Chapter 97. Planning and Accountability

Subchapter EE. Accreditation Status, Standards, and Sanctions

Statutory Authority: The provisions of this Subchapter EE issued under the Texas Education Code, §§39.051, 39.052, 39.056-39.058, 39.0823, and 39.102-39.116, unless otherwise noted.

§97.1051. Definitions.

For purposes under Texas Education Code (TEC), Chapter 39; Subchapter DD of this chapter (relating to Investigative Reports, Sanctions, and Record Reviews); and this subchapter, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) Board of trustees--The definition of this term includes a governing body of a charter holder as defined by TEC, §12.1012.

(2) 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--Other or Not Rated--Data Integrity Issues. The definition of this term includes a charter school campus as defined by §100.1011(3)(C) of this title (relating to Definitions).

(3) Campus closure--Cessation of all instructional activity on the campus in each grade level served in the school year immediately preceding the closure of the campus. An order of closure does not preclude the district from reusing the facility for another purpose such as administration, storage, or instruction in other grades not served during the school year immediately preceding the closure of the campus.

(4) Charter school--This term has the meaning assigned by §100.1011(3) of this title. References to a charter school in TEC, Chapter 39, and rules adopted under it, shall mean either the board of trustees or the school district, as appropriate.

(5) Charter school site--This term has the meaning assigned by §100.1011(3)(D) of this title.

(6) Person--This term has the meaning assigned by the Code Construction Act, Government Code, §311.005(2), and includes a school district.

(7) Reconstitution--

(A) The removal or reassignment of some or all campus administrative and/or instructional personnel in accordance with at least the minimum requirements of TEC, §39.107, taking into consideration proactive measures the district or campus has taken regarding campus personnel; and

(B) the implementation of a campus redesign, approved by the commissioner of education, that:

(i) provides a rigorous and relevant academic program;

(ii) provides personal attention and guidance;

(iii) promotes high expectations for all students; and

(iv) addresses comprehensive school-wide improvements that cover all aspects of a school's operations, including, but not limited to, curriculum and instruction changes, structural and managerial innovations, sustained professional development, financial commitment, and enhanced involvement of parents and the community.

(8) 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.

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.

§97.1053. Purpose.

(a) The provisions of Texas Education Code (TEC), Chapter 39, 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) Except as provided by §97.1055(g) of this title, the provisions of TEC, Chapter 39, and this subchapter apply in the same manner to an open-enrollment charter school as to a district.

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.

§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 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) 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.

(8) 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.

(9) 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.

(b) Determination of Accredited-Warned status.

(1) A district shall be assigned Accredited-Warned status if, beginning with its 2006 rating, the district is assigned:

(A) for two consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title (relating to Accountability Rating System);

(B) for two consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 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 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, 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 investigation under TEC, §39.056 or §39.057, the commissioner finds:

(i) the district's programs monitored under §97.1005 of this title (relating to Performance-Based Monitoring Analysis System) 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.

(4) Notwithstanding any provisions in this subsection, a district shall be assigned Accredited-Warned status if it has otherwise earned the Accredited status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(c) Determination of Accredited-Probation status.

(1) A district shall be assigned Accredited-Probation status if, beginning with its 2006 rating, the district is assigned:

(A) for three consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title;

(B) for three consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 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 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, 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 investigation under TEC, §39.056 or §39.057, 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.

(4) Notwithstanding any provision in this subsection, a district shall be assigned Accredited-Probation status if it has otherwise earned the Accredited-Warned status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(d) Determination of Not Accredited-Revoked status; Revocation of accreditation.

(1) The accreditation of a district shall be revoked if, beginning with its 2006 rating, the district is assigned:

(A) for four consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title;

(B) for four consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 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) 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 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, 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 investigation under TEC, §39.056 or §39.057, 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.

(3) Notwithstanding paragraph (2) 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.

