

Commissioner's Rule Review

Chapter 97, Subchapter EE, Accrediation Status, Standards, and Sanctions

Chap.	Ext.	Issue	Desired Change	Rationale	Focus Group Comments	TEC	Agency Response
97	1051 Definitions	Sanctions not appropriate for small rural schools:	Campus closure and/or reconstitution and/or removal or reassignment of personnel for smaller districts-- removing someone from that campus no other place to go, nothing in state law to support nullifying the contract. District need the right to terminate employees in state law on low performing campuses.	Improved student performance and reducing burden on small schools.	Outside scope. Group made no specific recommendations regarding pursuit of statutory change.	39.107	Statutory change required. The current statutory structure in TEC, Chapter 39, Subchapter E, establishes interventions and sanctions for districts and campuses and does not make distinctions based on district size. A statutory change would be required to establish differentiated requirements based on district size or to allow districts to terminate underperforming employees on low-performing campuses.
97	1051 Definitions	In a larger district, change of principal may not be enough. With multiple assistant principals, often the principal cannot make the necessary changes without the support of the assistants.	In a larger district, change of principal may need to actually be more administration; change of all of the leadership (majority or all) on the campus.	improve student performance and ensure ownership of the low performance.	Districts can reassign staff as needed now.	39	Districts currently have the discretion to reassign campus staff and could determine that staff changes, beyond those required in statute, are necessary to meet the campus' goals for improvement.
97	1051 Definitions (6)	Current language requires stakeholder to reference HB3 to understand difference between "insufficient performance" and "academically unacceptable", thus, fostering confusion.	Briefly summarize pertinent language from HB3, possibly in bulleted form, identifying likenesses and differences between the two terms in this rule.	Clarifies components of Insufficient Performance to stakeholders.	Dealt with in adopted rules.	39	Agree. This issue was addressed by the agency in revised rules which were effective on July 28, 2010. The rules, as currently adopted, reflect statutory terms related to campus performance.

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97	1051	Benefit - low performing schools need to be held accountable. Commissioner appears to have crafted rules to allow for more rapid closures rather than allow schools to make steady improvement. "Shall" should be "may" 10.64J/10.63C(3)	Continue to allow local control for change in principals/teachers. Allow campuses to make progress w/out personnel movement - undue burden on schools at risk. Complete the accreditation process before announcing goal (don't announce the target before completing the process).	Ineffective principal/teacher embedded in community can pull down district scores / student achievement. Disincentive for talented admin & teachers to go to struggling campuses - it takes time to reculture.	Statutory requirement. Group made no specific recommendations regarding pursuit of statutory change.	39.107	Statutory change required. Actions related to campus reconstitution and repurposing were detailed and defined as part of HB 3 revisions. It continues to make sense to remove ineffective staff from struggling campuses, and the current statute allows substantial discretion, based on individual circumstances and the performance of individual staff members, in regard to these determinations. However, the timeframe for required interventions is established in statute in TEC, Chapter 39, Subchapter E. The agency is unclear about the references to "shall" and "may" but is willing to consider this comment in the future if additional information is available.
97	1053	Lack of response in a timely manner	When schools ask question of TEA pertaining to accountability and they do not get an answer to the questions from TEA for months, the schools should not be held in non-compliance until they receive an answer and have had time to deal with the answer.	Gives districts a chance to fix problems before a final decision is made	No specific suggestion for change reflected in comment. No action suggested.	39.051, 39.052	The agency wishes to clarify that districts are notified of findings when the agency identifies financial, programmatic, or other instances of noncompliance and provided an opportunity to request a review of those findings. At the point at which a review of the findings is complete and additional district information or questions have been considered, the agency issues a final report of findings. Adopted rules in 19 TAC, Chapter 97, Subchapter DD, define the processes for informal and record reviews of certain agency determinations.

