

Chapter 15 – Appealing the Ratings

Providing superintendents with the opportunity to appeal accountability ratings has been a feature of the state accountability system since 1994. Superintendents may appeal the state accountability ratings for both standard and alternative education accountability (AEA) procedures, by following the guidelines provided in this chapter.

Below are the dates for appealing ratings. **These deadlines are final. To maintain a fair appeals process, no late appeals will be considered.**

APPEALS CALENDAR

June 18, 2009	<i>Dropout/Completion Lists.</i> Superintendents are given access to confidential lists of dropouts and lists of completion cohort membership. These reports provide a preview of the data that will be used to calculate the Annual Dropout Rate and Completion Rate base indicators for the state accountability ratings.
July 16, 2009	<i>Preview Data Tables.</i> Superintendents are given access to confidential preview accountability data tables for their district and campuses showing all state accountability indicator data. Principals and superintendents can use these data tables to anticipate their campus and district accountability ratings. Appeals may be submitted <i>by the superintendent</i> after receipt of the preview data tables.
July 31, 2009	<i>Ratings Release.</i> Due to the short timeline between the transmittal of the preview data tables and the ratings release date, no appeals will be resolved before the ratings release.
August 14, 2009	<i>Appeals Deadline.</i> Appeals must be postmarked no later than August 14, 2009 in order to be considered.
Late October, 2009	<i>Ratings Update.</i> The outcome of all appeals will be reflected in the ratings update scheduled for October, 2009. At that time the TEA website will be updated.

A more detailed calendar can be found in *Chapter 19 – Calendar*.

General Considerations

APPEALS ARE NOT A DATA CORRECTION OPPORTUNITY!

The numbers shown on the data tables (and later on other agency products, such as the AEIS reports) are final and cannot be changed, even if an appeal is granted.

Appeals should be based upon a data or calculation error attributable to the Texas Education Agency, regional education service centers, or the test contractor for the student assessment program. However, problems due to district errors in PEIMS data submissions or on TAKS answer sheets are considered on a case-by-case basis. Statute permits consideration of data reporting quality in evaluating the merits of an appeal. Poor data quality is not a valid reason to appeal.

CHANGED RATINGS ONLY

Only appeals that would result in a changed rating will be considered.

NO GUARANTEED OUTCOMES

Appeals that follow these guidelines are not guaranteed to be granted. Each appeal is evaluated based on the details of its unique situation. Well-written appeals that follow the guidelines are more easily processed, but they are not necessarily granted.

SITUATIONS NOT FAVORABLE FOR APPEAL

One strength of the state accountability system is that the rules are applied uniformly to all campuses and districts. 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. Examples of some appeals seeking inconsistent rule application follow. Because some examples apply to both standard and AEA procedures and some are unique to one set of procedures or the other, the examples are subdivided accordingly:

Examples applicable to both standard and AEA procedures:

- *Campus Mobility.* A request to include the performance of students who were excluded due to the appropriate use of the campus mobility subset criteria would likely be denied.
- *Rounding.* A request to compute Required Improvement, student group percentages, or indicator values differently from the method described in this *Manual* would likely be denied.
- *Minimum Size Criteria.* A request to evaluate student groups using minimum size criteria different from those described in this *Manual* would likely be denied.
- *Campus Configuration Changes.* A request for re-computation of prior year results due to changes in campus configurations would likely be denied.

Examples applicable to standard procedures:

- *Exceptions Provision.* Exceptions are automatically applied; a request for additional exceptions or to defer use of an exception until 2010 would likely be denied.
- *Pairing.* A request to alter pairing relationships that districts had the opportunity to determine by April 24, 2009 would likely be denied.
- *New and Academically Unacceptable.* A request to assign the *Not Rated: Other* label to campuses that are *Academically Unacceptable* in their first year of operation would likely be denied.
- *Floors.* A request to waive the floor requirements when applying either the Exceptions Provision or Required Improvement would likely be denied.