(4) Notwithstanding any provision in this subsection, a district shall be assigned Not Accredited-Revoked status if it has otherwise earned the Accredited-Probation status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(5) The commissioner's decision to revoke a district's accreditation may be appealed under §97.1037 of this title (relating to Record Review of Certain Decisions). If the decision is sustained on appeal, the commissioner shall appoint a management team or board of managers to bring to closure the district's operation of the public school.

(e) Legal compliance. In addition to the district's performance as measured by ratings under §97.1001 and §109.1002 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 or Accredited-Probation status.

(1) A district assigned an accreditation status of Accredited-Warned or Accredited-Probation 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 the newspaper with the greatest circulation 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.

(g) Substitute criteria if no charter school financial accountability rating. In considering the financial performance of a charter operator during a fiscal year for which no financial accountability ratings were assigned to charter operators under §109.1002 of this title, the commissioner shall apply the following substitute criteria.

(1) Finding in lieu of rating. Any of the following findings, made after an opportunity for a record review under paragraph (2)(B) of this subsection, shall be deemed the equivalent of a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 of this title:

(A) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title (relating to Accounting for State Funds) was received more than 180 days after the close of the entity's fiscal year;

(B) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title disclosed total assets of less than 80% of total liabilities; or

(C) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title contained:

(i) an adverse opinion, including a going concern disclosure, or a disclaimer of opinion; and

(ii) the adverse or disclaimed opinion pertained to:

(I) financial resources or expenditures that were not properly documented; or

(II) a material weakness in internal controls that led to the misallocation of financial resources.

(2) Provisions concerning finding. Whenever a provision of this section calls for consideration of the financial accountability rating of a charter operator for a fiscal year, a finding described by paragraph (1) of this subsection shall be deemed the financial accountability rating and applied as if such finding were issued under §109.1002 of this title.

(A) If a provision of this section calls for consideration of the financial accountability rating of a charter operator for more than one fiscal year, and financial accountability ratings

were assigned to charter operators under §109.1002 of this title for at least one but fewer than all of the relevant fiscal years, a finding described by paragraph (1) of this subsection shall be deemed the financial accountability rating only for the fiscal year(s) for which no financial accountability ratings were assigned to charter operators.

(B) A finding described by paragraph (1) of this subsection shall be issued using the process provided by §97.1035 of this title (relating to Procedures for Accreditation Sanctions) and shall be subject to a record review under §97.1037 of this title (relating to Record Review of Certain Decisions).

(C) A finding described by paragraph (1) of this subsection shall be issued pertaining to each fiscal year beginning with the 2007-2008 fiscal year. For the 2006-2007 fiscal year, the TEA shall report the performance of each open-enrollment charter operator for informational purposes only.

(h) Third-party accreditation. The commissioner may recognize a supplemental accreditation issued by a rating agency approved by the commissioner to a charter operator that meets the standards determined by the commissioner under subsection (a)(1)(A) of this section. A charter operator that fails to meet the standards for accreditation under subsection (a)(1)(A) of this section may not receive such recognition until the charter operator meets the standards for the Accredited status as determined by the commissioner.

Source: The provisions of this §97.1055 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.

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

(a) The provisions of Texas Education Code (TEC), Chapter 39, 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, Chapter 39, or this section if the commissioner determines that the action is necessary to improve any area of performance by the district or campus.

(d) Subject to §97.1035 of this title (relating to Procedures for Accreditation Sanctions), 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 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.

(e) In determining whether to impose a particular sanction under TEC, Chapter 39, 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; and

(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.

(f) In determining whether to impose a particular sanction under TEC, Chapter 39, or this subchapter based on resource allocation practices as authorized by TEC, §39.0821 and §39.057(a)(12), (d) and (e), the commissioner shall consider the factors specified in §97.1053 of this title.

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.

