

ATTACHMENT II
Text of Adopted Amendments to 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

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

§109.1001. Purpose of Financial Accountability Rating System.

The purpose of the financial accountability rating system is to ensure that school districts and open-enrollment charter schools will be held accountable for the quality of their financial management practices and achieve improved performance in the management of their financial resources. The system is designed to encourage Texas public schools to manage their financial resources better in order to provide the maximum allocation possible for direct instructional purposes. The system will also disclose the quality of local management and decision-making processes that impact the allocation of financial resources in Texas public schools. An evaluation of the long-term effectiveness of the system should disclose a measurable improvement in the quality of Texas public schools' financial decision-making processes.

§109.1002. Financial Accountability Ratings.

(a) In accordance with Texas Education Code (TEC), Chapter 39, Subchapter D [H] , each school district and open-enrollment charter school must be assigned a financial accountability rating by the Texas Education Agency (TEA). The specific procedures for determining financial accountability ratings will be established annually by the commissioner of education and communicated to all school districts and open-enrollment charter schools .

(b) For fiscal years 2002-2003, 2003-2004, 2004-2005, and 2005-2006, each financial accountability rating of a school district is based on its overall performance on certain financial measurements, ratios, and other indicators established by the commissioner of education in the financial accountability rating form provided in this subsection entitled "School FIRST – Rating Worksheet," effective May 2003.

Figure: 19 TAC §109.1002(b) (No change.)

(c) For [Beginning with] fiscal years [year] 2006-2007 and 2007-2008 , the financial accountability rating of a school district is based on its overall performance on certain financial measurements, ratios, and other indicators established by the commissioner of education in the financial accountability rating form provided in this subsection entitled "School FIRST – Rating Worksheet Effective August 2006." On this form, Indicator 13 entitled, "Was The Percent Of Operating Expenditures Expended For Instruction More Than or Equal to 65%?" was [will be] phased in over a three-year period, as follows.

Figure: 19 TAC §109.1002(c) (No change.)

(1) For fiscal year 2006-2007, the indicator was [will be] "Was The Percent Of Operating Expenditures Expended For Instruction More Than or Equal to 55%?"

(2) For fiscal year 2007-2008, the indicator was [will be] "Was The Percent Of Operating Expenditures Expended For Instruction More Than or Equal to 60%?"

(3) For fiscal year 2008-2009 and beyond, the indicator was repealed. [will be "Was The Percent Of Operating Expenditures Expended For Instruction More Than or Equal to 65%?"]

(d) Beginning with fiscal year 2008-2009, the financial accountability rating of a school district is based on its overall performance on certain financial measurements, ratios, and other indicators established by the commissioner of education in the financial accountability rating form provided in this subsection entitled "School FIRST – Rating Worksheet Dated March 2010."

Figure: 19 TAC §109.1002(d)

~~(e)~~ Beginning with fiscal year 2008-2009, the financial accountability rating of an open-enrollment charter school is based on its overall performance on certain financial measurements, ratios, and other indicators established by the commissioner of education in the financial accountability rating form provided in this subsection entitled "Charter School – School FIRST – Rating Worksheet Dated March 2010."

Figure: 19 TAC §109.1002(e)

~~(f)~~ ~~(d)~~ A financial accountability rating by a voluntary association is a local option of the district or open-enrollment charter school, but it does not substitute for a financial accountability rating by the TEA.

~~(g)~~ ~~(e)~~ The TEA will issue a preliminary financial accountability rating to a school district or open-enrollment charter school within 150 days of its ~~the district's~~ complete financial data being made available to the TEA staff.

(1) The issuance of the preliminary rating will not be delayed if a district or open-enrollment charter school fails to meet the statutory deadline for submitting the annual financial and compliance report.

(2) A district or open-enrollment charter school may submit a written appeal requesting [request] that the TEA review a preliminary rating if the preliminary rating was based on a data error solely attributable to the TEA's review of the data for any of the indicators.

(A) The TEA office responsible for financial audits must receive the appeal [request for review] no later than 30 days after the TEA's release of the preliminary rating, and the appeal [request] must include substantial evidence that supports the district's or open-enrollment charter school's position.

(i) Only appeals that would result in a change of the ~~district's~~ preliminary rating will be considered.

(ii) The TEA staff will review information submitted by the district or open-enrollment charter school to validate the statements made to the extent possible. The TEA will examine all relevant data.

(iii) The TEA staff will prepare a recommendation and forward it to an external panel for review. This review panel will provide independent oversight to the appeals process.

(iv) The external review panel will examine the appeal, supporting documentation, staff research, and the staff recommendation. The review panel will determine its recommendation.

(v) The external review panel's recommendation will be forwarded to the commissioner.

(vi) The commissioner will make a final decision in accordance with the timeline specified in subparagraph ~~(E)~~ ~~(F)~~ of this paragraph.

