

The Texas Education Agency (TEA) adopts an amendment to §97.1001 and the repeal of §97.1005, concerning accountability and performance monitoring. The amendment to §97.1001 is adopted with changes to the proposed text as published in the May 19, 2023 issue of the *Texas Register* (48 TexReg 2251) and will be republished. The repeal of §97.1005 is adopted without changes to the proposed text as published in the May 19, 2023 issue of the *Texas Register* (48 TexReg 2251) and will not be republished. The adopted revisions amend §97.1001, Accountability Rating System, to adopt in rule applicable excerpts of the *2023 Accountability Manual* and incorporate provisions from §97.1005, Results Driven Accountability, which has been repealed. Earlier versions of the manuals will remain in effect with respect to the school years for which they were developed.

REASONED JUSTIFICATION: TEA has adopted its academic accountability manual in rule since 2000 under §

In response to public comment, changes to Chapter 1 have been made at adoption to clarify the use of the Not Rated: Data Integrity label, clarify eligibility for earning distinction designations, and replace "progress" with "growth."

Chapter 2 describes the "Student Achievement" domain. Language describing the sunseting industry-based certifications limit has been added. Language describing the phase-in for the alignment of programs of study and industry-based certifications has been added. Language clarifying the statutory requirements for college prep courses has been added. Language related to enlistment in the Armed Forces or Texas National Guard has been updated. Clarification on the use of the four-, five-, or six-year graduation rate has been added. Language describing the alternative education, College, Career, and Military Readiness, and graduation rate calculations has been added.

As a result of public comment, language in Chapter 2 describing the STAAR® calculation to credit alternative education accountability (AEA) campuses for Meets and Masters performance while maintaining the same scaling and cut points as non-AEA campuses has been added at adoption.

Chapter 3 describes the "School Progress" domain. Language has been updated describing the modified methodology for Part A: Academic Growth. Example calculations and technical details have been updated. Language for Part B: Relative Performance has been updated to incorporate the update to the College, Career, and Military Readiness table for high schools and Kindergarten-Grade 12 schools. Language describing the AEA methodology for Retest Growth has been added.

As a result of public comment, changes to Chapter 3 have been made at adoption to replace the term "progress" with "growth," clarify that the school progress domain measures campus outcomes in two areas, and clarify that relative performance scaling for high schools is done differently from elementary and middle schools.

Chapter 4 describes the "Closing the Gaps" domain. Language describing how each student group is identified and evaluated in the domain has been added. Language describing how points are awarded for each component has been updated and examples have been added. Language describing the methodology for growth has been updated to align with Chapter 2. The methodology for Progress to Achieving English Language Proficiency has been updated. Language clarifying the statutory requirements for college prep courses has been added. The student group performance targets at the end of the chapter have been updated.

As a result of public comment, the following changes have been made to Chapter 4 at adoption.

The Student Achievement Domain Score: STAAR Component Only language has been updated at adoption to specify that the component is evaluated if at least three indicators meet minimum size requirements. As a result of U.S. Department of Education (USDE) feedback during public comment, the calculation for Progress in Achieving English Language Proficiency has been updated at adoption to include four evaluated domains of listening, speaking, reading, and writing, and clarification was added that the English language proficiency status calculation is not a proficiency rate but progress in achieving English language proficiency. Additionally, changes were made at adoption to clarify that progress to English language proficiency is an area that would get one point in Closing the Gaps for meeting minimal growth, to correct a rounding of a number in an example, and to clarify the specific student groups that are in the Closing the Gaps calculation. Finally, the 2023 Closing the Gaps Performance Targets tables have changed for Growth: RLA and Growth: Math (2023 Target, Next Interim Target, Long Term Target for each student group for all campus types) to align with updates to School Progress Domain cut points.

Chapter 5 describes how the overall ratings are calculated. Language has been updated to align with Chapter 2 updates. Language about how ratings are calculated for districts has been added. Language has been added that if three of four domains have a scaled score below 70, the highest overall rating could be 69. Any previous reference to AEA bonus points has been removed. Scaling and lookup tables have been updated.

As a result of public comment, Table 5.3: Campus School Progress, Part A Domain (Campus School Progress, Part A: Score Cut Points) and Table 5.4: Campus Closing the Gaps Domain (Campus Closing the Gaps Domain Score Cut Points) have been changed to align with updates to School Progress Domain cut points.