§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 §109.1002 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; Intervention Stages) or other law;

(E) the results of a special accreditation investigation under Texas Education Code, §39.057;

(F) the results of an investigative report under §97.1033 of this title (relating to Informal Review of Preliminary Investigative Report; Final Investigative Report); complaint investigation; special education due process hearing; or data integrity investigation, including an investigation of assessment or financial data; or

(G) other information related to subparagraphs (A)-(F) 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.

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.

§97.1061. Interventions and Sanctions for Campuses.

(a) If a campus' performance is below any standard under Texas Education Code (TEC), §39.054(e), the commissioner of education shall take any action provided by TEC, Chapter 39, Subchapter E, to the extent the commissioner determines necessary. In addition, the commissioner may take either or both of the following actions, to the extent the commissioner determines necessary:

(1) order a hearing before the commissioner at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus' low performance, lack of improvement, and plans for improvement; or

(2) establish a school community partnership team (SCPT) composed of members of the campus-level planning and decision-making committee established under TEC, §11.251, or this section and additional community representatives as determined appropriate by the commissioner.

(b) If a campus performance satisfies academic accountability standards under TEC, §39.054(e), for the current school year but would not satisfy standards under TEC, §39.054(e), if the standards to be used for the following school year were applied to the current school year, the commissioner may require the campus-level planning and decision-making committee established under TEC, §11.251, to revise and submit to the commissioner in an electronic format the portions of the campus improvement plan (CIP) developed under TEC, §11.253, that are relevant to those areas for which the campus would not satisfy performance standards.

(c) If the campus to which subsection (b) of this section applies is an open-enrollment charter school, the school shall establish a campus-level planning and decision-making committee using the same procedures, as much as practicable, as those provided by TEC, §11.251(b)-(e), and develop a CIP as provided by TEC, §11.253. The school shall submit its proposed procedures for approval by the commissioner prior to establishing the committee.

(d) On request of the commissioner, the campus to which subsection (c) of this section applies shall submit to the commissioner in an electronic format the portions of the CIP that are relevant to those areas for which the campus would not satisfy academic accountability standards.

(e) A SCPT established under this section shall continue from year to year until the commissioner determines that it may be discontinued.

(f) Notwithstanding the provisions of TEC, Chapter 39, Subchapter E, and this subchapter, if the commissioner determines that a campus subject to interventions or sanctions under this subchapter has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with this subchapter.

Source: The provisions of this §97.1061 adopted to be effective July 28, 2010, 35 TexReg 6523.

§97.1063. Campus Intervention Team.

(a) If the performance of a campus is below any standard under Texas Education Code (TEC), §39.054(e), for the current school year, the commissioner of education shall assign a campus intervention team (CIT) under TEC, §39.106, and this section. The duties and responsibilities of the CIT will be based on the reasons for the campus' academic accountability rating.

(1) In assigning a CIT to a campus below a standard under TEC, §39.054(e), for the first year, the commissioner will offer the school district an opportunity to recommend CIT members under procedures established by the Texas Education Agency (TEA).

(A) If the district does not recommend CIT members under TEA procedures, the commissioner will assign a CIT without such input.

(B) If the commissioner does not approve the CIT membership recommendation by the district, the commissioner will assign the CIT members.

(2) In assigning a CIT to a campus below a standard under TEC, §39.054(e), for the second or more consecutive year, the commissioner will approve CIT members only as provided by procedures established by the TEA.

(3) If the campus does not implement the school improvement plan (SIP) or the recommendations of the CIT, the commissioner shall order the reconstitution of the campus in accordance with TEC, §39.107, and §97.1064 of this title (relating to Reconstitution).

(b) A CIT shall:

(1) conduct a targeted on-site needs assessment relevant to the areas of insufficient performance of the campus as provided by subsection (c) of this section, or if the commissioner determines necessary, a comprehensive on-site needs assessment using the procedures provided by subsection (c) of this section;

(2) recommend appropriate actions as provided by subsection (d) of this section;

(3) assist the campus in developing a SIP targeted to address the needs of the campus relating to the areas of insufficient performance;

(4) assist the campus in submitting its SIP to its board of trustees for approval and in presenting the board of trustees' SIP in a public hearing as provided by subsection (j) of this section; and

(5) assist the commissioner in monitoring the progress of the campus in implementing the SIP.

