

### Subchapter BB. Memoranda of Understanding

#### §97.1011. Memorandum of Understanding between the Texas Education Agency and the Texas School for the Deaf.

- (a) Purpose. This memorandum of understanding (MOU) is a non-financial, mutual agreement between the Texas School for the Deaf, hereafter referred to as "the School," and the Texas Education Agency, hereafter referred to as "the Agency," established pursuant to the Texas Education Code (TEC), §29.315. This MOU will establish:
  - (1) the method for developing and reevaluating a set of indicators of the quality of learning at the School;
  - (2) the process for the Agency to conduct and report on an annual evaluation of the School's performance on the indicators;
  - (3) the requirements for the School's Board to publish, discuss, and disseminate an annual report describing the educational performance of the School;
  - (4) the process for the Agency to assign an accreditation status to the School, to reevaluate the status on an annual basis, and, if necessary, to make on-site accreditation investigations; and
  - (5) the type of information the School shall be required to provide through the Public Education Information Management System (PEIMS).
- (b) Accountability compliance reviews.
  - (1) The Agency shall monitor the School's compliance with federal and state laws and regulations related to services for special populations by conducting a periodic on-site review. The Agency shall determine the schedule for the review.
  - (2) The Agency, with input from the School, shall develop a compliance monitoring instrument that itemizes compliance indicators that are the responsibility of the School. The instrument will be disseminated to the School and updated jointly as appropriate.
- (c) Indicators of quality of learning for the School.
  - (1) No later than August 31, 1999, the Agency and the School shall jointly develop and agree upon a set of quality indicators that are appropriate to the characteristics of students served by the School.
  - (2) Annually, the commissioner of education shall approve indicators of performance that measure the quality of student learning at the School.
  - (3) The indicators shall include measures of academic and/or developmental performance as well as other measures appropriate to the characteristics of the student populations served.
  - (4) To the extent appropriate, the indicators shall incorporate academic excellence indicators and alternative assessment measures required under TEC, Chapter 39, Subchapter B.
- (d) Annual performance evaluation.
  - (1) The School's annual performance evaluation shall be based on quality indicators selected annually from among the set of quality indicators developed and jointly agreed upon by the School and the Agency to address the characteristics of the student groups served.
  - (2) The selected quality indicators used for the annual performance evaluation shall measure, as appropriate, academic and/or non-academic performance on norm- or criterion-referenced instruments; progress in the attainment of student individualized education program goals and objectives; statewide criterion-referenced assessments; completion of courses or credits; or completion of graduation requirements. Additional non-academic indicators may be selected that measure dropout rates, attendance, or other appropriate measures of student success.

- (3) The method for evaluating the School's annual performance shall be as follows.
  - (A) Annually, by September 1, the School shall submit to the commissioner an accountability proposal. The proposal shall be developed with input from the School's planning and decision-making committee and shall include the following information to be used to determine the current year accountability rating:
    - (i) quality indicators;
    - (ii) performance objectives within each indicator; and
    - (iii) minimum standards for determining achievement of performance objectives.
  - (B) By September 15, the commissioner shall review the proposal and notify the School superintendent of approval, or needed modifications to obtain approval, of the proposed indicators and performance objectives to be used for determining an accountability rating.
  - (C) By November 1, the commissioner shall provide notification of final approval of the proposal indicators and performance objectives.
  - (D) By July 1 following the year for which the School's performance is being evaluated, the School shall submit to the Agency all complete and accurate data necessary to document performance with respect to the approved indicators and performance objectives selected for rating purposes under the accountability system.
- (4) The schedule of activities related to the annual performance evaluation shall include the following activities.
  - (A) During the 1998-1999 school year, the School and the Agency shall determine methods of evaluating student performance for determining achievement of performance objectives.
  - (B) During the 1999-2000 school year, the School shall evaluate student performance in areas addressed by the quality indicators.
  - (C) Beginning with the 2000-2001 school year, the Agency shall perform an annual performance evaluation for the School.
- (e) Accreditation status.
  - (1) By September 1, the commissioner shall assign the School a rating of "acceptable" or "needing on-site review."
  - (2) To attain a rating of "acceptable," the School shall attain all approved performance objectives established for each selected indicator.
  - (3) If the School receives a rating of "needing on-site review," the School may appeal the rating to the commissioner of education by October 1. The rating will be final by November 1.
  - (4) The determination of the performance rating may include consideration of the effectiveness of the special education program based on the Agency's most recent compliance review of the school and program for special populations.
- (f) On-site investigation and sanctions. If the School does not receive an accreditation rating of "acceptable," the commissioner may take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:
  - (1) direct the Agency to conduct an on-site investigation, in accordance with the provisions of TEC, §39.074(c)-(e), and, raise or maintain the performance rating as a result of the investigation;
  - (2) order the preparation of a student achievement improvement plan that addresses each quality indicator for which the School's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan; or