Chapter 6 describes distinction designations. Language for the reading/language arts and mathematics distinction designations has been updated to include an accelerated learning indicator. Language has been updated for all

subject area distinction designations to include a retester growth indicator. Language clarifying the statutory requirements for college prep courses has been added.

Chapter 7 describes the pairing process and the AEA provisions. Language relating to how the district rating is assigned to a paired campus has been updated. AEA processing for 2023 has been updated to clarify that campuses designated as dropout recovery campuses in 2022 would continue to be registered. AEA charter school language has been removed to align with the district proportional ratings methodology in Chapter 5.

Chapter 8 describes the process for appealing ratings. Language about the Texas Assessment Management System has been updated to the Test Information Distribution Engine. Language has been added to describe an upload process available in fall 2023 for appeal submissions. Language related to unfavorable appeals has been expanded. References to Performance Based Monitoring have been updated to RDA.

Chapter 9 describes the responsibilities of TEA, the responsibilities of school districts and open-enrollment charter schools, and the consequences to school districts and open-enrollment charter schools related to accountability and interventions. The "Determination of Count of Consecutive School Years of Unacceptable Performance Ratings" and the description below the section title have been updated to include 2022 ratings language. Language has been added indicating that PEG campuses are identified based on an F overall rating. The Campus Identification Numbers have been updated to align with current procedures.

Chapter 10 provides information on the federally required identification of schools for improvement. The identification and exit criteria for comprehensive support and improvement, targeted support and improvement, and additional targeted support has been updated to align with changes in Chapter 4. Language has been added describing how student groups are evaluated for comprehensive support and improvement, targeted support and improvement, and additional targeted support. Example charts have been updated.

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As a result of USDE feedback during public comment, Chapter 10 has been updated at adoption to modify additional targeted support identification criteria language, exit criteria language, and an example.

Chapter 11 describes the local accountability system. The changes to this chapter were restricted to updating date and year references.

Chapter 12 describes the RDA system. This chapter includes all new language.

As a result of public comment, changes to Chapter 12 have been made at adoption to replace the term "children" with "students."

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began May 19, 2023, and ended June 6, 2023. Following is a summary of public comments received and agency responses.

Response: The agency disagrees that there has been enough investigation into weighting of indicators but will continue to work with stakeholders, such as the AEA Taskforce, to model and consider adjustments for AEA schools in future years of accountability.

Comment: One school district employee commented on the process for how districts and the agency identify dropouts for purposes of accountability for dropout recovery campuses. The school district employee was concerned with unintended consequences of deemphasizing retention and dropout mitigation strategies in favor of dropout recovery strategies.

Response: The agency disagrees that the dropout identification process needs to be changed but will continue its practices of working across the agency to ensure data accuracy, including accuracy for dropout codes.

Comment: One individual correctly identified that Domain 3 targets are not approved by USDE to be different for AEA campuses and was concerned with the challenges these targets present. The individual proposed a methodology focusing on the better of the two results that would include a review of whether performance is above state dropout recovery schools averages.

Response: The agency disagrees that it has the authority to make such a change to the accountability system.

Comment: TPCSA noted appreciation for the inclusion of prior dropouts in the numerator and not the denominator in the Completion Rate and CCMR Component and also voiced appreciation to the agency for continuing to monitor industry-based certifications (IBCs)/programs of study for impacts on AEA/dropout recovery schools.

Response: The agency agrees and will continue to work with stakeholders to model and monitor the impacts of IBCs and programs of study for future years of accountability.

CCMR Cut Points

Comment: Southside Independent School District (ISD), Taylor ISD, Stafford ISD, 119 school district employees, 2 parents, lead4ward, Texas School Alliance, and TPCSA shared concerns about the updated targets for the CCMR component being implemented with the class of 2022. The commenters stated that because these cuts apply to students who graduated in 2022, a campus or district was unable to create a new plan of action, make decisions, or implement new processes in reaction to the new cuts. The commenters also expressed that their opposition was not to an increased standard but to changes to the cuts being made after students graduated.