(c) An on-site needs assessment of the campus under subsection (a) of this section must determine the contributing education-related and other factors resulting in the campus' low performance and lack of progress. The CIT shall use the guidelines and procedures provided by TEC, §39.106(b), in conducting the targeted or comprehensive on-site needs assessment.

(d) On completing the on-site needs assessment under this section, the CIT shall recommend actions relating to any area of insufficient performance, including those specified by TEC, §39.106(c).

(e) The CIT shall assist the campus in submitting the SIP or updated SIP to the commissioner for approval. The board of trustees shall ensure that the campus submits its SIP by a date prescribed by the TEA.

(f) A school community partnership team (SCPT) shall supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee under TEC, Chapter 11, Subchapter F, or §97.1061(c) of this title (relating to Interventions and Sanctions for Campuses), if this is provided by the commissioner in establishing the SCPT under §97.1061(a)(2) of this title. In that event, the CIT shall involve and be advised by the SCPT in carrying out the duties set forth in subsections (b)(1) and (d) of this section.

(g) The commissioner may authorize a SIP or updated SIP developed under this subchapter to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan (CIP) under TEC, Chapter 11, Subchapter F, or §97.1061(c) of this title.

(h) In assisting the district/campus to execute its approved SIP, the CIT will, as appropriate:

(1) assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs and financial management;

(2) provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation support, and budget analysis, in order to help the campus strengthen and improve its instructional programs; and

(3) request the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus. At the recommendation of the CIT, the commissioner may require the district to develop such a plan.

(i) For each year a campus is assigned an unacceptable performance rating under the state academic accountability system, a CIT shall:

(1) continue to work with the campus until:

(A) the campus satisfies all performance standards under TEC, §39.054(e), for a two-year period; or

(B) the campus satisfies all performance standards under TEC, §39.054(e), for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement;

(2) assist in updating the SIP to identify and analyze areas of growth and areas that require improvement; and

(3) assist the campus in submitting its updated SIP to its board of trustees.

(j) After a SIP or updated SIP is submitted to the board of trustees of the school district, the board:

(1) shall conduct a hearing for the purpose of:

(A) notifying the public of the insufficient performance, the improvements in performance expected by the TEA, and the intervention measures or sanctions that may be imposed under this subchapter if the performance does not improve within a designated period; and

(B) soliciting public comment on the SIP or any updated SIP;

(2) must post the SIP on the district's Internet website at least 72 hours before the hearing;

(3) may conduct one hearing relating to one or more campuses subject to a SIP or an updated SIP; and

(4) after modifying the SIP in response to public comment, as appropriate, shall submit the SIP or any updated SIP to the commissioner for approval. The SIP submitted to the commissioner for approval may include procedures for submitting certain changes or adjustments to the commissioner for approval without the necessity of further board hearing and action under this subsection.

(k) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under subsection (a) of this section is not fully implementing the CIT's recommendations or SIP or updated SIP, the commissioner may order the reconstitution of the campus as provided by TEC, §39.107, and §97.1064 of this title.

Source: The provisions of this §97.1063 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective July 28, 2010, 35 TexReg 6523.

§97.1064. Reconstitution.

(a) When a campus is assigned an unacceptable performance rating under the state academic accountability system for two consecutive school years, the commissioner of education shall order the campus reconstituted under procedures developed by the Texas Education Agency (TEA), and the campus intervention team (CIT) will continue to be assigned under §97.1063 of this title (relating to Campus Intervention Team).

