

Chapter 7 – Appealing the Ratings

The commissioner of education is required to provide a process for local districts or charters to challenge an agency determination of accountability rating (Texas Education Code (TEC) §39.151).

TEC §39.151. Review By Commissioner: Accountability Determination.

- (a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school.
- (b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic performance rating or determination or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.
- (c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or open-enrollment charter school challenging the agency decision.
- (d) The commissioner shall make a final decision under this section after considering the recommendation of the committee described by Subsection (b). The commissioner's decision may not be appealed under Section 7.057 or other law.
- (e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

Appeals Process Overview and Calendar

The state accountability system performance index framework limits the likelihood that a single indicator or measure results in an *Improvement Required* rating. For this reason, the state accountability appeals process is limited to rare cases where a data or calculation error is attributable to the testing contractor or the Texas Education Agency (TEA). The compensatory nature of the performance index framework and other features of the indexes, such as the use of multiple indicators to derive an overall index score, minimize the possibility that district errors in coding student demographic information in the Public Education Information Management System (PEIMS) or State of Texas Assessments of Academic Readiness (STAAR) program negatively impact the overall accountability rating. Online applications provided by the agency and testing contractor ensure that districts are aware of data correction opportunities, particularly through the use of PEIMS data submissions and the Texas Assessment Management System (TAMS). District responsibility for data quality is the cornerstone of a fair and uniform rating determination.

School district appeals that challenge the agency determination of the accountability rating are carefully reviewed by an external panel of educators. Superintendents may appeal accountability ratings by following the guidelines in this chapter.

Following are the dates for appealing ratings. These deadlines are final. To maintain a fair appeals process, late appeals are denied. See *Chapter 10 – Calendar* for more information.

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| June 6, 2014 | <i>Graduation/Dropout Summary Reports and Lists.</i> Superintendents may access confidential lists of dropouts and cohort membership. These reports provide a preview of the data that will be used to calculate the Graduation Rate, RHSP/DAP Rate, and Annual Dropout Rate indicators for the accountability ratings. |
| August 1, 2014 | <i>Preview Data Tables.</i> Superintendents may access confidential preview accountability data tables for their district and campuses showing all accountability indicator data. Principals and superintendents can use these data tables to anticipate their campus and district accountability ratings. |
| August 8, 2014 | <i>Ratings Release.</i> No appeals will be resolved before the ratings release. |
| August 8 – September 9, 2014 | <i>2014 Appeals Window.</i> Appeals may be submitted <i>by the superintendent</i> after receipt of the preview data tables. Districts register their intent to appeal using the TEASE Accountability website and mail their appeal letter with supporting documentation via. Appeals not signed by the district superintendent are denied. See “How to Appeal” later in this chapter. |
| September 9, 2014 | <i>Appeals Deadline.</i> Appeals must be postmarked or hand-delivered no later than September 9, 2014, in order to be considered. |
| Early November 2014 | <i>Decisions Released.</i> Commissioner’s decisions are mailed in the form of response letters to each school district. Letters are posted to the TEASE site. |
| Early November 2014 | <i>Ratings Update.</i> The outcome of all appeals will be reflected in the ratings update scheduled for November 2014. The TEASE and public websites are updated. |

General Considerations

The basis for appeals should be a data or calculation error attributable to TEA, regional education service centers (ESC), or the test contractor for the student assessment program. The appeals process is not a permissible method to correct data that was inaccurately reported by the district. If the district has reported inaccurate data, it must follow the procedures and timelines for resubmitting the data, e.g., the PEIMS data standards. Poor data quality is not a valid reason to appeal. However, note that poor data quality can be a reason to lower a district’s accreditation (TEC §39.052(b)(2)(A)(i)). The data tables and other agency products or performance reports include data that are final and cannot be changed even if an appeal is granted, unless it is an error by TEA and/or the test contractor.

Districts may appeal for any reason. However, the accountability system requires that the rules be uniformly applied. Therefore, a request to make exceptions for how the rules are applied to a single campus or district is viewed unfavorably, and will most likely be denied.

- Only appeals that would result in a changed rating will be considered. A campus or district must meet all requirements for a higher rating in order for its appeal to be evaluated.
- Appeals are not considered for the Accountability System Safeguard measures that may result in campus or district interventions.
- Districts are responsible for providing accurate information to TEA, including information provided on student answer documents or submitted via online testing systems. School districts have multiple opportunities to confirm and correct data submitted for accountability purposes. Changes to test answer document fields submitted within the correction window will be included in the STAAR data files used in determining the 2014 accountability ratings.

