparagraph apply to all campuses. Each applicant must submit financial information that demonstrates that the proposed operating partner:
    - (i) is provided with a reasonable per pupil amount or percentage of the revenue generated by attendance at the campus from the district to the operating partner of all federal, state, and local funds due the campus, to be paid to the operating partner for managing the campus or campuses each year;
    - (ii) has provided the total budget for the first year of operation of the campus to the district; and
    - (iii) has authority over the entire campus budget, which includes all of the federal, state, and local funds due the campus as described in clause (i) of this subparagraph.
  - (B) The criteria described in this subparagraph apply to application packages relating to partnerships between a district and an organization authorized under TEC, Chapter 12, Subchapters D and E.
    - (i) Each applicant must demonstrate evidence of the district's adoption and implementation of the TEA model authorizing policy or a similar policy approved by TEA.
      - (I) For application packages submitted for benefits that begin in the 2021-2022 school year, districts not using the TEA model policy must have the local authorizing policy approved prior to the application review.
      - (II) TEA will release the authorizing policy approval timeline and process annually.
      - (III) TEA approval of local authorizing policies expires if the district changes the authorizing policy or if related sections of the Texas Administrative Code (TAC) or TEC change.
    - (ii) Each applicant must submit a performance contract that demonstrates that the applicant and proposed operating partner meet the requirements to contract to partner to operate, as outlined in §97.1075 of this title (relating to Contracting to Partner to Operate a Campus under Texas Education Code, §11.174).
  - (C) The criteria described in this subparagraph apply to application packages relating to partnerships between a district and any other type of partner except for operating partners described in subparagraph (B) of this paragraph. Each applicant must demonstrate:
    - (i) evidence of district capacity to authorize and oversee district charter campuses authorized under TEC, Chapter 12, Subchapter C, which must include:
      - (I) at least one district employee, employed prior to the district evaluation of the partnership, and fully dedicated to overseeing the authorizing and ongoing monitoring of in-district charter schools; and
      - (II) for benefits that begin in the 2021-2022 school year, evidence that the district employee has completed a TEA training program on authorizing and partnerships no later than one year from the date of benefits approval;

- (ii) evidence of the district's adoption and implementation of a high-quality district charter authorizing process as required by TEC, §12.058, which must include the following:
  - (I) the district's adoption and implementation of the TEA model authorizing policy or a similar policy approved by TEA prior to or as part of the application review. The following provisions apply.
    - (-a-) For application packages submitted for benefits that begin in the 2021-2022 school year, districts not using the TEA model policy must have the local authorizing policy approved prior to the application review.
    - (-b-) TEA will release the authorizing policy approval timeline and process annually.
    - (-c-) TEA approval of local authorizing policies expires if the district changes the authorizing policy or if related sections of the TAC or TEC change;
  - (II) evidence of the district's adoption and implementation of the TEA model campus charter application or similar application and scoring rubric or a similar application and scoring rubric approved by TEA. The following provisions apply.
    - (-a-) For application packages submitted for benefits that begin in the 2021-2022 school year, districts not using the TEA model campus application and scoring rubric must have the local campus application approved prior to the application review.
    - (-b-) TEA will release the local campus application and scoring rubric approval timeline and process annually.
    - (-c-) TEA approval of a local campus application and scoring rubric expires if the district changes the authorizing policy or if related sections of the TAC or TEC change; and
  - (III) evidence that, at a minimum, the district:
    - (-a-) required the proposed operating partner to complete the application without assistance from the district or a district assigned vendor;
    - (-b-) employed a review panel to read the application from the operating partner and that the review panel identified strengths and weaknesses of the application;
    - (-c-) reviewed any operating and academic performance history of the proposed operator; and
    - (-d-) conducted a capacity interview with the board and proposed staff of the partner organization;
- (iii) evidence of the capacity of the operating partner to manage the campus or campuses, including evidence that:
  - (I) the board of the operating partner includes at least three people and that their membership on the board pre-dates the submission of their application to the district;
  - (II) the operating partner has staff that will be fully dedicated to the management of the campus or campuses and that the level of staffing is reasonable given the number of campuses to be managed;