Response: The agency disagrees that the application of the updated cuts to a previous graduating class is a cause for concern. Texas schools have consistently been rated on a combination of current year and prior year data. Data from some portions of the A-F system are available in the current year, notably STAAR®. But data used to issue accountability ratings related to high school graduating classes has always lagged one year. This includes graduation rate and CCMR data. The reason for this is the delay in data availability. Students typically graduate around June but continue to graduate through August. Given this, when rating methodologies are changed, the methodology applies to all data currently available for the effective year of the rating. Prior to House Bill 22, 85th Texas Legislature, Regular Session, 2017, and the A-F system, as cut points were changed every year, this was also the case. As a result, cut point changes, both those made annually prior to HB 22 and those made periodically now, apply an effective rating for a school for a single year while using data from two years.

Comment: Southside ISD, Taylor ISD, Stafford ISD, 119 school district employees, 2 parents, lead4ward, Texas School Alliance, and TPCSA suggested leaving the current scaling in place for 2023 accountability or phasing in implementation of the new CCMR cuts with either the graduating class of 2023 or 2024. The commenters raised concerns that the cut increase was too high to happen in one year and should be raised incrementally over a period of multiple years. Alternatively, the commenters suggested fully suspending the change for the class of 2022 and implementing the increase for 2023.

Response: The agency disagrees. Before the A-F system became law with HB 22 in 2017, Texas accountability rules were changed every year, with goals for students constantly increasing each year. After hearing testimony that the state was continuously moving the goal posts, the legislature determined that it was important to keep the cut scores

Comment: One individual commented that a passed certification is different than an earned certification due to additional requirements for the earned certification, potentially creating hardship for school districts that may incur additional costs to meet this rule.

Response: The agency disagrees that these differences should influence which is implemented into the accountability system since the earned certification is a stronger indicator of a student's college or career readiness. As with all changes to the accountability system, however, the agency will monitor the changes for disproportionate impacts.

Comment: Commit, Good Reason Houston, Educate Texas, Texas Business Leadership Council, Teach Plus, Texas Association of Business, and Teach for America cited that the changes to IBCs and programs of study acknowledge that not all IBCs are of equal value, and completion of aligned coursework supports postsecondary success and prospects. The commenters also viewed the timeline to move to program of study completer as responsive without jeopardizing ensuring a rigorous CCMR component. Ed Trust similarly voiced that sunseting low-quality IBCs and phasing in aligned programs of study improves the quality of CCMR measures and suggested a lower cap/quicker phase out. Texas 2036 suggested that certifications no longer on the IBC list should not earn CCMR points or that a 5% cap be implemented and that program of study completer requirements be implemented sooner.

Response: The agency agrees. The originally proposed timeline to implement program of study requirements was adjusted in response to initial stakeholder feedback. Additionally, the agency developed the changes to sunseting list and cap with the intent to balance statutory rigor requirements with fairness for district implementation.

Texas Success Initiative (TSI) and College Prep

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Response: The agency agrees. The new annual growth methodology of the student progress domain is transparent, easy to understand, and easy to duplicate at the local level. An important value of the transition table is to evaluate assessments with scores reported on different scales, which enables the inclusion of more students in the growth calculation. The new accelerated learning results of the student progress domain will also narrow the focus on students who did not earn at least Approaches Grade Level on STAAR®, providing data in alignment with the requirements of HB 4545, 87th Texas Legislature, Regular Session, 2021.

Domain 3 Closing the Gaps

Comment: One district administrator shared a concern about the updated minimum group size (N=10), suggesting it should be changed back to 25 tests.

Response: The agency disagrees. This adjustment was made based on stakeholder feedback and analysis to measure the outcomes for additional students and to monitor achievement gaps more closely.

Comment: Austin Chamber, Commit, Ed Trust, Good Reason Houston, Teach for America, Educate Texas, Texas Business Leadership Council, Teach Plus, Texas Association of Business, Texas 2036, Texas Parent to Parent, and Texans for Special Education Reform voiced support for the proposed group size change. The commenters noted an alignment with national practices in order to not mask challenges and/or achievement gaps of particular subgroups.

Response: The agency agrees. This adjustment was made based on stakeholder feedback and analysis to measure the outcomes for additional students and monitor achievement gaps more closely.