(1) A campus ordered to reconstitute shall use the school year in which its second identification occurs to plan the reconstitution, with the assistance of the district and CIT, and shall open the subsequent school year as a reconstituted campus regardless of the state academic accountability rating assigned to the campus in that school year. For example: A district campus is rated Academically Unacceptable for the second consecutive year on August 1, 2009. In September 2009, the commissioner orders reconstitution, and the district uses the 2009-2010 school year to plan the reconstitution. The district must open the reconstituted campus in the fall of 2010.

(A) The CIT shall decide which educators may be retained at the campus when it opens as a reconstituted campus for the subsequent school year.

(B) A principal who has been employed by the campus in that capacity during the full period of campus performance resulting in the ratings triggering action under this subsection may not be retained at the campus when it opens as a reconstituted campus for the subsequent school year unless the CIT determines that retention of the principal would be more beneficial to the student achievement and campus stability than removal.

(C) A teacher of a subject assessed by an assessment instrument under Texas Education Code (TEC), §39.023, may be retained at the reconstituted campus only if the CIT determines that a pattern exists of significant academic improvement by students taught by the teacher.

(D) If an educator is not retained at the reconstituted campus, the educator may be assigned to another position in the district.

(2) A campus subject to this subsection shall implement the requirements of §97.1063 of this title and shall implement the updated school improvement plan (SIP), including the plan for campus reconstitution, as approved by the commissioner. The TEA may assign a monitor, conservator, management team, or board of managers to a district with a campus assigned an unacceptable performance rating under the state academic accountability system for two or more consecutive school years in order to ensure and oversee district-level support to low-performing campuses and the implementation of the updated SIP and the reconstitution plan. In making appointments under this subsection, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(3) The commissioner shall order repurposing, alternative management, or campus closure under §97.1065 of this title (relating to Repurposing, Alternative Management, or Campus Closure) when a campus assigned an unacceptable performance rating under the state academic accountability system for two or more consecutive school years has failed to fully implement recommendations of the CIT or terms of the updated SIP and the reconstitution plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated SIP and such order is needed to achieve the purposes listed in §97.1053 of this title (relating to Purpose).

(b) The district is responsible for the successful reconstitution and subsequent performance of its campus. The CIT shall assist the reconstituting campus in:

(1) developing an updated SIP;

(2) submitting the updated SIP to the board of trustees of the school district for approval and presenting the plan in a public hearing as provided by §97.1063(j) of this title;

(3) seeking approval of the updated SIP from the commissioner; and

(4) executing the plan on approval by the commissioner.

(c) For each year that a campus is considered to have an unacceptable performance rating under the state academic accountability system, a CIT shall:

(1) assist in updating the SIP to identify and analyze areas of growth and areas that require improvement; and

(2) support and assist the campus in submitting its updated SIP to the board of trustees of the school district, to the parents of campus students, and to the TEA for approval.

(d) In combination with action under this section, the commissioner may impose on the district or campus any other sanction under TEC, Chapter 39, 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. In particular, the commissioner may:

(1) impose a campus accreditation sanction under §97.1061 of this title (relating to Interventions and Sanctions for Campuses);

(2) take action under any provision of TEC, Chapters 12 or 39; and/or

(3) require the district to purchase professional services under TEC, §39.109.

(A) The commissioner's order may require the district or campus to:

(i) select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

(ii) provide for or participate in the appropriate training of district staff or board of trustee's members in the case of a district or campus staff in the case of a campus.

(B) If the commissioner's order requires the district or campus to select a specific professional service provider, the district is exempt from following competitive bidding procedures before executing the contract.

Source: The provisions of this §97.1064 adopted to be effective July 28, 2010, 35 TexReg 6523.

§97.1065. Repurposing, Alternative Management, or Campus Closure.

(a) Action required. The commissioner of education shall order repurposing, alternative management, or closure of a campus as provided in this section, if the campus is assigned an unacceptable performance rating under the state academic accountability system for the third consecutive school year after reconstitution is required to be implemented under §97.1064 of this title (relating to Reconstitution).