- (III) the staff of the operating partner dedicated to the management of the campus or campuses has experience managing schools or academic programs;
- (IV) the operating partner is provided with a reasonable per pupil amount or percentage of the revenue generated by attendance at the campus from the district to the operating partner of all federal, state, and local funds due the campus, to be paid to the operating partner for managing the campus or campuses each year; and
- (V) the governing board of the operating partner will participate in board governance training provided by TEA or a vendor recommended by TEA within one year of approval of benefits;
- (iv) evidence of a clear and coherent academic model or program to be implemented by the partner organization, including evidence that:
  - (I) the partner can clearly describe a consistent school vision for the campus or all campuses, including its culture, curriculum, assessment program, instructional strategies, talent recruitment and management strategies, and professional development activities or programs;
  - (II) the partner can clearly provide evidence that the aforementioned strategies and programs can be effective with the student population served in the campus or campuses; and
  - (III) the partner can clearly describe the management routines and practices to be implemented by the operating partner in managing the staff and academic programs as the campus or campuses;
- (v) evidence that the applicant and proposed operating partner meet the requirements to contract to partner to operate, as outlined in §97.1075 of this title;
- (vi) an assurance that the governing body of the operating partner shall remain independent of the independent school district. This may include the following:
  - (I) an assurance that the governing body of the operating partner is not and shall not be comprised of any members of the independent school district's board of trustees, the superintendent, or staff responsible for granting the contract to partner to operate or overseeing the performance contract;
  - (II) an assurance that the majority of the governing body of the operating partner is not and shall not be comprised of district staff;
  - (III) an assurance that no member of the governing body of the operating partner will be related within the first degree of affinity or consanguinity with any members of the independent school district's board of trustees, the superintendent, or staff responsible for granting the charter or contract to partner to operate or overseeing the performance contract;
  - (IV) an assurance that all members of the governing body of the operating partner have passed and will continually pass the district's conflict of interest checks;
  - (V) an assurance that the district has not appointed a majority of the members of the governing board of the operating partner; and
- (vii) an assurance that the school district will provide a list of the board members of the governing body and a description of their respective backgrounds upon approval and annually thereafter.

- (D) The criteria described in this subparagraph apply to a campus whose last preliminary or final overall performance rating was unacceptable. In addition to the criteria described in subparagraphs (A)-(C) of this paragraph, as applicable, each applicant must demonstrate evidence that the operating partner has the capacity necessary to successfully turn around campuses.
- (i) For partnership benefits applied to district charter campuses authorized under TEC, Chapter 12, Subchapter C, that are approved for the 2020-2021 or 2021-2022 school year, evidence must be provided that the operating partner has staff in leadership positions with at least three years of experience managing campuses to academic success.
- (ii) For partnership benefits applied to all campuses approved for the 2022-2023 school year and thereafter, evidence must be provided that the operating partner:
- (I) has been in existence for at least three years prior to undertaking the management of the district campus;
- (II) has managed multiple campuses for multiple years; and
- (III) has a track record of managing campuses to academic success or has significantly improved the academic performance of campuses.
- (E) In order to qualify for ongoing benefits, subsequent to initial eligibility validation or approval, the eligible partnership campus must comply with all information requests or monitoring visits deemed necessary by TEA staff to monitor the ongoing eligibility of the partnership.
- (F) To receive benefits under TEC, §11.174(f) and (g) and §48.252, the district must continuously meet the requirements in this subsection.
- (G) Notwithstanding this subsection, the commissioner will treat a campus granted a charter under TEC, Chapter 12, Subchapter C, as an open-enrollment charter school under TEC, §11.174(a)(1), if the Subchapter C charter was granted by a high-quality district authorizer. A high-quality district authorizer is a district that has successfully completed a state-approved professional development program in high-quality authorizing and has operated at least four Subchapter C campuses that are eligible for benefits under TEC, §11.174, in the prior year with at least 75% of those campuses performing at or above an agency-identified threshold for each campus's School Progress Domain.
- (f) Decision finality. The approval or denial of the eligibility approval request is a final administrative decision by the commissioner and not subject to appeal under TEC, §7.057.

*Statutory Authority: The provisions of this §97.1079 issued under the Texas Education Code, §11.174 and §48.252.*

*Source: The provisions of this §97.1079 adopted to be effective April 4, 2018, 43 TexReg 1993; amended to be effective September 1, 2019, 44 TexReg 4477; amended to be effective March 31, 2020, 45 TexReg 2174.*