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97	1053 Purpose	rules used the term "encourage"	need to define "encourage", need to be more direct.	increased clarity and understanding	No need for rule change.	39.051, 39.052	In the context of 19 TAC §97.1053 related to the purposes of accreditation statuses and accreditation sanctions, the term "encourage" is sufficiently clear to convey its intended meaning.
97	1053 Purpose	Rule includes one of the purposes as a cautionary tale to surrounding districts or campuses within the district.	Purpose should be directed to school that is in trouble not to be used as a cautionary tale to surrounding districts or campuses within the district.	Clarity and understanding	No change recommended.	39.051, 39.052	The system of accreditation statuses and sanctions, as defined in statute and related rule, is intended to promote positive results at a broad, system level, not only at an individual district level. Therefore, the rule language adopted at 19 TAC §97.1053 is appropriately aligned to the legislative intent of an accreditation system.
97	1053, 1055(a)(7)	None needed. This addresses the district school and not the principal (leadership). (97) (7) in proposed changes - statement of 1 or more campus.	Is there a way to monitor leadership accountability? 97.1055 (7) do not add the statement of 1 or more campus can (proposed) lower rating.	Principal Leadership is instructional accountability for campus.	No response to initial question. In regard to 97.1055(a)(7), the language is statutory. Group made no specific recommendations regarding pursuit of statutory change.	39.052 (d)	Statutory change required. In regard to the comment related to leadership accountability, the agency agrees that principals are accountable for the instructional programs and results at the campus level and notes that the system of accountability and sanctions referenced in rule is aligned to the requirements of Texas Education Code, Chapter 39. In regard to the suggestion that the language of 19 TAC §97.1055(a)(7) not be included in the rule, the agency notes that this language comes directly from TEC §39.052(d). Therefore, a statutory change would be required.

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97	1055 (a)(7) Accreditation Status	issue, should be based on district performance	strike "individual campus"	the district should be considered as a whole rather than parts	Statutory requirement.	39.051, 39.052	Statutory change required. In regard to the suggestion that the language of 19 TAC §97.1055(a)(7) be removed from the rule, the agency notes that this language comes directly from TEC §39.052(d).
97	1055(b) (2)(A) Accreditation Status	problem, consequences are severe for "Accredited Warned"	It is recommended that the status change to "Accredited Warning" be made only after all appeals have been exhausted.	Validation of investigation should occur prior to designation of "Accredited Warned" status.	No change recommended. Did not agree that consequences for Accredited-Warned should be lessened, and consequences for any lowered status are noted in statute. Currently, all rating appeals are exhausted before a status is issued. While a record review can be requested subsequent to posting of an accreditation status result, it cannot change the rating that directly contributes to the assignment.		Current agency rules and practice allow for an accreditation status assignment to be withheld in cases in which it is necessary for the agency to gather complete data before an accreditation status is lowered based on those data. In cases in which a status is withheld pending the completion of investigative activities, districts are provided an opportunity for an informal review of investigative findings and, if applicable, a record review related to the proposal to lower an accreditation status, before the lowered accreditation status is finalized. In cases in which a district earns a lowered status due to its performance over time in the state's academic and financial accountability rating systems, an appeals process is provided for those ratings in advance of the initial accreditation status assignment. Therefore, it is appropriate for the agency to rely on these ratings and publish these results in its initial assignment of an accreditation status. However, at the point of initial status assignment, districts are provided an opportunity to seek a record review of that assignment, and any revisions to the status are posted publicly after the record review.

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97	1055(f)(1) Accreditation Status	Public notification consequences for "Accredited Warned"	strike "Accredited Warned" on both lines f and f1	"Accredited Warned" notificaton should be confined to parents in house as opposed to public notification	Statutory requirement for public notification of any lowered status.	39.052 (e)	Statutory change required. TEC §39.052(e) requires public notification when a school district is assigned an accredited-warned or accredited-probation status.
97	1055(f)(3)(C)	cost of documentation / notification places high cost on district; difficulty complying with reporting requirements in addition to AYP and report cards.	State should pay for TAT (currently unfunded mandate).	Using resources to address areas of need rather than funding TEA personnel.	Confusing comment.		<p>The agency wishes to clarify that the rules at 19 TAC §97.1055(f), as they existed at the time of this comment, required districts to post notices of a lowered accreditation status to their websites and disseminate information by newspaper or by mail. However, to address concerns related to costs, an additional option for public notification was included in rule revisions effective on July 28, 2010.</p> <p>In regard to the technical assistance team (TAT) comment, the agency wishes to clarify that HB 3 statutory revisions removed the requirement for certain campuses to have a TAT. However, prior to that change, the required composition of a TAT allowed district flexibility in choosing external TAT membership, often leading to participants that were available to serve at no cost to the district.</p>