(B) Appeals [Requests for review] received 31 days or more after the TEA issues a preliminary rating will not be considered.

(C) Errors by a district or open-enrollment charter school in recording data or submitting data through the TEA data collection and reporting system do not constitute a valid basis for appealing [requesting a review of] a preliminary rating.

~~(D)~~ A district that does not meet the 65% instructional expenditure standard (Indicator 13) may publish on their website their check register (excluding their payroll register) and their yearly payroll expenditure and receive full credit (3 points) for this indicator. The district must notify the TEA within the 30 day review process that they have posted their register on the district's website and provide the website address to receive credit for this indicator.

~~(D)~~ ~~(E)~~ A district that is the fiscal agent for a shared service arrangement (SSA) and has the staff of the SSA on their payroll may appeal Indicators 17 ~~[19]~~ and 18 ~~[20]~~ if they fail these indicators due to the number of staff that are SSA staff. The district must provide the TEA with the number of staff that are employees of the district and the number of staff that are part of the SSA. This adjustment should not be a factor for an open-enrollment charter school that is a fiscal agent since the SSA reporting requirements are different than a school district.

~~(E)~~ ~~(F)~~ If the TEA receives an appeal of ~~[a request to review]~~ a preliminary rating, a final rating will be issued to the school district or open-enrollment charter school no later than 45 days after the appeal ~~[district's request for review]~~ has been received by the TEA.

~~(F)~~ ~~(G)~~ If the TEA does not receive an appeal of ~~[a request to review]~~ a preliminary rating, the preliminary rating automatically becomes a final rating on the 31st day after issuance of the preliminary rating.

~~(G)~~ ~~(H)~~ A final rating issued by the TEA pursuant to this section may not be appealed under the TEC, §7.057, or any other law or rule.

§109.1003. Types of Financial Accountability Ratings.

(a) The types of ratings districts may receive are as follows.

- (1) Superior Achievement. In accordance with the procedures established in §109.1002 of this title (relating to Financial Accountability Ratings), a district shall be classified as Superior Achievement if it scores within the applicable range established by the commissioner of education for Superior Achievement.
- (2) Above Standard Achievement. In accordance with the procedures established in §109.1002 of this title, a district shall be classified as Above Standard Achievement if it scores within the applicable range established by the commissioner of education for Above Standard Achievement.
- (3) Standard Achievement. In accordance with the procedures established in §109.1002 of this title, a district shall be classified as Standard Achievement if it scores within the applicable range established by the commissioner of education for Standard Achievement.
- (4) Substandard Achievement. In accordance with the procedures established in §109.1002 of this title, a district shall be classified as Substandard Achievement if the district responds negatively to specified indicators or if the district scores within the applicable range established by the commissioner of education for Substandard Achievement. The commissioner of education may apply sanctions to a district that is assigned a Substandard Achievement rating and may require other corrective actions.
- (5) Suspended--Data Quality. If serious data quality issues are disclosed by the commissioner of education, a Suspended--Data Quality rating shall be assigned to the school district. The Suspended--Data Quality rating will be assigned until the district successfully resolves the data quality issues. The commissioner of education may apply sanctions to a district that is assigned a Suspended--Data Quality rating and may require other corrective actions.

(b) The types of ratings open-enrollment charter schools may receive are as follows.

- (1) Standard Achievement. In accordance with the procedures established in §109.1002 of this title, an open-enrollment charter school shall be classified as Standard Achievement if it scores within the applicable range established by the commissioner of education for Standard Achievement.
- (2) Substandard Achievement. In accordance with the procedures established in §109.1002 of this title, an open-enrollment charter school shall be classified as Substandard Achievement if the open-enrollment charter school responds negatively to specified indicators or if the open-enrollment charter school scores within the applicable range established by the commissioner of education for Substandard Achievement. The commissioner of education may apply sanctions to

an open-enrollment charter school that is assigned a Substandard Achievement rating and may require other corrective actions.

- (3) Suspended--Data Quality. If serious data quality issues are disclosed by the commissioner of education, a Suspended--Data Quality rating shall be assigned to the open-enrollment charter school. The Suspended--Data Quality rating will be assigned until the open-enrollment charter school successfully resolves the data quality issues. The commissioner of education may apply sanctions to an open-enrollment charter school that is assigned a Suspended--Data Quality rating and may require other corrective actions.

§109.1004. Criteria for Financial Accountability Ratings.

The criteria for financial accountability ratings will be based upon indicators established by the commissioner of education and reflected in §109.1002 of this title (relating to Financial Accountability Ratings), in accordance with requirements in state law and after consultation with the comptroller of public accounts. The commissioner of education shall evaluate the rating system annually and may modify the system in order to improve the effectiveness of the rating system. Changes to criteria for ratings and their effective dates will be communicated to school districts and open-enrollment charter schools .

§109.1005. Reporting.

