ATTACHMENT I

Statutory Citations Relating to Amendment to 19 TAC Chapter 97, Planning and Accountability, Subchapter AA, Accountability and Performance Monitoring, §97.1005, Performance-Based Monitoring Analysis System

Texas Education Code, §7.028, Limitation on Compliance Monitoring.

(a) Except as provided by Section 29.001(5), 29.010(a), 39.056, or 39.057, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section 38.003, and the use of funds provided for such a program under Subchapter C, Chapter 42, only as necessary to ensure:

(1) compliance with federal law and regulations;

(2) financial accountability, including compliance with grant requirements; and

(3) data integrity for purposes of:

(A) the Public Education Information Management System (PEIMS); and

(B) accountability under Chapter 39.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs.

Texas Education Code, §29.001, Statewide Plan (excerpts).

The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete.

Texas Education Code, §29.010, Compliance (excerpt).

(a) The agency shall adopt and implement a comprehensive system for monitoring school district compliance with federal and state laws relating to special education. The monitoring system must provide for ongoing analysis of district special education data and of complaints filed with the agency concerning special education services and for inspections of school districts at district facilities. The agency shall use the information

obtained through analysis of district data and from the complaints management system to determine the appropriate schedule for and extent of the inspection.

Texas Education Code, §39.051, <u>Accreditation Status</u>.

Accreditation of a school district is determined in accordance with this subchapter. The commissioner by rule shall determine in accordance with this subchapter the criteria for the following accreditation statuses:

(1) accredited;

(2) accredited-warned; and

(3) accredited-probation.

Texas Education Code, §39.052, <u>Determination of Accreditation Status or Performance Rating</u>.

(a) Each year, the commissioner shall determine the accreditation status of each school district.

(b) In determining the accreditation status of a school district, the commissioner:

(1) shall evaluate and consider:

(A) performance on student achievement indicators described by Section 39.053(c); and

(B) performance under the financial accountability rating system developed under Subchapter D; and

(2) may evaluate and consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements under Section 28.025; or

(iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;

(B) the effectiveness of the district's programs for special populations; and

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign each district an accreditation status; or

(2) revoke the accreditation of the district and order closure of the district.

(d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.

(e) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(f) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(g) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Texas Education Code, §39.054, <u>Methods and Standards for Evaluating Performance</u>.

(a) The commissioner shall adopt rules to evaluate school district and campus performance and, not later than August 8 of each year, assign each district and campus a performance rating that reflects acceptable performance or unacceptable performance. If a district or campus received a performance rating of unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.

(b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053(c).

(b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):

(1) must:

(A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and

(B) include the results of assessments required under Section 39.023; and

(2) may be based on the results of a special accreditation investigation conducted under Section 39.057.

(c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:

(1) student performance in the current school year; or

(2) student performance as averaged over the current school year and the preceding two school years.

(d) In evaluating performance under Subsection (c), the commissioner:

(1) may assign an acceptable performance rating if the campus or district:

(A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and

(B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;

(2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or

(3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.

(d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.

(e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:

(1) standards established for each indicator; and

(2) required improvement as defined under Section 39.053(e).

(f) In the computation of dropout rates under Section 39.053(c)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

Texas Education Code, §39.056, <u>On-Site Investigations</u>.

(a) The commissioner may:

(1) direct the agency to conduct on-site investigations of a school district at any time to answer any questions concerning a program, including special education, required by federal law or for which the district receives federal funds; and

(2) as a result of the investigation, change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation under Subchapter G.

(b) The commissioner shall determine the frequency of on-site investigations by the agency according to annual comprehensive analyses of student performance and equity in relation to the student achievement indicators adopted under Section 39.053.

(c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the school district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a district or campus from screening the information.

(d) The agency shall give written notice to the superintendent and the board of trustees of a school district of any impending investigation of the district's accreditation.

(e) The investigators shall report orally and in writing to the board of trustees of the school district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

Texas Education Code, §39.057, <u>Special Accreditation Investigations</u>.

(a) The commissioner shall authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10) when excessive numbers of students graduate under the minimum high school program;

(11) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other course determined by the commissioner as distinguishing

between students participating in the recommended high school program from students participating in the minimum high school program;

(12) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation; or

(13) as the commissioner otherwise determines necessary.

(b) If the agency's findings in an investigation under Subsection (a)(6) indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

(c) The commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.

(d) Based on the results of a special accreditation investigation, the commissioner may:

(1) take appropriate action under Subchapter E;

(2) lower the school district's accreditation status or a district's or campus's accountability rating; or

(3) take action under both Subdivisions (1) and (2).

(e) Regardless of whether the commissioner lowers the school district's accreditation status or a district's or campus's performance rating under Subsection (d), the commissioner may take action under Sections 39.102(a)(1) through (8) or Section 39.103 if the commissioner determines that the action is necessary to improve any area of a district's or campus's performance, including the district's financial accounting practices.

Texas Education Code, §39.058, <u>Conduct of Investigations</u>.

(a) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(b) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

Texas Education Code, §39.102, <u>Interventions and Sanctions for Districts</u>.

(a) If a school district does not satisfy the accreditation criteria under Section 39.052, the academic performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the interventions and sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement improvement plan that addresses each student achievement indicator under Section 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, fails to satisfy any standard under Section 39.054(e), or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has failed to satisfy any standard under Section 39.054(e), or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

(11) if a district has failed to satisfy any standard under Section 39.054(e) due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a

board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

Texas Education Code, §39.103, <u>Interventions and Sanctions for Campuses</u>.

(a) If a campus performance is below any standard under Section 39.054(e), the commissioner shall take actions, to the extent the commissioner determines necessary, as provided by this subchapter.

(b) For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; or

(2) establish a school community partnership team composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner.

(c) Notwithstanding the provisions of this subchapter, if the commissioner determines that a campus subject to interventions or sanctions under this subchapter has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with this subchapter.

Texas Education Code, §39.104, <u>Interventions and Sanctions for Charter Schools</u>.

(a) Interventions and sanctions authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.

(b) The commissioner shall adopt rules to implement procedures to impose any intervention or sanction provision under this chapter as those provisions relate to open-enrollment charter schools.

(c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:

(1) be automatically revoked if the charter school is ordered closed under this chapter; and

(2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.

(d) If interventions or sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.