

§97.1055. Accreditation Status.

(a) General provisions.

(1) Each year, the commissioner of education shall assign to each school district an accreditation status under Texas Education Code (TEC), §39.052(b) and (c). Each district shall be assigned a status defined as follows.

(A) Accredited. Accredited means the Texas Education Agency (TEA) recognizes the district as a public school of this state that:

(i) meets the standards determined by the commissioner under TEC, §39.052(b) and (c), and specified in §97.1059 of this title (relating to Standards for All Accreditation Sanction Determinations); and

(ii) is not currently assigned an accreditation status of Accredited-Warned or Accredited-Probation.

(B) Accredited-Warned. Accredited-Warned means the district exhibits deficiencies in performance, as specified in subsection (b) of this section, that, if not addressed, will lead to probation or revocation of its accreditation status.

(C) Accredited-Probation. Accredited-Probation means the district exhibits deficiencies in performance, as specified in subsection (c) of this section, that must be addressed to avoid revocation of its accreditation status.

(D) Not Accredited-Revoked. Not Accredited-Revoked means the TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under TEC, §39.052(b) and (c), and specified in subsection (d) of this section.

(2) The commissioner shall assign the accreditation status, as defined by this section, based on the performance of each school district. This section shall be construed and applied to achieve the purposes of TEC, §39.051 and §39.052, which are specified in §97.1053(a) of this title (relating to Purpose).

(3) The commissioner shall revoke the accreditation status of a district that fails to meet the standards specified in this section. In the event of revocation, the purposes of the TEC, §39.051 and §39.052, are to:

(A) inform the parents of students enrolled in the district, property owners in the district, general public, and policymakers that the TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under TEC, §39.052(b) and (c), and specified in subsection (d) of this section; and

(B) encourage other districts to improve their performance so as to retain their accreditation.

(4) Unless revised as a result of investigative activities by the commissioner as authorized under TEC, Chapter 39, or other law, an accreditation status remains in effect until replaced by an accreditation status assigned for the next school year. An accreditation status shall be revised within the school year when circumstances require such revision in order to achieve the purposes specified in §97.1053(a) of this title.

(5) An accreditation status will be withheld pending completion of any appeal or review of an academic accountability rating, a financial accountability rating, or other determination by the commissioner, but only if such appeal or review is:

(A) specifically authorized by commissioner rule;

(B) timely requested under and in compliance with such rule; and

(C) applicable to the accreditation status under review.

(6) An accreditation status may be withheld pending completion of on-site or other investigative activities in order to achieve the purposes specified in §97.1053(a) of this title.

(7) An 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 chapter or other applicable law.

(8) For purposes of determining multiple years of academically unacceptable or insufficient performance, the academic accountability ratings issued for the 2010-2011 school year and for the 2012-2013 school year are consecutive. An accreditation status assigned for the 2012-2013 school year shall be based on assigned academic accountability ratings for the applicable prior school years, as determined under subsections (b)-(d) of this section.

(9) Accreditation statuses are consecutive if they are not separated by an accreditation period in which the TEA assigned accreditation statuses to districts and charter schools generally. For example, if TEA does not assign accreditation statuses to districts and charter schools generally for the 2012-2013 school year, then the accreditation statuses issued for the 2011-2012 school year and for the 2013-2014 school year are consecutive.

(b) Determination of Accredited-Warned status.

(1) A district shall be assigned Accredited-Warned status if, beginning with its 2006 rating, the district is assigned:

(A) for two consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title (relating to Accountability Rating System);

(B) for two consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 of this title (relating to Financial Accountability Ratings);

(C) for two consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or

(D) for one school year, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.

(2) Notwithstanding the district's performance under paragraph (1) of this subsection, a district shall be assigned Accredited-Warning status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:

(A) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:

(i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, and §61.1025 of this title (relating to Public Education Information Management System (PEIMS) Data and Reporting Standards);

(iii) other reports required by state or federal law or court order;

(iv) awarding high school graduation under TEC, §28.025; or

(v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or

(B) after investigation under TEC, §39.056 or §39.057, the commissioner finds:

(i) the district's programs monitored under §97.1005 of this title (relating to Performance-Based Monitoring Analysis System) exhibit serious or persistent deficiencies that, if not addressed, may lead to probation or revocation of the district's accreditation; or

(ii) the district otherwise exhibits serious or persistent deficiencies that, if not addressed, may lead to probation or revocation of the district's accreditation.