Examples applicable to AEA procedures:

- *Late Registration Requests.* A request submitted after October 31, 2008 to be registered as an alternative education campus (AEC) in order to be evaluated under AEA procedures would likely be denied.

- *At-risk Criterion.* A request by AECs or charter operators to be evaluated under AEA procedures when they did not meet the at-risk criterion or applicable safeguards for 2009 ratings would likely be denied.
- *Late Requests by Charters with the Option to be Evaluated under AEA Procedures.* A request submitted after May 15, 2009 for a charter operator to be evaluated under AEA procedures would likely be denied.

Guidelines

TAKS APPEALS

If a problem is identified with data received from the test contractor, the TAKS data may be appealed. An appeal of the TAKS indicators should reflect a serious problem such as a missing grade level or campus. However, coding errors on TAKS answer sheets will be considered on a case-by-case basis. Please note the following:

- If the district has requested that writing results be rescored, a copy of the dated request to the test contractor and the outcome of the rescored tests should be provided with the appeal. If the rescored results impact the rating, these appeals are necessary since rescored results may not be processed in time to include in the assessment data used to determine the accountability ratings released by July 31.
- If other serious problems are found, copies of correspondence with the test contractor should be provided with the appeal.
- Coding errors related to student demographic or program participation fields on the TAKS answer documents will be evaluated by reviewing the student's history in PEIMS.
- A request to include performance on a TAKS (Accommodated) test that is not part of the 2009 accountability system or to exclude performance that is part of this year's system would likely be denied.
- A request to alter the TEA methodology for combining the first and second administrations of grade 3 reading results, or for the first and second administrations of grade 5 and 8 reading and mathematics results would likely be denied.
- A request to alter the formulas, equations, or campus mean values for calculating a TPM outcome for a student would likely be denied. Appeals to substitute local projections for state-generated projections would likely be denied. Appeals to use TPM values that do not meet state accountability mobility subset rules or are based on TAKS (Accommodated) tests not included in the TAKS base indicator would likely be denied. See *Appendix D* for more detail on the selection of TPM values for use in state accountability.

Spring 2009 TAKS Corrections Window: As in 2008, in 2009 TEA offered districts the opportunity to correct the TEST TAKEN INFO field. This correction opportunity was available only for the primary administrations in the spring.

Changes to the TEST TAKEN INFO field submitted within the correction window will be included in the TAKS data files used in determining the 2009 accountability ratings. Appeals from districts that missed this corrections window would likely be denied. Corrections to fields other than the TEST TAKEN INFO field will not be used in determining

accountability ratings. For accountability purposes, student identification information, demographic or program participation, and score code status will be based on the information provided on the answer document at the time of testing.

School Closures Due to Swine Flu: Districts that were closed due to the flu outbreak during the week of April 27 were asked to administer the TAKS assessments the week following reopening. For example, districts that reopened the week of May 4th were asked to begin TAKS testing on Monday, May 11th. Districts that were closed because of the flu were also permitted to shift the administration of the grades 5 and 8 TAKS mathematics retest from Tuesday, May 19, to Wednesday through Friday of that week. All testing was to be completed by Friday, May 22. Results of tests administered late due to the flu will be included in the state accountability system with all of the other assessment results from the spring 2009 test administrations.

Districts may believe that certain situations stemming from the flu outbreak adversely affected TAKS performance. These include high absenteeism during testing; high levels of student anxiety at the time of testing; and deflated performance presumed to be due to interruption of the test schedule. All these cases are viewed as unfavorable for appeal. In the situations cited above, alternate outcomes had these situations not been present cannot be determined.