- (3) appoint a special campus intervention team, the criteria for membership of which shall be mutually agreed upon by the Agency and the School, the costs for which shall be paid for by the School, to:
  - (A) conduct a comprehensive on-site evaluation of the School to determine the cause for the School's low performance and lack of progress;
  - (B) recommend actions, including reallocation of resources and technical assistance; changes in school procedures or operations; staff development for instructional and administrative staff; intervention for individual administrators or teachers; waivers from state statute or rule; or other actions the team considers appropriate;
  - (C) assist in the development of a school plan for student achievement; and
  - (D) assist the commissioner in monitoring the progress of the School in implementing the School plan for improvement of student achievement.
  
- (g) Annual performance report.
  - (1) The Governing Board of the School shall publish an annual report describing the educational performance of the School. The report shall include the School's performance objectives, progress toward these objectives, and the School's performance rating assigned by the Agency. Supplemental information to be included in the report shall be determined by the School's Governing Board.
  - (2) The Governing Board of the School will disseminate the annual performance report to parents of enrolled students, districts that have placed students at the School, and regional education service centers (RESCs). Additionally, the Governing Board will notify the parents of enrolled students, districts that have placed students at the School, and RESCs of an opportunity for public discussion of the annual performance report at a regularly scheduled board meeting. The School's planning and decision-making committee will hold at least one public meeting annually for the purpose of discussing the School's performance report.
  - (3) By December 1, the School shall disseminate the annual performance report.
  
- (h) Reporting of data.
  - (1) The School will report PEIMS data according to the following schedule.
    - (A) The Agency and the School shall jointly develop separate action plans for the possible collection of organization, student, staff, and financial data. The action plan for organization and student data shall be completed by June 1998; for staff data by June 1999; and for financial data by June 2000.
    - (B) The Agency and the School shall conduct studies to determine the feasibility of collecting data for each information category according to the following schedule: organization and student data during the 1998-1999 school year; staff data during the 1999-2000 school year; and financial data during the 2000-2001 school year.
    - (C) In each information category for which it is determined that data collection is feasible, the Agency and the School shall pilot the collection as follows: organization and student data during the 1999-2000 school year; staff data during the 2000-2001 school year; and financial data during the 2001-2002 school year.
    - (D) Initial PEIMS collection shall be contingent on resolution of feasibility issues and modifications indicated by the pilot process.
  - (2) To the extent possible, the Agency shall assist the School in accessing available resources to implement this section of the MOU.

- (i) Dispute resolution. Disputes between the School and the Agency concerning implementation of this MOU shall be resolved as follows.
  - (1) Staff of the School and the Agency shall identify and attempt to resolve the specific issues involved in the dispute.
  - (2) If staff of the School and the Agency are unable to resolve the dispute after a reasonable time period, the executive officers of the School and the Agency shall assist the staff in identifying a mutually agreeable resolution to the dispute.
  - (3) If the executive officers (or either of them) are unable to reach a mutually agreeable resolution, the School and the Agency shall pursue resolution through the use of mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008. The mediator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the mediator. The costs of mediation shall be borne equally by the School and the Agency.
  - (4) If the School and the Agency fail to reach agreement through mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008, the following procedure shall be followed.
    - (A) The School and the Agency shall each select one impartial third party pursuant to Government Code, §2008.053.
    - (B) The impartial third parties selected by the School and the Agency shall jointly select another impartial third party, who must be a person eligible to serve as impartial third party pursuant to Government Code, §2008.053. The person selected shall be the arbitrator of the dispute.
    - (C) The arbitrator selected by the impartial third parties selected by the School and the Agency shall arbitrate the dispute pursuant to Texas Civil Practice and Remedies Code, §154.027. The arbitrator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the arbitrator. The costs of arbitration shall be borne equally by the School and the Agency. The parties hereby stipulate in advance that the decision of the arbitrator shall be binding and enforceable against both parties pursuant to Texas Civil Practice and Remedies Code, §154.027(b).
- (j) Other terms.
  - (1) This MOU shall be signed by the executive officers of the School and the Agency and shall be effective September 1, 1998.
  - (2) This MOU may be considered for expansion, modification, or amendment upon mutual agreement of the executive officers of the School and the Agency.
  - (3) In the event that federal and/or state laws should be amended, federally interpreted, or judicially interpreted so as to render continued implementation of this MOU unreasonable or impossible, the School and the Agency may agree to amend or terminate this MOU.

