

ATTACHMENT II
Text of Adopted Amendments to 19 TAC

Chapter 97. Planning and Accountability

Subchapter EE. Accreditation Status, Standards, and Sanctions

§97.1065. Repurposing, Alternative Management, or Campus Closure.

- (a) Action required. The commissioner of education shall order repurposing, alternative management, or closure of a campus as provided in this section, if the campus is assigned an unacceptable performance rating under the state academic accountability system for the third consecutive school year after reconstitution is required to be implemented under §97.1064 of this title (relating to Reconstitution).
- (b) Other actions permitted. In combination with action under this section, the commissioner may impose on the district or campus any other sanction under Texas Education Code (TEC), Chapter 39, or this subchapter, singly or in combination, to the extent the commissioner determines is reasonably required to achieve the purposes specified in §97.1053 of this title (relating to Purpose). In particular, the commissioner may impose sanctions as specified in §97.1064(d) of this title and/or may assign a monitor, conservator, management team, or board of managers in order to ensure and oversee district-level support to low-performing campuses and the implementation of the updated school improvement plan (SIP) and the reconstitution plan.
- (c) Petition allowed. In accordance with TEC, §39.107(e-2), for a campus subject to an order of repurposing, alternative management, or closure under subsection (a) of this section, if a written petition, signed by the parents of a majority of the students enrolled at the campus and specifying the action requested under subsection (a) of this section, is presented to the commissioner in accordance with this section and related procedures adopted by the Texas Education Agency (TEA), the commissioner shall, except as otherwise authorized by this section, order the specific action requested. If the board of trustees of the school district in which the campus is located presents to the commissioner, in accordance with this section and related procedures adopted by the TEA, a written request that the commissioner order a specific action under subsection (a) of this section other than the action requested by the parents in a valid petition, along with a written explanation of the basis for the board's request, the commissioner may order the action requested by the board of trustees.
 - (1) A written petition under this subsection must be:
 - (A) finalized and submitted to the district superintendent no later than October 15 for purposes of validation;
 - (B) certified by the district as a valid petition in accordance with paragraph (2) of this subsection;
 - (C) adopted as a valid petition by the board of trustees in an action taken in a public meeting conducted in compliance with the Texas Open Meetings Act; and
 - (D) if determined to be a valid petition, submitted by the district superintendent to the commissioner no later than December 1.
 - (2) Only a written petition determined to be valid in accordance with this section and TEA procedures may be submitted to the commissioner. At a minimum, the following criteria must be met for a petition to be determined valid.
 - (A) The petition must include all information required by the TEA as reflected in TEA model forms and related procedures and must be submitted to the district superintendent in accordance with the deadline established in paragraph (1)(A) of this subsection.
 - (B) The petition must clearly state the sanction action under subsection (a) of this section being requested by the parents.

- (C) In accordance with this subparagraph, the parent(s) of more than 50% of the students enrolled at the campus must provide the handwritten or typed name and an original signature on the petition.
- (i) For the purposes of the petition, a parent means the parent who is indicated on the student registration form at the campus.
- (ii) A student will be considered enrolled at the campus for the purposes of the petition if the student is enrolled and in membership at the campus on a TEA-determined enrollment snapshot date, as reflected in TEA procedures (generally the Public Education Information Management System (PEIMS) fall data submission for that school year).
- (iii) For the purposes of determining whether parents of more than 50% of the students enrolled at the campus have signed the petition, only one parent signature per enrolled student can be counted by the district in its calculation assuring validity of the petition.
- (3) If the board of trustees of the school district requests that the TEA consider a specific action under subsection (a) of this section other than the action requested by the parents in a valid petition and submitted to the TEA in accordance with this subsection, the board must submit a written request to the commissioner and include a written explanation of the basis for the board's request for an action other than the one reflected in a valid parent petition. Any written request must be:
- (A) approved by a majority of the board members in an action taken in a public meeting conducted in compliance with the Texas Open Meetings Act; and
- (B) submitted to the commissioner no later than December 15 in accordance with procedures established by the TEA.
- (4) If a valid parent petition under paragraph (1) of this subsection or board of trustees submission under paragraph (3) of this subsection requests that the commissioner order campus repurposing, the district must submit, no later than January 30, a comprehensive plan for campus repurposing that meets the requirements of the TEC, §39.107, and subsection (d) of this section.
- (5) Following the submission to the TEA of a valid petition and any subsequent board request under this section, the commissioner will order, no later than February 15, a sanction in compliance with the TEC, §39.107, and this section. The sanction shall be implemented for the subsequent school year regardless of the state academic accountability rating assigned to the campus in that school year. For example: A campus is assigned an unacceptable performance rating for the sixth consecutive year on or around June 15, 2013. In February 2014, the commissioner orders a sanction under this paragraph. The sanction must be implemented for the 2014-2015 school year.
- (6) Notwithstanding this subsection, in the case of a charter school granted under the TEC, Chapter 12, Subchapter D or E, the commissioner shall retain authority under the TEC and Chapter 100, Subchapter AA, Division 2, of this title (relating to Commissioner Action and Intervention) to take any adverse action allowed by statute and rule and to approve or disapprove any proposed change in campus or charter structure resulting from a petition or board request under this subsection.