ANNUAL DROPOUT RATE APPEALS

Districts are responsible for providing accurate information to TEA, including the data used to determine the grade 7-8 and grade 7-12 annual dropout rate accountability indicators. Appeals of the Annual Dropout Rate indicator are handled on a case-by-case basis. Please note the following:

- The School Leaver Provision (SLP) is no longer in effect for dropout rates for 2009; under either standard procedures or AEA procedures. Districts and campuses must meet the applicable dropout rate criteria to achieve a rating. Districts cannot appeal to apply the SLP to either the grade 7-8 or the grade 7-12 Annual Dropout Rate indicators.
- As shown in *Chapter 19 – Calendar*, in June the agency provides superintendents access to lists of their dropouts as well as summary tables of the annual dropout rates. Only students shown as dropouts on these lists may be appealed. See *Appendix D – Data Sources* for more information about the processing of dropout data.
- Appeals from districts that located students after the last day of the school start window would likely be denied. This policy ensures that all districts have an equal opportunity to locate dropouts.
- No more than ten dropouts may be appealed for any campus or district.
- Data quality will be a consideration in evaluating the merits of a dropout rate appeal. Poor data quality is not a valid reason to appeal.

COMPLETION RATE APPEALS

Districts are responsible for providing accurate information to TEA, including the data used to determine the longitudinal completion rate accountability indicators. Appeals of the Completion Rate indicators are handled on a case-by-case basis. Please note the following:

- The SLP is no longer in effect for completion rates for 2009; under either standard procedures or AEA procedures. Districts and campuses must meet the applicable completion rate criteria to achieve a rating. Districts cannot appeal to apply the SLP to either Completion Rate I or Completion Rate II.
- For 2009, the use of the district Completion Rate I for secondary campuses without their own data continues to be suspended. These secondary schools are not evaluated on the Completion Rate I indicator in 2009.
- As shown in *Chapter 19 – Calendar*, the agency provides superintendents access to longitudinal completion information in June. This includes lists showing the final status of students in the 2008 cohort and summary tables of the longitudinal completion rates that will be used for accountability. Only students shown on these lists may be appealed. See *Appendix D – Data Sources* for more information completion data processing.
- The status of no more than ten non-completers or one percent of the non-completers in the cohort (whichever is larger) may be appealed for any campus or district.
- Data quality will be a consideration in evaluating the merits of a completion rate appeal. Poor data quality is not a valid reason to appeal.

GOLD PERFORMANCE ACKNOWLEDGMENT APPEALS

Gold Performance Acknowledgments (GPA) cannot be appealed. Campuses or districts that appeal an *Academically Unacceptable* rating will automatically receive any GPA earned if their appeal is granted and their rating is raised to *Academically Acceptable* or higher.

TECHNICAL ASSISTANCE TEAM (TAT) APPEALS

Campuses rated *Academically Acceptable* in 2009 under either standard or AEA procedures are identified for technical assistance teams if their 2008-09 performance does not meet the accountability standards established for the 2010 accountability system. The identification of a campus on the TAT list cannot be appealed. TAT identification occurs after the resolution of all appeals; therefore, campuses rated *Academically Acceptable* as a result of a granted appeal are considered for TAT list identification. Data are never changed as a result of granted appeals, so the data used for possible TAT identification may include data with documented quality problems. TAT identification occurs in November 2009 prior to final determination of all 2010 accountability system decisions. Should the commissioner’s final decisions for 2010 alter the outcomes for any TAT-identified campuses, the TAT list will not be reconstructed. The TAT list published in November 2009 is final and all activities required for TAT listed campuses must proceed based on that list.

Special Circumstance Appeals

HURRICANE IKE

PEIMS Crisis Code: The assessment results of students displaced due to Hurricane Ike will be removed from the accountability data as stated in the April 2009 posting of the commissioner’s final decisions for 2009 and beyond. The PEIMS Crisis Code from the fall 2008 enrollment record will be used to identify displaced students. Use of the code will rely on matching student identifying information on the test answer document with the PEIMS record.

Appeals that petition for rating changes due to problems with the PEIMS Crisis Code will be evaluated on a case-by-case basis. Requests to change a student's crisis code value will be evaluated against prior year attendance information to help confirm or refute the initial code value reported.