- The appeals process is not a permissible method to correct data that was inaccurately reported by the district. Appeals from districts that missed data resubmission window opportunities are denied. Appeal requests for data corrections for the following submissions are not considered.

PEIMS data submissions for:

- Student identification information or program participation;
- Student racial/ethnic categories;
- Student economic status;
- Student attribution codes; and
- Student leaver data.

STAAR test answer documents, specifically:

- Student identification information, demographic or program participation;
- Student racial/ethnic categories;
- Student economic status; and
- Score code or test version codes.

- Requests to modify the 2014 state accountability calculations adopted by Commissioner Rule are not considered. Commissioner rules are adopted under the Administrative Procedures Act (APA) and challenges to a Commissioner Rule should be made under that statute. Recommendations for changes to state accountability rules submitted to the agency outside of the appeal process may be considered by accountability advisory groups for future accountability cycles.
- Requests to modify statutorily required implementation rules defined by the Commissioner will not be considered. PEIMS requirements, campus identifications, and statutorily required exclusions are based on data submitted by school districts. These data reporting requirements are reviewed by the appropriate advisory committee, such as the TEA Information Task Force (ITF) and Policy Committee on Public Education Information (PCPEI). Recommendations for changes to agency rules submitted outside of the appeals process may be considered as the appropriate advisory groups reconvene annually.
- Examples of issues unfavorable for appeal include:
 - *Late Online Application Requests.* Requests to submit or provide information after the deadline of the online AEA campus registration (12:00 p.m. on April 15, 2014) or the pairing application (5:00 p.m. on May 8, 2014) are denied.
 - *Inclusion or exclusion of specific test results:*
 - *STAAR Modified, STAAR Alternate, STAAR EOC retests,*
 - *specific administration results used to meet grade 5 or 8 Student Success Initiative (SSI),*
 - *grade-level mathematics rather than Algebra I for middle schools;*
 - *Inclusion or exclusion of specific students:*
 - *ELLs, Asylee/Refugees,*
 - *students served by Special Education programs;*
 - *Requests to modify calculations or methodology applied to all districts and campuses, specifically:*

- *STAAR Progress Measures, ELL Progress Measure, longitudinal graduation rates, longitudinal or annual RHSP/DAP rates, or annual dropout rates*
- *District and campus mobility/accountability subsets*
- *Rounding*
- *Minimum size criteria*
- *Years in U.S. Schools.* Requests to modify the Years in U.S. Schools information submitted by districts on the Texas English Language Proficiency Assessments System (TELPAS) are denied.
- *Student Growth Measures.* Requests to use an alternative student growth measure instead of the STAAR Progress Measure or ELL Progress Measure are denied.
- *Small Numbers Analysis.* Request to modify calculations, methodology, or outcomes of small numbers analysis are denied.
- *Alternative Education Accountability (AEA) Provisions.* Requests for consideration of campus registration criteria, at-risk or grades 6-12 enrollment criteria, prior year safeguard methodology, Dropout Recovery School (DRS) designations, and to waive the AEC enrollment criterion for charters are denied.
- *School Types.* The four campus types categories used for 2014 accountability are identified based on PEIMS enrollment data submitted in fall 2013. Requests to redefine the low or high grade designations for a specific category are denied.
- *Campus Configuration Changes.* School districts have the opportunity to determine changes in campus identification numbers and grade configurations. Requests for consideration of state accountability rules based on changes in campus configurations are denied.
- *New Campuses.* Requests to assign a *Not Rated* label to campuses that are designated *Improvement Required* in their first year of operation are denied.
- *Professional Service Providers (PSP).* District or campus intervention requirements are based in part by the current rating outcome. Requests to waive PSP requirements are not considered an appeal of the accountability rating and are denied.

Data Relevant to the Prior Year Results

Appeals are considered for the 2014 ratings status based on information relevant to the 2014 evaluation. Appeals are not considered for circumstances that may have affected the prior year measures, regardless of whether the prior year results impacted the current year rating.

No Guaranteed Outcomes

Each appeal is evaluated on the details of its unique situation. Well-written appeals that follow the guidelines are more easily processed, but are not automatically granted.

Special Circumstance Appeals

- If the district has requested that writing results be rescored, districts must provide a copy of the dated request to the test contractor and the outcome of the rescored tests with the appeal. If the rescored results impact the rating, these appeals are necessary since rescored results may not be processed in time to be included in the assessment data used to determine the accountability ratings released by August 8, 2014.

- If other serious problems are found, copies of correspondence with the test contractor or the regional ESC should be provided with the appeal.
- Appeals based on STAAR or TELPAS online test submission errors must include documentation or validation of the administration of the assessment.