(b) 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 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 impose sanctions as specified in §97.1064(d) of this title and/or 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 school improvement plan (SIP) and the reconstitution plan.

(c) Campus repurposing.

(1) If the commissioner orders repurposing of a campus under this section, the school district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board of trustees for approval and to the commissioner for approval, using the procedures described by §97.1063 of this title (relating to Campus Intervention Team) for SIP approvals. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models.

(2) The commissioner may not approve the repurposing of a campus unless:

(A) all students in the assigned attendance zone of the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll in and are provided transportation on request to a campus approved by the commissioner, unless the commissioner grants an exception because there is no other campus in the district in which the students may enroll;

(B) the principal is not retained at the campus, unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and

(C) teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless the commissioner or the commissioner's designee grants an exception, at the request of a school district, for:

(i) a teacher who provides instruction in a subject other than a subject for which an assessment instrument is administered under TEC, §39.023(a) or (c), who demonstrates to the commissioner satisfactory performance; or

(ii) a teacher who provides instruction in a subject for which an assessment instrument is administered under TEC, §39.023(a) or (c), if the district demonstrates that the students of the teacher demonstrated satisfactory performance or improved academic growth on that assessment instrument.

(3) If an educator is not retained under paragraph (2)(C) of this subsection, the educator may be assigned to another position in the district.

(d) Alternative management. The commissioner may order alternative management of a campus under this section and may require the campus to remain open, when:

(1) the commissioner does not approve repurposing of the campus under subsection (c) of this section and does not order the closure of the campus under §97.1051(3) of this title (relating to Definitions);

(2) the commissioner determines that alternative management has a reasonable expectation of producing an acceptable or higher campus performance rating in the state academic accountability system within three rating cycles of assignment of the alternative management service provider under §97.1067 of this title (relating to Alternative Management of Campuses);

(3) an alternative management service provider with the necessary skills and required expertise is available under §97.1069 of this title (relating to Providers of Alternative Campus Management); and

(4) such action is determined warranted under §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations) and other standards for accreditation sanction determinations.

(e) Closure. The commissioner may order closure of the campus when action is required under this section and:

(1) the commissioner approves neither repurposing of the campus under subsection (c) of this section nor alternative management under subsection (d) of this section;

(2) the district fails to enter into a contract for alternative management under §97.1067 of this title as required by §97.1067 of this title; or

(3) the commissioner does not approve the contract for alternative management under §97.1067 of this title; and

(4) such action is determined warranted under §97.1059 of this title and other standards for accreditation sanction determinations.

(f) Alternative management unsuccessful. 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) Appeal. An order proposing action under this section may be appealed only as provided by §97.1037 of this title (relating to Record Review of Certain Decisions).

(h) Waiver. The commissioner may waive the requirement to enter an order under subsection (a) of this section for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating under the state academic accountability system for the following school year.

(i) Targeted technical assistance. In addition to the grounds specified in TEC, §39.109, 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.

(j) Lack of improvement. The commissioner shall order repurposing, alternative management, or campus closure under this section if the students enrolled at a campus assigned an unacceptable performance rating under the state academic accountability system for two or more consecutive school years fail to demonstrate substantial improvement in the areas targeted by the campus' updated SIP and such order is needed to achieve the purposes listed in §97.1053 of this title.

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.

§97.1067. Alternative Management of Campuses.

(a) By January 1 of the school year in which alternative management of a campus is ordered under §97.1065 of this title (relating to Repurposing, Alternative Management, or Campus Closure), the school district shall:

(1) execute a contract 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 acceptable or higher performance rating under the state academic accountability system for two consecutive school years; or

(B) the commissioner of education orders campus closure under §97.1065(e) or (f) 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) 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.

(g) A district that violates the terms of its contract under this section is subject to further sanctions under this subchapter.

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.

§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.

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.

§97.1071. Special Program Performance; Intervention Stages.

