

ATTACHMENT II
Text of Adopted New 19 TAC

Chapter 97. Planning and Accountability

Subchapter EE. Accreditation Status, Standards, and Sanctions

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

- (a) Students with disabilities residing in residential facilities (RFs) are a unique and vulnerable population that often has limited access to family members who can advocate for their educational needs. Accordingly, the commissioner of education hereby establishes the Residential Facility Monitoring (RFM) system, through which the Texas Education Agency (TEA) will meet its federal and state special education monitoring obligations under 34 Code of Federal Regulations §300.149 and §300.600 and Texas Education Code (TEC), §29.010, for this population. The definition of an RF for purposes of the RFM system will be included in the Residential Facility Monitoring (RFM) Manual provided in subsection (f) of this section. Districts serving students with disabilities residing in RFs located within the districts' geographic boundaries and/or jurisdictions will be subject to the RFM system. These districts are referred to as RF districts.
- (b) RF districts shall report data, as directed by the TEA, in a data collection system accessible through the TEA secure website.
- (c) The commissioner shall determine which RF districts will be subject to RFM activities based on a review of available information according to the following general criteria or other factors set forth in the Residential Facility Monitoring (RFM) Manual:
 - (1) the degree to which the district's data reflect a need for monitoring and intervention, as indicated by the number of RF students with disabilities enrolled in the district; the presence of new RFs within the district; and the district's performance on certain critical indicators related to compliance with special education program requirements;
 - (2) a comparison of the district's performance to aggregated state performance and to the performance of other districts;
 - (3) a review of the district's longitudinal performance;
 - (4) the availability of state and regional resources to intervene in all districts exhibiting a comparable need for intervention; and
 - (5) the length of time since the district was last subject to RFM activities.
- (d) In addition to the criteria under subsection (c) of this section, the commissioner may use random district selection as a method of system validation and/or may consider any other applicable information such as:
 - (1) complaints investigation results;
 - (2) special education due process hearing decisions;
 - (3) data validation activities;
 - (4) monitoring results under §97.1071 of this title (relating to Special Program Performance; Intervention Stages);
 - (5) the degree to which the district has achieved timely correction of previously identified noncompliance with program requirements;
 - (6) longitudinal intervention history; and
 - (7) other relevant factors.
- (e) The commissioner may use graduated monitoring and intervention activities to implement the RFM system. In addition to any investigation, intervention, or sanction authorized by TEC, Chapter 39, or §89.1076 of

this title (relating to Interventions and Sanctions), such intervention may require an RF district to implement and/or participate in:

- (1) focused analysis of district data;
 - (2) reviews of district program effectiveness;
 - (3) public meetings;
 - (4) focused compliance reviews conducted by review teams established by the TEA;
 - (5) on-site reviews; and/or
 - (6) corrective action planning.
- (f) The specific criteria, standards, and procedures for implementing the RFM system are described in excerpted sections of the Residential Facility Monitoring (RFM) Manual, dated August 2010, provided in this subsection.
- [Figure: 19 TAC §97.1072\(f\)](#)
- (g) RFM activities under this section are intended to assist the RF district in achieving compliance with federal and state special education requirements and do not preclude or substitute for a sanction under another provision of this subchapter.
- (1) The TEA will implement sanctions authorized under TEC, Chapter 39, or this subchapter as necessary to promote timely and complete correction of identified noncompliance.
 - (2) A decision to impose sanctions shall be based on the accreditation and compliance performance of the district, as determined under §89.1076 of this title, §97.1035 of this title (relating to Procedures for Accreditation Sanctions), and this subchapter.
- (h) RFM actions taken under this section do not preclude or substitute for other responses to or consequences of program ineffectiveness or noncompliance identified by the TEA such as:
- (1) assignment of required professional services, paid for by the district;
 - (2) required submission of an improvement and/or corrective action plan, including the provision of compensatory services as appropriate, paid for by the district;
 - (3) expanded oversight, including, but not limited to, frequent follow-up contacts with the district, submission of documentation verifying implementation of intervention activities and/or a corrective action plan, and submission of district/program data;
 - (4) public release of RFM review findings;
 - (5) issuance of a public notice of deficiencies and planned corrective actions to the district's board of trustees;
 - (6) denial of requests under TEC, §7.056 and/or §12.114;
 - (7) appointment of a monitor, conservator, management team, or board of managers under TEC, Chapter 39, and/or §97.1073 of this title (relating to Appointment of Monitor, Conservator, or Board of Managers);
 - (8) reduction, suspension, redirection, or withholding of program funds;
 - (9) lowering of the district's special education monitoring status; and/or
 - (10) lowering of the district's accreditation status.
- (i) As a system safeguard, the TEA will conduct desk review or on-site verification activities through random or other means of selection to verify system effectiveness and/or district implementation of RFM requirements, including, but not limited to, accuracy of data reported through the data collection system accessible through the TEA secure website and other data reporting, timely and sufficient implementation of monitoring and intervention activities, implementation of corrective action plans, and continued district compliance after completion of a corrective action plan.