**ATTACHMENT II**
**Text of Adopted Amendments to 19 TAC**

# Chapter 97. Planning and Accountability

## Subchapter DD. Investigative Reports, Sanctions, and Record Reviews

**§97.1037. Record Review of Certain Decisions.**

(a) Applicability. This section applies only to:

(1) a notice under §97.1035 of this title (relating to Procedures for Accreditation Sanctions) proposing to order:

(A) alternative management of a school district campus or a charter school campus under Texas Education Code (TEC) [~~TEC~~] , §39.1327;

(B)-(C) (No change.)

(2) (No change.)

(3) assignment of a board of managers under TEC, §39.136 and §39.131(a)(9), or TEC, §39.1324(c); [~~or~~]

(4) request for review of an over-allocation from an open-enrollment charter school granted by the commissioner of education under §100.1041(e) of this title (relating to State Funding) ; or [~~.~~]

(5) request for record review of a charter school accreditation finding under §97.1055(g) of this title from an open-enrollment charter school.

(b)-(h) (No change.)

# Chapter 97. Planning and Accountability

## Subchapter EE. Accreditation Status, Standards, and Sanctions

**§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) [~~(1)~~] Campus--An organizational unit operated by the school district that is eligible to receive a campus 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) [~~(2)~~] Campus closure--Cessation of all instructional activity on the campus.

(A) A district ordered to close a campus may apply to the commissioner of education for approval to repurpose a building or facility formerly housing the closed campus.

(B) A building or facility that is approved for repurposing under subparagraph (A) of this paragraph must house a completely different instructional program, bear a new name, and be assigned a new campus identification number.

(C) The commissioner shall not approve the repurposing of a building or facility under subparagraph (A) of this paragraph unless:

(i) all instructional activity under the programs operated at the repurposed building or facility occurs at grade levels not previously served by the closed campus; or

(ii) at least 50% of the students previously served by the closed campus are reassigned to other campuses, the campus administrator is removed or reassigned to other campuses, and at least 75% of the instructional staff employed on the campus are removed or reassigned to other campuses.

(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) [~~(3)~~] Person--This term has the meaning assigned by the Code Construction Act, Government Code, §311.005(2), and includes a school district.

(7) [~~(4)~~] 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, §39.1324(b), 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.

**§97.1053. Purpose.**

(a) The provisions of Texas Education Code (TEC) [~~TEC~~] , Chapter 39, and this subchapter shall be construed and applied to achieve the purposes of accreditation statuses assigned under TEC, §39.071, and the purposes of accreditation sanctions, which are to:

(1)-(5) (No change.)

(b) (No change.)

(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.

**§97.1055. Accreditation Status.**

(a)-(f) (No change.)

(g) Charter school accreditation. 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 net assets of less than 80% of net 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 that 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.