(3) Notwithstanding paragraph (2) of this subsection, a district shall be assigned Accredited-Warning status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052.

(4) Notwithstanding any provisions in this subsection, a district shall be assigned Accredited-Warning status if it has otherwise earned the Accredited status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(c) Determination of Accredited-Probation status.

(1) A district shall be assigned Accredited-Probation status if, beginning with its 2006 rating, the district is assigned:

(A) for three consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title;

(B) for three consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 of this title;

(C) for three consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or

(D) for two consecutive school years, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.

(2) Notwithstanding the district's performance under paragraph (1) of this subsection, a district shall be assigned Accredited-Probation status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:

(A) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:

(i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, and §61.1025 of this title;

(iii) other reports required by state or federal law or court order;

(iv) awarding high school graduation under TEC, §28.025; or

(v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or

(B) after investigation under TEC, §39.056 or §39.057, the commissioner finds:

(i) the district's programs monitored under §97.1005 of this title exhibit serious or persistent deficiencies that, if not addressed, may lead to revocation of the district's accreditation; or

(ii) the district otherwise exhibits serious or persistent deficiencies that, if not addressed, may lead to revocation of the district's accreditation.

(3) Notwithstanding paragraph (2) of this subsection, a district shall be assigned Accredited-Probation status if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052.

(4) Notwithstanding any provision in this subsection, a district shall be assigned Accredited-Probation status if it has otherwise earned the Accredited-Warned status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(d) Determination of Not Accredited-Revoked status; Revocation of accreditation.

(1) The accreditation of a district shall be revoked if, beginning with its 2006 rating, the district is assigned:

(A) for four consecutive school years, an academic accountability rating of Academically Unacceptable or insufficient performance under §97.1001 of this title;

(B) for four consecutive school years, a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 of this title;

(C) for four consecutive school years, any one of the ratings referenced in subparagraphs (A) and (B) of this paragraph; or

(D) for three consecutive school years, a combination of ratings referenced in both subparagraphs (A) and (B) of this paragraph.

(2) A district shall have its accreditation revoked if, notwithstanding its performance under paragraph (1) of this subsection, the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052. Such action is generally required by the following circumstances:

(A) to an extent established under subsection (e) of this section, the district has failed to comply with requirements related to:

(i) the integrity of assessment or financial data used to measure performance under TEC, Chapter 39 or 42, and rules implementing those chapters;

(ii) the reporting of data under TEC, §42.006, and §61.1025 of this title;

(iii) other reports required by state or federal law or court order;

(iv) awarding high school graduation under TEC, §28.025; or

(v) any applicable requirement under TEC, §7.056(e)(3)(C)-(I); or

(B) after investigation under TEC, §39.056 or §39.057, the commissioner finds:

(i) the district's programs monitored under §97.1005 of this title exhibit serious or persistent deficiencies that require revocation of the district's accreditation; or

(ii) the district otherwise exhibits serious or persistent deficiencies that require revocation of the district's accreditation.

(3) Notwithstanding paragraph (2) of this subsection, a district's accreditation shall be revoked if the commissioner determines this action is reasonably necessary to achieve the purposes of TEC, §39.051 and §39.052.

(4) Notwithstanding any provision in this subsection, a district shall be assigned Not Accredited-Revoked status if it has otherwise earned the Accredited-Probation status, but the commissioner determines:

(A) the district failed to submit a plan as provided by TEC, §39.0823(b);

(B) the district failed to obtain approval from the TEA for a plan as provided by TEC, §39.0823(b);

(C) the district failed to comply with a plan approved by the TEA under TEC, §39.0823(b); or

(D) in a subsequent school year, based on financial data submitted by the district, the approved plan for the district is insufficient or inappropriately implemented under TEC, §39.0823.

(5) The commissioner's decision to revoke a district's accreditation may be appealed under §97.1037 of this title (relating to Record Review of Certain Decisions). If the decision is sustained on appeal, the commissioner shall appoint a management team or board of managers to bring to closure the district's operation of the public school.

(e) Legal compliance. In addition to the district's performance as measured by ratings under §97.1001 and §109.1002 of this title, the accreditation status of a district is determined by its compliance with the statutes and rules specified in TEC, §39.052(b)(2). Notwithstanding satisfactory or above satisfactory performance on other measures, a district's accreditation status may be assigned based on its legal compliance alone, to the extent the commissioner determines necessary. In making this determination, the commissioner:

(1) shall assign the accreditation status that is reasonably calculated to accomplish the applicable provisions specified in §97.1053(a) of this title;

(2) may impose, but is not required to impose, an accreditation sanction under this subchapter in addition to assigning a status under paragraph (1) of this subsection; and

(3) shall lower the status assigned and/or impose additional accreditation sanctions as necessary to achieve compliance with the statutes and rules specified in TEC, §39.052(b)(2).