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97	1055(g)(1) Accreditation Status	The current rule requires the accreditation of an open-enrollment charter school to be determined, in part, by the extent to which the school's annual audit disclosed net assets of less than 80% of net liabilities	Revise the rule to require a lower percentage.	Because open-enrollment charter schools receive less state funding that traditional school districts and do not have a local tax base, these schools need a different financial solvency expectations from traditional schools	Section of rule no longer operational due to adoption of Charter FIRST. However, a similar indicator is reflected in Charter FIRST. Group recommended that comment not be pursued.	109.1	The asset to liability indicator included in the Charter FIRST system was developed based on a review of charter school financial data, as opposed to traditional district data, to promote alignment with the funding structure for open-enrollment charter schools. The calculation for this indicator also has been reviewed by the Coordinated Task Force (CTF) and discussed with charter school groups. Additionally, the Charter FIRST indicators have been posted for public comment as part of the rules adoption process, and the agency will continue to receive input through this process. However, at this time, the agency has determined that this indicator is an appropriate measure as written.

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97	1055(3)	<p>Encourage other districts to improve performance - delete Possible disagreement on this proposal.</p> <p>Accreditation & Accountability system aligned.</p> <p>pg 12 clarification about committee members.</p> <p>2 accountability systems cause problem.</p> <p>Prefer alignment between TAC97 and Chapter 39 of Ed. Code.</p> <p>Correction: 97.1063 Campus Intervention Team. Include more than principal (SLPP who pays)</p> <p>Confusion about State/Federal Graduation & completion rates.</p>	<p>Pg 3 delete previous statement</p> <p>Reorganize - to provision that apply to campuses. To provision that apply to districts.</p> <p>Funding sources outside of districts.</p> <p>Align 2 systems - align state & federal dropout & completion standards.</p> <p>Identify the TAT and CIT teams earlier in year. Make decisions based on preliminary results.</p> <p>Listening for the newspaper is not practical in all communities and website (consider smaller communities).</p>	<p>Clarify so implementation can occur earlier in school year.</p>	<p>Confusing comment. Some suggestions go beyond rule and are federal and state statutory requirements. No changes recommended.</p>		<p>The system of accreditation statuses and sanctions, as defined in statute and related rule, is intended to encourage and promote positive results at a broad, system level, not only at an individual district level. Therefore, the rule language adopted at 19 TAC §97.1053 is appropriately aligned to the legislative intent of an accreditation system. The state continues to address issues of alignment of federal and state interventions through its initiatives, practices, and partnerships with the Texas Center for District and School Support and the education service centers. These efforts can, and will, continue without the need for additional rulemaking. Campus intervention team (CIT) membership already is required to be proposed by districts in September but could be completed prior to that if a district so desired. The current rules, as adopted, provide no limitations in this regard. The agency wishes to clarify that the rules at 19 TAC §97.1055(f), as they existed at the time of this comment, required districts to post notices of a lowered accreditation status to their websites and disseminate information by newspaper or by mail. However, to address concerns related to costs, an additional option for public notification was included in rule revisions effective on July 28, 2010.</p>