- (a) Each school district and open-enrollment charter school is required to report information and financial accountability ratings to parents and taxpayers by implementing the following reporting procedures.
- (1) Each school district and open-enrollment charter school is required to prepare and distribute an annual financial management report in accordance with subsection (b) of this section.
 - (2) The public must be provided an opportunity to comment on the report at a public hearing in accordance with subsection (c) of this section.
- (b) The annual financial management report prepared by the school district and open-enrollment charter school must include:
- (1) a description of its ~~the district's~~ financial management performance based on a comparison, provided by the Texas Education Agency (TEA), of its ~~the district's~~ performance on the indicators established by the commissioner of education and reflected in §109.1002 of this title (relating to Financial Accountability Ratings). The report will contain information that discloses:
 - (A) state-established standards; and
 - (B) the district's or open-enrollment charter school's financial management performance under each indicator for the current and previous years' financial accountability ratings;
 - (2) any descriptive information required by the commissioner of education, including:
 - (A) a copy of the superintendent's current employment contract. The school district or open-enrollment charter school may publish the superintendent's employment contract on the school district's or open-enrollment charter school's Internet site in lieu of publication in the annual financial management report;
 - (B) a summary schedule for the fiscal year (12-month period) of total reimbursements received by the superintendent and each board member, including transactions resulting from use of the school district's or open-enrollment charter school's credit card(s) to cover expenses incurred by the superintendent and each board member. The summary schedule shall separately report reimbursements for meals, lodging, transportation, motor fuel, and other items (the summary schedule of total reimbursements is not to include reimbursements for supplies and materials that were purchased for the operation of the school district or open-enrollment charter school);

- (C) a summary schedule for the fiscal year of the dollar amount of compensation and/or fees received by the superintendent from another school district or open-enrollment charter school or any other outside entity in exchange for professional consulting and/or other personal services. The schedule shall separately report the amount received from each entity;
 - (D) a summary schedule for the fiscal year of the total dollar amount by the executive officers and board members of gifts that had an economic value of \$250 or more in the aggregate in the fiscal year. This reporting requirement only applies to gifts received by the school district's or open-enrollment charter school's (or charter holder's) executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, as a person related to another person within the first degree by consanguinity or affinity) from an outside entity that received payments from the school district or open-enrollment charter school (or charter holder) in the prior fiscal year, and gifts from competing vendors that were not awarded contracts in the prior fiscal year. This reporting requirement does not apply to reimbursement of travel-related expenses by an outside entity when the purpose of the travel is to investigate or explore matters directly related to the duties of an executive officer or board member, or matters related to attendance at education-related conferences and seminars whose primary purpose is to provide continuing education (this exclusion does not apply to trips for entertainment-related purposes or pleasure trips). This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had an aggregate economic value of less than \$250 per executive officer or board member; and
 - (E) a summary schedule for the fiscal year of the dollar amount by board member for the aggregate amount of business transactions with the school district or open-enrollment charter school (or charter holder) . This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; and
- (3) any other information the board of trustees of the district or open-enrollment charter school determines to be useful.
- (c) The board of trustees of each school district or open-enrollment charter school shall hold a public hearing on the annual financial management report within two months after receipt of a final financial accountability rating (including a final rating of Suspended--Data Quality). The public hearing is to be held at a location in the district's or open-enrollment charter school's facilities. The board shall give notice of the hearing to owners of real property in the geographic boundaries of the district or open-enrollment charter school and to parents of district or charter school students. In addition to other notice required by law, notice of the hearing must be provided:
- (1) to a newspaper of general circulation in the geographic boundaries of the district or open-enrollment charter school once a week for two weeks prior to holding the public meeting, providing the time and place where the hearing is to be held. The first notice in the newspaper may not be more than 30 days prior to or less than 14 days prior to the public meeting. If there is not a newspaper published in the county in which the district's or open-enrollment charter school's central administration office is located, then the notice is to be published in the county nearest the county seat of the county in which the district's or open-enrollment charter school's central administration office is located; and
 - (2) through electronic mail to media serving the district or open-enrollment charter school .
- (d) At the hearing, the annual financial management report shall be disseminated to the district's or open-enrollment charter school's parents and taxpayers that are in attendance.
- (e) The annual financial management report is to be retained in the district or open-enrollment charter school for at least a three-year period after the public hearing and will be made available to parents and taxpayers upon request.

- (f) A corrective action plan is to be filed with the TEA by each school district or open-enrollment charter school that received a rating of Substandard Achievement or Suspended--Data Quality. The corrective action plan, which is to be prepared in accordance with instructions from the commissioner of education, is to be filed within one month after the district's or open-enrollment charter school's public hearing. The commissioner of education may require certain information in the corrective action plan to address the factor(s) that may have contributed to a district's or open-enrollment charter school's rating of Substandard Achievement or Suspended--Data Quality.