Not Rated Appeals

Districts and campuses rated *Not Rated* are responsible for appealing this rating by the scheduled appeal deadline, if the basis for this rating was due to special circumstance or error by the testing contractor. If the agency determines that the *Not Rated* rating was indeed due to special circumstances, the agency can assign a revised rating.

Distinction Designations

Academic Achievement Distinction Designations (AADD), Top 25 Percent Student Progress, Top 25 Percent Closing Performance Gaps, and Postsecondary Readiness distinctions cannot be appealed. Indicators for these distinctions are reported for most campuses and districts regardless of eligibility for a designation. Campuses rated *Improvement Required* are not eligible for a distinction. However, campuses that appeal an *Improvement Required* rating will automatically receive any distinction designation earned, if their appeal is granted and their rating is revised to *Met Standard*.

How to Submit an Appeal

Districts should e-file their intent to appeal district and/or campus ratings by using the TEA Secure Environment (TEASE) Application site. This online system provides a mechanism for tracking all accountability rating appeals and allows districts to monitor the status of their appeals.

After e-filing an intent to appeal, districts must mail an appeal packet, including all supporting documentation necessary for TEA to process the appeal. E-filing an intent to appeal does not constitute an appeal.

To e-file an intent to appeal:

1. Log on to TEASE at <https://sequin.tea.state.tx.us/apps/logon.asp> or TEAL at <https://pryor.tea.state.tx.us>.
2. Click on ACCT – Accountability.
3. From the Welcome page, click on the *Notification of Intent to Appeal* link and follow the instructions.
4. The Notification of Intent to Appeal application website will be available during the appeals window from August 8 through 5:00 p.m. CDT on September 9.
5. The status of the appeal, e.g., intent notification and receipt of documentation, will be available on the TEASE Accountability website.

Superintendents who do not have TEASE access must request access at the TEASE Applications Reference Page at <http://www.tea.state.tx.us/index2.aspx?id=2684>

Districts must submit their appeal in writing via mail to TEA by September 9, 2014. As in past years, the appeal shall include:

- A statement that the letter is an appeal of a 2014 accountability rating;
- The name and ID number of the district and/or campuses to which the appeal applies;

- The specific indicator(s) appealed;
- The special circumstance(s) regarding the appeal, including details of the data affected and what caused the problem;
- If applicable, the reason(s) why the cause for appeal is attributable to TEA, a regional ESC, or the test contractor;
- The reason(s) why granting the appeal may result in a revised rating, including calculations that support that rating;
- A statement that all information included in the appeal is true and correct to the best of the superintendent's knowledge and belief; and,
- The superintendent's signature on official district letterhead.
- The appeal shall be addressed to the Division of Performance Reporting as follows:

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| Your ISD Your address City, TX Zip | postage |
| Division of Performance Reporting Texas Education Agency 1701 North Congress Avenue Austin, TX 78701-1494 | |
| Attn: Accountability Ratings Appeal | |

- The letter of appeal should be addressed to Mr. Michael Williams, Commissioner of Education (see example letters, below).
- Appeals for more than one campus, including alternative education campuses, within a single district must be included in the same letter.
- Appeals for more than one indicator must be included in the same letter.
- Districts have only one opportunity to appeal for any campus or the district.
- If the appeal will impact the rating of a paired campus, that consequence must be noted.
- If the appeal will impact the rating of the district, that consequence must be noted.
- When student-level information is in question, supporting documentation must be provided for review, *i.e.*, a list of the students by name and identification number. It is not sufficient to reference indicator data without providing documentation with which the appeal can be researched and evaluated. *Confidential student-level documentation included in the appeal packet will be processed and stored in a secure location and will be accessible only by TEA staff authorized to view confidential student results. Please clearly mark any page that contains confidential student data.*
- It is the district's responsibility to ensure all relevant information is included in the appeal as districts will not be prompted for additional materials.
- **Appeal letters must be postmarked on or before September 9, 2014.** Appeals postmarked after this date will not be considered. Appeals delivered to TEA in person must be time-stamped by the Division of Performance Reporting before 5:00 p.m., CDT on September 9, 2014. Overnight courier tickets or tracking documentation must indicate package pickup on or before September 9.
- **Only send one copy of the appeal letter and/or supporting documentation.**
- Districts are encouraged to obtain delivery confirmation services from their mail courier.