(d) ~~(e)~~ Campus repurposing.

- (1) If the commissioner orders repurposing of a campus under this section, the school district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board of trustees for approval and to the commissioner for approval, using the procedures described by §97.1063 of this title (relating to Campus Intervention Team) for SIP approvals. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models.
- (2) The commissioner may not approve the repurposing of a campus unless:
- (A) all students in the assigned attendance zone of the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll in

and are provided transportation on request to a campus approved by the commissioner, unless the commissioner grants an exception because there is no other campus in the district in which the students may enroll;

- (B) the principal is not retained at the campus, unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and
- (C) teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless the commissioner or the commissioner's designee grants an exception, at the request of a school district, for:
 - (i) a teacher who provides instruction in a subject other than a subject for which an assessment instrument is administered under TEC, §39.023(a) or (c), who demonstrates to the commissioner satisfactory performance; or
 - (ii) a teacher who provides instruction in a subject for which an assessment instrument is administered under TEC, §39.023(a) or (c), if the district demonstrates that the students of the teacher demonstrated satisfactory performance or improved academic growth on that assessment instrument.
- (3) If an educator is not retained under paragraph (2)(C) of this subsection, the educator may be assigned to another position in the district.

(e) ~~(d)~~ Alternative management. The commissioner may order alternative management of a campus under this section and may require the campus to remain open, when:

- (1) the commissioner does not approve repurposing of the campus under subsection (d) ~~(e)~~ of this section and does not order the closure of the campus under §97.1051(3) of this title (relating to Definitions);
- (2) the commissioner determines that alternative management has a reasonable expectation of producing an acceptable or higher campus performance rating in the state academic accountability system within three rating cycles of assignment of the alternative management service provider under §97.1067 of this title (relating to Alternative Management of Campuses);
- (3) an alternative management service provider with the necessary skills and required expertise is available under §97.1069 of this title (relating to Providers of Alternative Campus Management); and
- (4) such action is determined warranted under §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations) and other standards for accreditation sanction determinations.

(f) ~~(e)~~ Closure. The commissioner may order closure of the campus when action is required under this section and:

- (1) the commissioner approves neither repurposing of the campus under subsection (d) ~~(e)~~ of this section nor alternative management under subsection (e) ~~(d)~~ of this section;
- (2) the district fails to enter into a contract for alternative management under §97.1067 of this title as required by §97.1067 of this title; or
- (3) the commissioner does not approve the contract for alternative management under §97.1067 of this title; and
- (4) such action is determined warranted under §97.1059 of this title and other standards for accreditation sanction determinations.