*Statutory Authority: The provisions of this §97.1011 issued under the Texas Education Code, §29.315, as added by Senate Bill 1918, 75th Texas Legislature, 1997.*

*Source: The provisions of this §97.1011 adopted to be effective September 1, 1998, 24 TexReg 7781.*

**§97.1012. Memorandum of Understanding between the Texas Education Agency and the Texas School for the Blind and Visually Impaired.**

- (a) Purpose. This memorandum of understanding (MOU) is a non-financial, mutual agreement between the Texas School for the Blind and Visually Impaired, hereafter referred to as "the School," and the Texas Education Agency, hereafter referred to as "the Agency," established pursuant to the Texas Education Code (TEC), §30.005. This MOU will establish:

- (1) the method for developing and reevaluating a set of indicators of the quality of learning at the School;
  - (2) the process for the Agency to conduct and report on an annual evaluation of the School's performance on the indicators;
  - (3) the requirements for the School's Board to publish, discuss, and disseminate an annual report describing the educational performance of the School; and
  - (4) the type of information the School shall be required to provide through the Public Education Information Management System (PEIMS).
- (b) Accountability compliance reviews.
- (1) The Agency shall monitor the School's compliance with federal and state laws and regulations related to services for special populations by conducting a periodic on-site review. The Agency shall determine the schedule for the review.
  - (2) The Agency, with input from the School, shall develop a compliance monitoring instrument that itemizes compliance indicators that are the responsibility of the School. The instrument will be disseminated to the School and updated jointly as appropriate.
- (c) Indicators of quality of learning for the School.
- (1) No later than August 31, 1999, the Agency and the School shall jointly develop and agree upon a set of quality indicators that are appropriate to the characteristics of students served by the School.
  - (2) Annually, the commissioner of education shall approve indicators of performance that measure the quality of student learning at the School.
  - (3) The indicators shall include measures of academic and/or developmental performance as well as other measures appropriate to the characteristics of the student populations served.
  - (4) To the extent appropriate, the indicators shall incorporate academic excellence indicators and alternative assessment measures required under TEC, Chapter 39, Subchapter B.
- (d) Annual performance evaluation.
- (1) The School's annual performance evaluation shall be based on quality indicators selected annually from among the set of quality indicators developed and jointly agreed upon by the School and the Agency to address the characteristics of the student groups served.
  - (2) The selected quality indicators used for the annual performance evaluation shall measure, as appropriate, academic and/or non-academic performance on norm- or criterion-referenced instruments; progress in the attainment of student individualized education program goals and objectives; statewide criterion-referenced assessments; completion of courses or credits; or completion of graduation requirements. Additional non-academic indicators may be selected that measure dropout rates, attendance, or other appropriate measures of student success.
  - (3) The method for evaluating the School's annual performance shall be as follows.
    - (A) Annually, by September 1, the School shall submit to the commissioner an accountability proposal. The proposal shall be developed with input from the School's planning and decision-making committee and shall include the following information:
      - (i) quality indicators;
      - (ii) performance objectives within each indicator; and
      - (iii) minimum standards for determining achievement of performance objectives.
    - (B) By September 15, the commissioner shall review the proposal and notify the School superintendent of approval, or needed modifications to obtain approval, of the proposed indicators and performance objectives.