Examples of satisfactory and unsatisfactory appeals are provided only for illustration.

| Satisfactory Appeal: | Unsatisfactory Appeals: |
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| <p>Dear Commissioner Williams,</p> <p>This is an appeal of the 2014 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing STAAR mathematics for this campus. This is the only indicator preventing Elm Street Elementary from achieving a rating of <i>Met Standard</i>.</p> <p>During the day of mathematics testing at Elm Street Elementary School, the campus was subjected to a disrupted schedule due to an unusual and unique event. The fifth grade class was disrupted during the test administration by an emergency situation. Documentation of the incident and district personnel adherence to testing irregularity processes is included.</p> <p>Attached is the students' identification information as well as the PEIMS data for the students whose tests were affected.</p> <p>The second attachment shows the recalculated mathematics percent passing for Elm Elementary.</p> <p>We recognize the appeal process as the mechanism to address these unique issues. By my signature below, I certify that all information included in this appeal is true and correct to the best of my knowledge and belief.</p> <p>Sincerely,</p> <p>J. Q. Educator Superintendent of Schools</p> <p><i>Attachments</i></p> | <p>Dear Commissioner Williams,</p> <p>This is an appeal of the 2014 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing STAAR mathematics for the Hispanic student group. This is the only indicator keeping Elm Street Elementary from achieving a rating of <i>Met Standard</i>.</p> <p>My analysis shows a coding change made to one student's race/ethnicity on the answer document at the time of testing was in error. One 5th grade Hispanic student was miscoded as White on the answer document. Had this student, who passed the mathematics test, been included in the Hispanic student group, the percent passing for this group would have met the standard. Removing this student from the White student group does not cause the White student group performance to fall below the <i>Met Standard</i> criteria.</p> <p>We recognize the importance of accurate data coding, and have put new procedures in place to prevent this from occurring in the future.</p> <p>Sincerely,</p> <p>J. Q. Educator Superintendent of Schools</p> <p><i>Attachments</i></p> |
| | <p>Dear Commissioner Williams,</p> <p>Maple ISD feels that its rating should be <i>Met Standard</i>. The discrepancy occurs because TEA shows that the performance in Index 1 for Writing is 48%.</p> <p>We have sent two compositions back for scoring, and are confident they will be changed to passing.</p> <p>If you have questions, do not hesitate to contact us, at 701-555-1234.</p> <p>Sincerely,</p> <p>J. Q. Educator Superintendent of Schools</p> <p><i>(no attachments)</i></p> |

How an Appeal Is Processed by the Agency

- The Division of Performance Reporting receives an appeal packet.
- The TEASE Application site is updated to reflect the postmark date for each appeal and the date on which each appeal packet is received by the agency. Districts may monitor the status of their appeal(s) using the TEASE Application site.
- Researchers evaluate the request using agency data sources to validate the statements made to the extent possible. The agency examines all relevant data, *not just the results for the students specifically named in the correspondence.*
- Researchers analyze the effect that granting a campus appeal may have on other campuses in the district (such as paired campuses), even if they are not specifically named in the appeal. Similarly, the effect that granting a campus appeal may have on the district is evaluated, even if the district is not named in the appeal. In single-campus districts, both the campus and district are evaluated, whether the district submits the appeal as a campus or district appeal.
- Staff prepares a recommendation and submits it to an external panel of educators for review.
- The review panel examines all appeals, supporting documentation, staff research, and the staff recommendation. The panel determines its recommendation.
- The panel's recommendations are forwarded to the commissioner.
- The commissioner makes the final decision on all appeals.
- Superintendents receive written notification of the commissioner's decision and the rationale upon which the decision is made. The commissioner's response letters are posted to the TEASE site at the same time the letters are mailed. Superintendents are also notified via e-mail that the appeal decision is available on TEASE.
- *If an appeal is granted, the data upon which the appeal is based will not be modified.* Accountability and performance reports, as well as all other publications reflecting accountability data, must report the data as they are submitted to the TEA. Accountability data are subject to scrutiny by the Office of the State Auditor.
- The commissioner's decisions are final and not subject to further appeal and/or negotiation.

The letter from the commissioner serves as notification of the official district or campus rating, when changed due to a granted appeal. Districts may publicize the changed rating at that time. The agency website and other accountability products will be updated in November 2014, after the resolution of all appeals. The update will reflect only the changed *rating*; the values shown on the report, such as performance index values, will not be modified. Between the time of receipt of the commissioner's letter granting an appeal and the update of agency accountability products, the agency sources will not reflect the changed campus or district rating.

Relationship to the Accountability System Safeguards, PBMAS, and TAIS

The Accountability System Safeguard measures, Performance-Based Monitoring Analysis System (PBMAS) indicators, and Texas Accountability Intervention System (TAIS) staging requirements will be considered when evaluating the appeal. School district data submitted through PEIMS or to the state assessment contractor is also considered. Please note that certain appeal requests may lead to Division of Program Monitoring and Interventions to address potential issues related to data integrity.