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97	1057		If a school is on accredited probation should have someone assigned for technical assistance.		Keep as is. Rule does not prohibit district from taking this action on their own.		The agency agrees that districts with a lowered accreditation status are exhibiting significant performance deficiencies. A district has the option to acquire technical assistance at any point it is deemed necessary and can do so at its own discretion. Additionally, the statute gives the agency the authority to order professional services and other forms of oversight and assistance as determined necessary and appropriate.
97	1059 Standards for All Accreditation Sanction Determinations	Accountability process and increasing through the levels are very confusing	Need more graphics to show flow of the process, implications and sanctions for all accountability/ accreditation actions at each level.	Improved understanding and clarity	TEA will consider as part of supplemental guidance.		The agency will consider this comment as it develops supplemental guidance materials.
97	1059 (d) Standards for All Accreditation Sanction Determinations	97.1059 (d) issue, wording	strike "shall" add "may"	time consuming for district personnel when the focus is on one campus rather than entire district.	Keep as is.		The current rule language, as adopted, provides sufficient flexibility, and does not require that the commissioner take a certain action, given that 19 TAC 97.1059(d) states that the commissioner "shall also consider" certain district-level information when determining campus-level actions.
97	1061 Interventions and Sanctions for Campuses 1064 Reconstitution	term CIT is used for the campus intervention team	need better terminology/ acronym for CIT, district folks know the CIT as Campus Improvement Team we rarely use SBDM.	Clarity and understanding	These are statutory references.	39.054 (e)	The references to campus intervention teams are established in Texas Education Code, Chapter 39, and specifically defined in TEC 39.106.

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97	1061	As a principal think it is important to have accreditation rules - like the fact of assigning a team to work with a school that in unacceptable. Like that it mentions that want to share information with other schools. (at least 50% of students)	No change Wants more flexibility. Pg. 11 Technical assistance by commissioner should have through knowledge of curriculum/assessments/instruction. (ESC staff? Other educators?)	none	The Professional Services Provider Network implemented in conjunction with the Texas Center for District and School Support, addresses this comment. PSPs were interviewed and vetted prior to 2010-2011 assignment, and training and support is ongoing.		Agree. The Professional Services Provider (PSP) Network, implemented in conjunction with the Texas Center for District and School Support, addresses the issues raised in this comment. PSPs were interviewed and vetted prior to any 2010-2011 assignment, and training and support for the network is ongoing. The agency will continue to enhance supports available to districts and schools through current partnerships.

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97	1063	Support for struggling schools is not parallel to need described. Campus Intervention Team Correction: no research base. If you are in a small rural community there are no people to select from to fill positions. Comment: campus may recommend members or commissioner will assign members.	On not take away CIT on first offense b/c principal needs to resource to improve. If principal is alone (rural) they need assistance.		The Professional Services Provider Network implemented in conjunction with the Texas Center for District and School Support, addresses this comment. List of available PSPs are provided to each ESC Turnaround Team, and approximately 500 PSPs were trained this summer, with each ESC region addressed. Training and support is ongoing. (See comment above.)		The Professional Services Provider (PSP) Network, implemented in conjunction with the Texas Center for District and School Support, addresses this comment. A list of available PSPs is provided to each education service center (ESC) Turnaround Team, and approximately 500 PSPs were trained this summer, with available member in each ESC region. Training and support for campus intervention teams and PSPs is ongoing. (See comment above.)

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97	1063 Campus Intervention Team (CIT)	Subsections (h)(3) and (j)(4) of the rule should be revised. As stated, subsection (h)(3) is contrary to the statute. The relevant statutory language states that the campus intervention team shall, if appropriate, require the district to develop a teacher recruitment and retention plan to address the qualification and retention of the teachers at the campus. (TEC Section 39.106(d-3)(3)).	change subsection (h)(3) as follows: for (h) to read: "(h) in assisting the district/campus to execute its approved SIP, the CIT will, as appropriate: (3) require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus.	Changing subsection (h)(3) in the way we recommended brings the rule into comporment with the statute.	No consensus. Most of group suggested explaining the (h)(3)issue in some supplemental guidance document. Several others suggested that TEA should consider this issue of the rule better aligning with the statute.	39.054 (e), 39.106	While the agency agrees that the language of TEC, 39.106(d-3)(3), states that, "In executing the targeted improvement plan, the CIT shall, if appropriate: ...require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus," the agency has adopted rule language to address the need for consistent, district-level interventions. It is clear in statute that the development of a teacher recruitment and retention plan is not required in all cases. The language in 97.1063(h)(3) states that the CIT will request that a plan be developed, as appropriate, and further states that the CIT may recommend, and, upon the recommendation, the commissioner may require, that a district develop such a plan. This language acknowledges circumstances under which a single district may have multiple campus intervention teams assigned to multiple unacceptable campuses. Given that the recruitment and retention plan in question has district-level implications, the language of the rule allows for the commissioner and the agency to consider the broader scope of district needs and require actions that take into account the needs of multiple campuses. These issues will continue to be addressed by the agency in supplemental guidance documents.