(f) Required notification of Accredited-Warned or Accredited-Probation status.

(1) A district assigned an accreditation status of Accredited-Warned or Accredited-Probation shall notify the parents of students enrolled in the district and property owners in the district as specified by this subsection.

(2) The district's notice must contain information about the accreditation status, the implications of such status, and the steps the district is taking to address the areas of

deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.

(3) Notice under this subsection must:

(A) not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the notification required by paragraph (2) of this subsection, and remain until the district is assigned the Accredited status; and

(B) appear in the newspaper with the greatest circulation in the district for three consecutive days as follows:

(i) from Sunday through Tuesday of the second week following assignment of the status; or

(ii) if the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or

(C) not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or

(D) not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

(4) A district required to act under this subsection shall send the following to the TEA via certified mail, return receipt requested:

(A) the universal resource locator (URL) for the link required by paragraph (3)(A) of this subsection; and

(B) copies of the notice required by paragraph (3)(B) of this subsection showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or

(C) copies of the notice required by paragraph (3)(C) of this subsection and copies of all mailing lists and postage receipts; or

(D) copies of the notice required by paragraph (3)(D) of this subsection and copies of the board of trustees meeting notice and minutes for the board meeting in which the notice was presented and publicly discussed.

(g) Substitute criteria if no charter school financial accountability rating. In considering the financial performance of a charter operator during a fiscal year for which no financial accountability ratings were assigned to charter operators under §109.1002 of this title, the commissioner shall apply the following substitute criteria.

(1) Finding in lieu of rating. Any of the following findings, made after an opportunity for a record review under paragraph (2)(B) of this subsection, shall be deemed the equivalent of a financial accountability rating of Substandard Achievement or Suspended--Data Quality under §109.1002 of this title:

(A) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title (relating to Accounting for State Funds) was received more than 180 days after the close of the entity's fiscal year;

(B) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title disclosed total assets of less than 80% of total liabilities; or

(C) the Annual Audit Report required for that fiscal year by TEC, §44.008, and §100.1047 of this title contained:

(i) an adverse opinion, including a going concern disclosure, or a disclaimer of opinion; and

(ii) the adverse or disclaimed opinion pertained to:

(I) financial resources or expenditures that were not properly documented; or

(II) a material weakness in internal controls that led to the misallocation of financial resources.

(2) Provisions concerning finding. Whenever a provision of this section calls for consideration of the financial accountability rating of a charter operator for a fiscal year, a finding described by paragraph (1) of this subsection shall be deemed the financial accountability rating and applied as if such finding were issued under §109.1002 of this title.

(A) If a provision of this section calls for consideration of the financial accountability rating of a charter operator for more than one fiscal year, and financial accountability ratings were assigned to charter operators under §109.1002 of this title for at least one but fewer than all of the relevant fiscal years, a finding described by paragraph (1) of this subsection shall be deemed the financial accountability rating only for the fiscal year(s) for which no financial accountability ratings were assigned to charter operators.

(B) A finding described by paragraph (1) of this subsection shall be issued using the process provided by §97.1035 of this title (relating to Procedures for Accreditation Sanctions) and shall be subject to a record review under §97.1037 of this title (relating to Record Review of Certain Decisions).

(C) A finding described by paragraph (1) of this subsection shall be issued pertaining to each fiscal year beginning with the 2007-2008 fiscal year. For the 2006-2007 fiscal year, the TEA shall report the performance of each open-enrollment charter operator for informational purposes only.

(h) Third-party accreditation. The commissioner may recognize a supplemental accreditation issued by a rating agency approved by the commissioner to a charter operator that meets the standards determined by the commissioner under subsection (a)(1)(A) of this section. A charter operator that fails to meet the standards for accreditation under subsection (a)(1)(A) of this section may not receive such recognition until the charter operator meets the standards for the Accredited status as determined by the commissioner.

Source: The provisions of this §97.1055 adopted to be effective January 6, 2008, 33 TexReg 150; amended to be effective November 23, 2008, 33 TexReg 9462; amended to be effective July 28, 2010, 35 TexReg 6523.