- (C) By November 1, the commissioner shall provide notification of final approval of the proposal indicators and performance objectives.
  - (D) By July 1 following the year for which the School's performance is being evaluated, the School shall submit to the Agency all complete and accurate data necessary to document performance with respect to the approved indicators and performance objectives.
- (4) The schedule of activities related to the annual performance evaluation shall include the following activities.
- (A) During the 1998-1999 school year, the School and the Agency shall determine methods of evaluating student performance for determining achievement of performance objectives.
  - (B) During the 1999-2000 school year, the School shall evaluate student performance in areas addressed by the quality indicators.
  - (C) Beginning with the 2000-2001 school year, the Agency shall perform an annual performance evaluation for the School.
- (e) Annual performance report.
- (1) The Governing Board of the School shall publish an annual report describing the educational performance of the School. The report shall include the School's performance objectives and progress toward these objectives. Supplemental information to be included in the report shall be determined by the School's Governing Board.
  - (2) The Governing Board of the School will disseminate the annual performance report to parents of enrolled students, districts that have placed students at the School, and regional education service centers (RESCs). Additionally, the Governing Board will notify the parents of enrolled students, districts that have placed students at the School, and RESCs of an opportunity for public discussion of the annual performance report at a regularly scheduled board meeting. The School's planning and decision-making committee will hold at least one public meeting annually for the purpose of discussing the School's performance report.
  - (3) By December 1, the School shall disseminate the annual performance report.
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- (1) The School will report PEIMS data according to the following schedule.
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    - (B) The Agency and the School shall conduct studies to determine the feasibility of collecting data for each information category according to the following schedule: organization and student data during the 1998-1999 school year; staff data during the 1999-2000 school year; and financial data during the 2000-2001 school year.
    - (C) In each information category for which it is determined that data collection is feasible, the Agency and the School shall pilot the collection as follows: organization and student data during the 1999-2000 school year; staff data during the 2000-2001 school year; and financial data during the 2001-2002 school year.
    - (D) Initial PEIMS collection shall be contingent on resolution of feasibility issues and modifications indicated by the pilot process.
  - (2) To the extent possible, the Agency shall assist the School in accessing available resources to implement this section of the MOU.

- (g) Dispute resolution. Disputes between the School and the Agency concerning implementation of this MOU shall be resolved as follows.
- (1) Staff of the School and the Agency shall identify and attempt to resolve the specific issues involved in the dispute.
  - (2) If staff of the School and the Agency are unable to resolve the dispute after a reasonable time period, the executive officers of the School and the Agency shall assist the staff in identifying a mutually agreeable resolution to the dispute.
  - (3) If the executive officers (or either of them) are unable to reach a mutually agreeable resolution, the School and the Agency shall pursue resolution through the use of mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008. The mediator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the mediator. The costs of mediation shall be borne equally by the School and the Agency.
  - (4) If the School and the Agency fail to reach agreement through mediation pursuant to the Governmental Dispute Resolution Act, Government Code, Chapter 2008, the following procedure shall be followed.
    - (A) The School and the Agency shall each select one impartial third party pursuant to Government Code, §2008.053.
    - (B) The impartial third parties selected by the School and the Agency shall jointly select another impartial third party, who must be a person eligible to serve as impartial third party pursuant to Government Code, §2008.053. The person selected shall be the arbitrator of the dispute.
    - (C) The arbitrator selected by the impartial third parties selected by the School and the Agency shall arbitrate the dispute pursuant to Texas Civil Practice and Remedies Code, §154.027. The arbitrator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the arbitrator. The costs of arbitration shall be borne equally by the School and the Agency. The parties hereby stipulate in advance that the decision of the arbitrator shall be binding and enforceable against both parties pursuant to Texas Civil Practice and Remedies Code, §154.027(b).
- (h) Other terms.
- (1) This MOU shall be signed by the executive officers of the School and the Agency and shall be effective September 1, 1998.
  - (2) This MOU may be considered for expansion, modification, or amendment upon mutual agreement of the executive officers of the School and the Agency.
  - (3) In the event that federal and/or state laws should be amended, federally interpreted, or judicially interpreted so as to render continued implementation of this MOU unreasonable or impossible, the School and the Agency may agree to amend or terminate this MOU.

*Statutory Authority: The provisions of this §97.1012 issued under the Texas Education Code, §30.005, as added by Senate Bill 1919, 75th Texas Legislature, 1997.*

*Source: The provisions of this §97.1012 adopted to be effective September 1, 1998, 24 TexReg 7781.*