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97		Subsection (j)(4)'s lack of specificity results in vagueness in that it allows School Improvement Plans to "include procedures for submitting certain (emphasis added) changes or adjustments to the commissioner for approval without the necessity of further board hearing and action under this subsection." This allows bypassing the board (and public) when making changes to the SIP without adequate specification of the limited circumstances in which this is allowed	Change subsection (j)(4) to read as follows: "(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 nonsubstantive changes or adjustments to the commissioner for approval without the necessity of further board hearing and action under this subsection."	Changing subsection (j)(4) in the way we recommended clarifies that bypassing the board and public in making changes to the SIP is only allowed when nonsubstantive changes are being made, thus preserving transparency and accountability to the public.	In regard to (j)(4) comment - add "the board" in the second sentence.		Agree in part. In regard to suggestions on (j)(4), the agency agrees that additional language referencing "the board" can be added in a subsequent rule adoption. If, based on information gathered during initial implementation of this requirement, it is determined that additional rule revisions are needed, the agency will address the issue in a subsequent rule proposal.
97	1063 Campus Intervention Team	Unfunded provision	A district pays for the CIT in the state accountability system, and in the AYP system it is paid with federal funds. The state should pay for the CIT expense	Eliminates the unfunded mandate	Statutory requirement.	39.11	Statutory change required. TEC §39.110 requires the cost of campus intervention teams to be paid by districts.
97	1064(2)(B) Reconstitution	benefit, "unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement;	none	The provision is fair to administrators that have worked towards positive change.	No suggestions.		No change requested.

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97	1064(1)(B) Reconstitution	none	97.1064(1)(B)none	97.1064(1)(B)The provision is fair to administrators that have worked towards positive change.	No suggestions.		No change requested.
97	1064(2)(c) Reconstitution	97.1064(2)(C)benefit, the educator may be assigned to another position in the district.	97.1064(2)(C)none	97.1064(2)(C)The provision is fair to educators that have worked towards positive change.	No suggestions.		No change requested.

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97	1065 Repurposing, Alternative Management, or Campus Closure	In many cases, the Commissioner has used reasonable discretion. Nevertheless, there is little in rule to convey any guidelines that the Commissioner may be using. In certain cases (Pearce Middle School in the Austin Independent School District; Sam Houston High School in the Houston Independent School District), we believe the Commissioner made serious mistakes regarding final closure. The decisions did not reflect the complete picture of what was happening in the building. Closing these schools did little to enhance the education of the schools' students, and such actions amounted to punishing the building directly and the neighborhood indirectly.	1.Duly elected school boards, which operate at the direct local level, should be fully considered when determining the most appropriate approach to district or school sanction actions. They are the closest people to the situation, and they have the most to lose. 2.School sanctions should be determined based on agreement between Texas accountability system and the federal accountability system, i.e. any district or campus meeting AYP would remain open and face the least punitive measure or measures required by law, be that state or federal statute. 3.When considering school improvement, SES should be taken into account. Student welfare outside of school, as well as situations inside the building, needs to become an integral part of school review. Rule should assure that students are prepared to learn. A child facing food insecurity or home insecurity is highly unlikely to be successful, academically. Further, each child's health should be thoroughly examined. TEA should involve the Texas Department of Health and Human Services to ensure that students have the best health care available to them before considering the student population (and school high-stakes test performance) as a whole.	Appeals could be made on specific grounds. Currently, too much depends on commissioner discretion.	Driven by statutory requirements. (HB 3 attempted to give the commissioner more discretion in response to district requests for more discretion. HB has "nevertheless" language re: federal/state accountability.) Group did not reach consensus on any recommendation for statutory change. [Original commenter participated in focus group.]	39.054 (e), 39.106, 39.107	Statutory change required. Statutory requirements in place prior to HB 3 actually provided little discretion to the commissioner in determining when a campus was required to be closed. Additional flexibility was provided in HB 3. Specifically, the concept of campus repurposing was adopted in statute, and, when determining certain campus sanctions, the commissioner was provided with the authority to consider certain federal interventions that already have been implemented and accept the substantially similar intervention measures as measures in compliance with the state statute. This provision is being applied in 2010-2011 and will continue to be applied moving forward.