(g) ~~(f)~~ Alternative management unsuccessful. The commissioner shall order closure of a campus when alternative management of the campus was ordered under this section and:

- (1) the district resumed operation of the campus under TEC, §39.107(n); and

- (2) for the school year immediately following resumption of operations, the campus is assigned an unacceptable performance rating under the state academic accountability system.
- (h) ~~(e)~~ Appeal. An order proposing action under this section may be appealed only as provided by §97.1037 of this title (relating to Record Review of Certain Decisions).
- (i) ~~(b)~~ Waiver. The commissioner may waive the requirement to enter an order under subsection (a) of this section for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating under the state academic accountability system for the following school year.
- (j) ~~(c)~~ Targeted technical assistance. In addition to the grounds specified in TEC, §39.109, if the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance.
- (k) ~~(d)~~ Lack of improvement. The commissioner shall order repurposing, alternative management, or campus closure under this section if the students enrolled at a campus assigned an unacceptable performance rating under the state academic accountability system for two or more consecutive school years fail to demonstrate substantial improvement in the areas targeted by the campus' updated SIP and such order is needed to achieve the purposes listed in §97.1053 of this title. If the commissioner orders repurposing, alternative management, or campus closure under this subsection, a district may submit a request to the TEA to defer the sanction action to provide the commissioner an opportunity to review the academic progress of the campus during the school year subsequent to the performance rating leading to the order. If the commissioner grants a district's deferral request under this subsection and subsequently determines that a sanction will be ordered, the district may not appeal under TEC, §39.152, the final sanction order of the commissioner.

§97.1067. Alternative Management of Campuses.

- (a) By January 1 of the school year ~~for~~ ~~(h)~~ which alternative management of a campus is ordered under §97.1065 of this title (relating to Repurposing, Alternative Management, or Campus Closure), the school district shall:
- (1) execute a contract in compliance with this section; and
 - (2) relinquish control over the campus to a service provider approved under §97.1069 of this title (relating to Providers of Alternative Campus Management).
- (b) A contract under this section must be executed by the district and the service provider and must:
- (1) relinquish all authority to perform the duties and responsibilities of a principal under Texas Education Code (TEC), §11.202(b)(1)-(6), with respect to the campus;
 - (2) comply with TEC, §39.107(m)-(o); this section; and the requirements and performance measures established by the Texas Education Agency (TEA) under §97.1069 of this title;
 - (3) provide for the creation, maintenance, retention, and transfer of all public records concerning the campus;
 - (4) include provisions governing liability for damages, costs, and other penalties for acts or omissions by the service provider, including failure to comply with federal or state laws;
 - (5) provide for termination of the contract if:
 - (A) the campus is assigned an acceptable or higher performance rating under the state academic accountability system for two consecutive school years; or
 - (B) the commissioner of education orders campus closure under §97.1065(f) or (g) [§97.1065(e) or (f)] of this title;
 - (6) specify additional roles or responsibilities assumed by the service provider, if any;

- (7) be approved by written resolution of the district's board of trustees; and
 - (8) be approved in writing by the commissioner.
- (c) The service provider may perform the duties and responsibilities of a principal, and in addition may make requests and recommendations to the district concerning all aspects of campus administration, including personnel and budget decisions.
- (1) If a request is denied or a recommendation is not implemented by the district, the service provider shall report to the TEA both its request or recommendation and the district's action in response.
 - (2) The commissioner may implement additional sanctions under this subchapter and consider such reports under TEC, §39.108 and §39.107(n), as well as §97.1065(b) of this title.
- (d) The funding for the campus must be not less than the funding of the other campuses operated by the district on a per-student basis so that the service provider receives at least as much funding as the campus would otherwise have received. The district must continue to support:
- (1) campus maintenance and operations;
 - (2) transportation;
 - (3) food services;
 - (4) extracurricular activities;
 - (5) central office support services;
 - (6) state assessment administration; and
 - (7) similar operational expenses of the campus.
- (e) A campus operated by a service provider under this section remains a campus of the district. Educators and staff assigned to work at the campus are district employees for all purposes. The campus is not subject to TEC, §11.253.
- (f) A district subject to this section shall comply fully with TEA requests for information for the purpose of evaluating implementation of the contract, student performance, and management of the campus.
- (g) A district that violates the terms of its contract under this section is subject to further sanctions under this subchapter.