ATTACHMENT II
Text of Adopted New 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter AA. Commissioner's Rules Concerning Financial Accountability [~~Rating System~~]

Division 2. Financial Solvency

§109.1101. Financial Solvency Review.

(a) Purpose of financial solvency review. The purpose of the financial solvency review is to anticipate the future financial solvency of Texas public school districts and open-enrollment charter schools. The review is designed to alert school districts and open-enrollment charter schools to circumstances that could lead to financial insolvency.

(b) Definitions. The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Financial solvency--When used to describe a school district or open-enrollment charter school, the condition in which a school district or open-enrollment charter school either is generally paying its debts as they become due, unless such debts are the subject of a bona fide dispute, or is able to pay its debts as they become due.

(2) Public Education Information Management System (PEIMS)--The system described by §61.1025 of this title (relating to Public Education Information Management System (PEIMS) Data and Reporting Standards).

(c) Financial solvency review data.

(1) In its financial solvency review, the Texas Education Agency (TEA) will use the following data, which are available to the TEA through existing data sources:

(A) annual financial audits for the past two school years;

(B) PEIMS financial actual data for the past two school years;

(C) PEIMS financial budget data for the current year and the past two school years;

(D) PEIMS staff data for the current year and the past two school years;

(E) PEIMS student data for the current year and the past two school years; and

(F) school district tax rate data.

(2) In its financial solvency review, the TEA will use the following additional information, which the TEA will request from school districts and open-enrollment charter schools:

(A) first-quarter school district and open-enrollment charter school financial data for the current school year; and

(B) school district and open-enrollment charter school comments.

(3) School districts and open-enrollment charter schools that the TEA selects for additional review may be required to submit other additional information as described in subsection (d)(5) of this section.

(4) School districts and open-enrollment charter schools that the TEA projects to have a general fund deficit within the next three school years will be required to submit interim financial reports supplemented by staff and student data as described in subsection (d)(5) of this section.

(d) Financial solvency review.

(1) In its financial solvency review, the TEA will use the methodology described in the document provided in this paragraph, entitled "Financial Solvency Review Methodology."

Figure: 19 TAC §109.1101(d)(1) [~~Figure: 19 TAC §109.1101(d)(1)~~]

(2) In its financial solvency review, the TEA will analyze the following:

(A) school district and open-enrollment charter school revenues and expenditures for the past school year; and

(B) projected school district and open-enrollment charter school revenues and expenditures for the current school year and the next two school years.

(3) In analyzing the information under paragraph (2) of this subsection, the TEA may consider, for the past school year, the current school year, and the next two school years, as appropriate, the following:

(A) student-to-staff ratios relative to expenditures;

(B) average staff salaries;

(C) the rate of change in the unreserved (assigned and unassigned, effective beginning with fiscal year 2010-2011 data) general fund balance;

(D) the number of students enrolled in the district or open-enrollment charter school;

(E) the adopted tax rate of the school district;

(F) any independent audit report prepared for the school district or open-enrollment charter school; and

(G) actual school district or open-enrollment charter school financial information for the first quarter.

(4) The TEA will notify any school district or open-enrollment charter school for which the financial solvency review shows one or more of the following:

(A) a student-to-staff ratio that is significantly outside the norm;

(B) a rapid depletion of the general fund balance; or

(C) a significant discrepancy between submitted budget figures and projected revenues and expenditures.

(5) The TEA may extend the financial solvency review and require additional documentation of a school district or open-enrollment charter school that has been notified as described in paragraph (4) of this subsection following an initial review.

(A) The TEA will determine additional documentation requirements on a case-by-case basis.

(B) The TEA will use additional documentation and comments submitted by a school district or open-enrollment charter school to determine whether the school district or open-enrollment charter school is projected to have a deficit for its general fund within the next three school years.

(C) If the financial solvency review indicates a projected deficit for a school district or open-enrollment charter school general fund within the next three school years, the school district or open-enrollment charter school must submit to the TEA interim financial reports, supplemented by staff and student count data, as needed, for the TEA to evaluate the current budget status of the school district or open-enrollment charter school.

(D) If analysis and evaluation of the additional data required to be submitted under subparagraph (C) of this paragraph substantiates a projected deficit within the next three school years, the school district or open-enrollment charter school must develop and submit a financial plan to the TEA for approval.

(6) All documentation generated and gathered in the process of determining a school district's or open-enrollment charter school's financial solvency will be considered working papers and not subject to open records requests. Financial solvency documentation related to school districts and open-enrollment charter schools required to submit financial plans will be subject to open records requests as permitted by statute or rule.

(e) Financial plans.

(1) If the TEA determines that a school district or open-enrollment charter school is required to submit a financial plan, the TEA will provide written notification of this requirement to the school district or open-enrollment charter school.

(2) On receiving the notification described in paragraph (1) of this subsection, a school district or open-enrollment charter school must develop and submit to the TEA for approval a financial plan for avoiding the projected insolvency.

(3) If the TEA determines that a submitted financial plan will permit a school district or open-enrollment charter school to avoid projected insolvency, the TEA will provide written notification of its approval of the financial plan to the school district or open-enrollment charter school.

(4) If the TEA determines that a submitted financial plan will not permit a school district or open-enrollment charter school to avoid projected insolvency, the TEA will require the school district or open-enrollment charter school to modify the financial plan submitted to the TEA. The TEA will provide written notification of this requirement to the school district or open-enrollment charter school.

(5) The TEA may monitor the implementation of a financial plan or modified financial plan that is based on a financial review for a period of up to three years after TEA approval of the financial plan or modified financial plan, as applicable.

(f) Financial plans and accreditation. The commissioner of education will assign an Accredited-Warned status to a school district or open-enrollment charter school that is required to develop and submit a financial plan as provided by subsection (e) of this section if:

(1) the school district or open-enrollment charter school fails to submit a financial plan to avoid a projected deficit;

(2) the school district or open-enrollment charter school fails to get approval from the TEA for a financial plan or modified financial plan;

(3) the school district or open-enrollment charter school fails to comply with a TEA-approved financial plan; or

(4) the TEA determines in a subsequent school year, based on financial data submitted by the school district or open-enrollment charter school, that the approved plan for the school district or open-enrollment charter school is no longer sufficient or is not appropriately implemented.

(g) Decisions by commissioner final. All financial plan approval decisions [~~and accreditation status decisions~~] made by the commissioner in regard to the financial solvency review are final and cannot be appealed.