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97	1071 Special Program Performance; Intervention Stages	data collection, use of data, and release and interventions of PBM	a district does not get a report unless there is a problem; often the length of time from the data to the use of the data (discipline, graduation, completion)is often too much. Often our interventions are already in place when we get the intervention from the old data. Although we have interventions in place--we still must do the interventions.	reduce costs and confusion; reduce TEA workload;	Implementation issues vs. rule issues		The comments provide feedback regarding certain agency practices related to implementation of adopted rules. The agency will continue to review and refine its practices in response to feedback. Additionally, some of the issues addressed in the comment will be addressed as the agency moves toward more real-time data collection systems (state longitudinal data system).
97	1071 Special Program Performance; Intervention Stages	An ending time needs to be agreed upon 6 month review with the district.	Conservator should not set the time they are going to be employed and paid. Needs to be a point in time where TEA conducts a six month review and determines whether the conservator needs to continue in that role, rather than the conservator setting that time. Need an exit strategy	Reduce confusion and expense to the district; increase clarity and understanding	Current statute requires that TEA reconsider placement every three months.	39.111 (b)	The statute at TEC §39.111(b) requires that the commissioner review the need for a conservator or management team every 90 days.

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97	1071 Special Program Performance; Intervention Stages	Data Validation: LEAs are assigned to a new stage of intervention before they have time to implement the plan from the previous stage due to the timeline. LEA does not anomaly before you are told LEA do not know the standards	More time to implement plan before LEAs are assigned a new stage. Process is not bad- LEAs want to know where to improve- the problem is timing	Allow districts time to focus on improvement- implement plant-before they have to write a new plan Give LEAs time to work the plan	Outside the scope (implementation vs. rule).		The comments provide feedback regarding certain agency practices related to implementation of adopted rules. The agency will continue to review and refine its practices in response to feedback. Additionally, some of the issues addressed in the comment will be addressed as the agency moves toward more real-time data collection systems (state longitudinal data system). However, identification and intervention activities currently take place on an annual cycle that is aligned with data reporting timelines and requirements, with the goal of improved data reporting processes being implemented by districts before the subsequent reporting window.
97	1071 Special Program Performance; Intervention Stages	Currently district's performance compared to performance of other districts or state average	No one knows the target or standard to be achieved until after the fact (until the average computed). Assign a target prior to the beginning of the school year. Make the target more realistic based on the district data received in the prior years.	increased fairness and understanding; increased efficiency	Confusing comment.		The agency is willing to consider specific suggestions for improvement but is unclear about the full context of the issue at hand or the desired change being requested. The agency is open to further comment and discussion on this topic.
97	1071	TPM is applied to reg. accountability but not PBMAS. Resources and PD should be based on a growth model or improvement	Have to be able to work with people we have State & Federal work more in tandem. Should be considered in all systems. Have to be able to work with people we have State & Federal work more in tandem. Should be considered in all systems.		Consider using TPM in PBMAS; consider consistency of application of TPM across systems.		Comment will be shared with the Performance-Based Monitoring Division.

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97		These two rules address accreditation sanctions. Throughout these two rules, there are references to "campuses" as well as "districts". This is confusing, as only districts are accredited. Campuses receive accountability ratings.	Remove references to "campuses" throughout rules 19 TAC 97.1057 and 19 TAC 97.1059 where accreditation status is referenced.	Districts rather than campuses are the unit of analysis for accreditation. The new language in 19 TAC 97.1059(e) is consistent with this recommendation.	No change recommended.		This comment is addressed to 19 TAC §97.1057 and §97.1059 related to accreditation sanctions and standards for accreditation sanctions. No change to current rule language is recommended as both campuses and districts can receive accreditation sanctions. Texas Education Code, Chapter 39, specifies sanctions that apply at the district and campus levels, so a reference to both entities in sanction rule is necessary. This issue is also addressed in Chapter 157 EE.