Comment: One school district administrator shared a concern that measuring the two lowest-performing race/ethnicity groups in the Closing the Gaps domain negatively incentivizes campuses to engage in accountability-based prioritization.

Response: The agency disagrees that measuring the two lowest-performing race/ethnicity groups in the Closing the Gaps domain encourages campuses to engage in accountability-based prioritization. Schools and districts should continue to serve all students and student groups, and the agency will continue to evaluate and report across all groups. The agency will continue to identify schools for school improvement supports by evaluating each individual student group. Closing the Gaps (Domain 3) will remain as proposed, evaluating all students, the two lowest-performing racial/ethnic groups, and the High Focus group to increase attention to those groups that need support the most.

Comment: Texans for Special Education Reform and Texas Parent to Parent requested removing the High Focus supergroup and reverting to the individual subgroups previously used, concerned that the High Focus supergroup eliminates meaningful accountability for the performance of students with disabilities. Additionally, Ed Trust shared a similar concern that this supergroup ignores meaningful distinctions between groups and suggested monitoring implementation as well as future fluctuations among schools' two lowest-performing racial/ethnic groups. One school district employee also posited a scenario of campuses having nearly all students in the High Focus supergroup and suggested maintaining the evaluation of all groups separately.

Response: The agency disagrees that the High Focus group should be removed and the individual subgroups reinstated. There are meaningful distinctions and needs of each group, and the agency will continue to evaluate and report across all groups while using the High Focus group for the Closing the Gaps domain. The agency will continue to identify schools

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Response: The agency disagrees. The vast majority of data in the A-F campus rating comes from STAAR®-tested grades (Grade 3 and higher). The district proportional methodology is also intended to follow the same method of including only Grade 3 and higher.

Comment: Texas School Alliance expressed concern that the proposed methodology over-values STAAR® outcomes and under-values CCMR.

constantly increasing each year. Each year, the new methodology was applied without using a "better of" calculation.

New English I to English II Growth

Comment: One school district employee suggested not implementing measure of growth for students concurrently enrolled in English I and II in the same year, given a concern of a lack of within-year data available for teachers to help a student adjust before taking English II.

Response: The agency disagrees. One of the benefits of moving to a transition table model is the inclusion of more students in the growth calculation. This includes students moving from English I EOC to English II EOC in the case that they take these assessments for the first time in the same year.

Military Indicators

Comment: One school district employee requested that military readiness include the Junior Reserve Officer Training Course (JROTC) as a military readiness indicator. The current military readiness indicator is the Junior Reserve Officer Training Course (JROTC) as a military readiness indicator.

Comment: A school district employee suggested moving the 0-4 points chart and explanation from its proposed location to a later page where the manual details the calculating the component score.

Response: The agency agrees and has made a technical change to the manual at adoption to move the chart to a more easily referenced location.

Comment: A school district employee questioned a reference to a "fall 2021 result" instead of "fall 2022 result" on page eight in Chapter 1.

Response: The agency disagrees as this section references Appendix H, where the criteria is listed.

Comment: A school district employee suggested the Student Group Growth and the Expected Growth calculations

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC),

after reviewing the district or campus under the methods and standards adopted under TEC, §39.054, the commissioner determines the district or campus should be assigned an overall performance rating of C or higher; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.056, which authorizes the commissioner to adopt procedures relating to monitoring reviews and special accreditation investigations; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §39A.001, which authorizes the commissioner to take any of the actions authorized by TEC, Chapter 39, Subchapter A, to the extent the commissioner determines necessary if a school does not satisfy the academic performance standards under TEC, §39.053 or §39.054, or based upon a special investigation; TEC, §39A.002, which authorizes the commissioner to take certain actions if a school district becomes subject to commissioner action under TEC, §39A.001; TEC, §39A.004, which authorizes the commissioner to appoint a board of managers to exercise the powers and duties of a school district's board of trustees if the district is subject to commissioner action under TEC, §39A.001, and has a current accreditation status of accredited-warned or accredited-probation; or fails to satisfy any standard under TEC, §39.054(e); or fails to satisfy any financial accountability standard; TEC, §39A.005, which authorizes the commissioner to revoke school accreditation if the district is subject to TEC, §39A.001, and for two consecutive school years has received an accreditation status of accredited-warned or accredited-probation, failed to satisfy any standard under TEC, §39.054(e), or failed to satisfy a financial performance standard; TEC, §39A.007, which authorizes the commissioner to impose a sanction designed to improve high school completion rates if the district has failed to satisfy any standard under TEC, §39.054(e), due to high school completion rates; TEC, §39A.051, which authorizes the commissioner to take action based on campus performance that is below any standard under TEC, §39.054(e); and TEC, §39A.063, which authorizes the commissioner to accept substantially similar intervention measures as required by federal accountability measures in compliance with TEC, Chapter 39A.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.021(b)(1); 7.028; 12.056; 12.104; 29.001; 29.0011(b); 29.010(a); 29.062; 29.066; 29.081(e), (e-1), and (e-2); 29.201; 29.202; 39.003; 39.004; 39.051; 39.052; 39.053; 39.054; 39.0541; 39.0543; 39.0546; 39.0548; 39.055; 39.056; 39.151; 39.201; 39.2011; 39.202; 39.203; 39A.001; 39A.002; 39A.004; 39A.005; 39A.007; 39A.051; and 39A.063.