(a) The commissioner of education shall assign a school district to an intervention stage based on performance levels under §97.1005 of this title (relating to Performance-Based Monitoring Analysis System) according to the following general criteria:

(1) the degree to which the district's performance reflects a need for intervention, 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 to aggregated state performance and to the performance of other districts;

(3) the availability of state and regional resources to intervene in all districts exhibiting a comparable need for intervention; 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.

(b) 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; and

(5) longitudinal intervention history.

(c) The standards used to assign districts to specific intervention stages under this section are established annually by the commissioner and communicated to all school districts.

(d) The commissioner may use graduated stages of intervention to address student performance, program effectiveness, and/or data quality deficiencies referenced in §97.1005 of this title. In addition to any sanction authorized by Texas Education Code (TEC), Chapter 39, such intervention may require a district to implement and/or participate in:

(1) focused analysis of district data;

(2) required district review of program effectiveness;

(3) required public meetings;

(4) focused compliance reviews conducted by review teams established by the TEA;

(5) on-site reviews; and/or

(6) continuous improvement planning.

(e) The commissioner shall notify each district selected for intervention under this section via the Intervention Stage and Activity Manager (ISAM) on the TEA secure website.

(1) The TEA shall notify districts that intervention stages have been posted to ISAM by:

(A) posting a "To the Administrator Addressed" letter on the TEA web page for correspondence; or

(B) sending a "To the Administrator Addressed" letter via electronic mail or first-class mail.

(2) It is the district's obligation to access the correspondence by:

(A) subscribing to the listserv for "To the Administrator Addressed Correspondence;" and

(B) accessing the ISAM system as directed to retrieve intervention instructions and information.

(f) Intervention 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 and do not preclude or substitute for a sanction under another provision of this subchapter.

(1) The level of intervention selected under this section does not reflect any decision on, or consideration of, the need for other sanctions.

(2) A decision to impose other sanctions shall be based on the accreditation and compliance performance of the district, as determined under §97.1035 of this title (relating to Procedures for Accreditation Sanctions) and this subchapter, and not on the level of intervention chosen under this section.

(g) Intervention 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 monitoring status of the district; and/or

(8) lowering of the district's accreditation status, academic accountability rating, and/or financial accountability rating.

(h) As a system safeguard, the TEA will conduct desk review or on-site data verification activities through a random or other means of selection to verify system effectiveness and/or district implementation of monitoring requirements, including, but not limited to, accuracy of data reporting, implementation of intervention activities, implementation of plans for improvement or correction, and accuracy of findings made through the performance-based monitoring system process.

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.

§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 shall appoint a monitor under Texas Education Code (TEC), §39.102(a)(6), when:

(1) 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;

(2) 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;

(3) the district has been responsive to and generally compliant with previous commissioner sanctions and TEA interventions; and

(4) 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 shall appoint a conservator under TEC, §39.102(a)(7) and §39.111, or a management team under TEC, §39.102(a)(8) and §39.111, when:

(1) the nature or duration of the deficiencies require that the TEA directly oversee the operations of the district in the area(s) of deficiency;

(2) the district has not been responsive to or compliant with TEA intervention requirements; or

(3) 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 shall be based solely on logistical concerns, including the competencies required and the volume of work involved. Selecting a management team rather than a conservator does not reflect on the severity of the deficiencies to be addressed.

(e) The commissioner shall appoint a board of managers under TEC, §39.112 and §39.102(a)(9) or (b), as applicable, when:

(1) sanctions under subsection (b) or (c) of this section have been ineffective to achieve the purposes identified in §97.1035 of this title (relating to Procedures for Accreditation Sanctions);

(2) the commissioner has initiated proceedings under §97.1037 of this title (relating to Record Review of Certain Decisions) to close or annex the district;

(3) the commissioner has initiated proceedings under §97.1037 of this title to close a campus, and such intervention is needed to cease operations of the campus; or

(4) such intervention is needed to prevent substantial or imminent harm to the welfare of the district's students or to the public interest.

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.