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§97.1001. Accountability Rating System.

- (a) The rating standards established by the commissioner of education under Texas Education Code (TEC), §§39.052(a) and (b)(1)(A); 39.053, 39.054, 39.0541, 39.0548, 39.055, 39.151, 39.201, 39.2011, 39.202, 39.203, 29.081(e), (e-1), and (e-2), and 12.104(b)(2)(L), shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine rating standards shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine rating standards shall be used to evaluate the performance of districts, campuses, and charter schools.

Figure: 19 TAC §97.1001(b)

- (c) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.057.
- (d) The specific criteria and calculations used in the accountability manual are established annually by the

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §7.021(b)(1), which authorizes the Texas Education Agency (TEA) to administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs; TEC, §7.028, which authorizes TEA to monitor as necessary to ensure school district and charter school compliance with federal law and regulations, financial integrity, and data integrity and authorizes the agency to monitor school districts and charter schools through its investigative process; TEC, §7.028(a), which authorizes TEA to monitor special education programs for compliance with state and federal laws; TEC, §12.056, which requires that a campus or program for which a charter is granted under TEC, Chapter 12, Subchapter C, is subject to any prohibition relating to the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter C, as determined by the commissioner; high school graduation under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; and public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, and J, and Chapter 39A; TEC, §12.104, which states that a charter granted under TEC, Chapter 12, Subchapter D, is subject to a prohibition, restriction, or requirement, as applicable, imposed by TEC, Title 2, or a rule adopted under TEC, Title 2, relating to PEIMS to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter D, as determined by the commissioner; high school graduation requirements under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; discipline management practices or behavior management techniques under TEC, §37.0021; public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and Chapter 39A; and intensive programs of instruction under TEC, §28.0213; TEC, §29.001, which authorizes TEA to effectively monitor all local education agencies (LEAs) to ensure that rules relating to the delivery of services to children with disabilities are applied in a consistent and uniform manner, to ensure that LEAs are complying with those rules, and to ensure that specific reports filed by LEAs are accurate and complete; TEC, §29.0011(b), which authorizes TEA to meet the requirements under (1) 20 U.S.C. §1418(d) and its implementing regulations to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and in the school districts and open-enrollment charter sch 9g5 (r)-3u(gul)6.2 (r)1.pc6.9:(g6tr)-5.4 (e)6.9 (T)ichara6.9:(g6(s)2.4 t (s)2.4 (t (t)12 (h)-7.1 (5.4 (eu(gul)6.251)] (r).3 (a)41

after reviewing the district or campus under the methods and standards adopted under TEC, §39.054, the commissioner determines the district or campus should be assigned an overall performance rating of C or higher; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.056, which authorizes the commissioner to adopt procedures relating to monitoring reviews and special accreditation investigations; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §39A.001, which authorizes the commissioner to take any of the actions authorized by TEC, Chapter 39, Subchapter A, to the extent the commissioner determines necessary if a school does not satisfy the academic performance standards under TEC, §39.053 or §39.054, or based upon a special investigation; TEC, §39A.002, which authorizes the commissioner to take certain actions if a school district becomes subject to commissioner action under TEC, §39A.001; TEC, §39A.004, which authorbembhor