Requests to *include* results of students properly coded with the PEIMS Crisis Code are unfavorable for appeal.

Districts and Campuses Directly Impacted: The Hurricane Ike Provision allows for special evaluation of accountability ratings for eligible districts and campuses. A list of districts and campuses eligible for the provision is available will be posted to the agency website in May.

A district or campus directly impacted by Hurricane Ike, yet not identified as eligible may appeal to be afforded the same considerations as the identified districts and campuses if there are unique circumstances that warrant additional review. Also, districts and campuses with *Not Rated: Other* ratings due to application of the hurricane provision may appeal to have the system-generated rating applied instead. (See *Appendix K*.)

HURRICANES KATRINA AND RITA

The completion rates used for 2009 accountability may be negatively impacted by students who were displaced by Hurricanes Katrina or Rita during the 2005-06 school year because that school year is still part of the class of 2008 cohort.

A district may appeal the Completion Rate indicator when the campus or district rating is limited from the next higher rating due to a displaced student with a non-completion status. Only students with a final status of "dropout" during 2005-06 (the year of the hurricanes) will be considered favorable for appeal. This special circumstances appeal will be permitted through the 2010 accountability cycle, the last year students with a final status during 2005-06 are part of the cohort used for accountability. The district is required to supply appropriate documentation that the student was displaced due to one of the 2005 hurricanes. This appeal category applies to both standard and AEA procedures. As with all granted appeals, no changes will be made to the data shown on the reports.

MISSING TEXAS PROJECTION MEASURE VALUES

As detailed in *Appendix E*, not all students will have a Texas Projection Measure (TPM) value. For some, TPM values will not be calculated because of non-matching identification information between the current year and prior year student history. In cases where all demographic data within the current year can be matched, districts may appeal to use TPM values for these students. Districts must supply TPM values (the TPM Calculator provided on the TEA website may be used) and all supporting performance results for these students.

How to Submit an Appeal

Superintendents appealing an accountability rating must transmit a letter prior to the appeal deadline that includes the following:

- A statement that the letter is an appeal of the 2009 state accountability rating;
- The name and ID number of the district and/or campuses to which the appeal applies;
- The specific indicator(s) appealed;
- The problem, including details of the data affected and what caused the problem;

- If applicable, the reason(s) why the cause of the problem is attributable to TEA, a regional education service center, or the test contractor;
- The reason(s) why the change would result in a different rating, including calculations that support the different outcome;
- A statement that all information included in the appeal is true and correct to the superintendent’s best knowledge and belief; and,
- The superintendent’s signature on official district letterhead.

Other Information:

- Appeals for more than one campus within a district may be included in the same letter.
- Appeals for more than one indicator may be included in the same letter.
- Appeals of ratings issued under both standard and AEA procedures may be included in the same letter.
- Districts have only one opportunity to appeal each indicator for any campus or the district.
- When student-level information is in question, supporting information must be provided for review, i.e., a list of the students in question by name and identification number. It is not sufficient to claim data are in error without providing information 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.*
- 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.
- The appeal should be addressed to the Division of Performance Reporting as follows:

Your ISD Your address City, TX zip	Division of Performance Reporting Texas Education Agency 1701 Congress Avenue Austin, TX 78701-1494	<div style="border: 1px solid black; width: 80px; height: 60px; margin: auto; display: flex; align-items: center; justify-content: center;"> <i>stamp</i> </div>
<p><u>Attn: Accountability Ratings Appeal</u></p>		

- The appeal letter should be addressed to Mr. Robert Scott, Commissioner of Education (see letter examples, below).
- Appeal letters must be postmarked on or before August 14, 2009. Appeals postmarked after this date will not be considered. Appeals delivered to TEA in person must be time-stamped in the Division of Performance Reporting by 5:00 p.m. on August 14, 2009. Overnight courier tickets or tracking documentation must indicate package pickup on or before August 14th.
- **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 below for illustration.

Appeal Letter Examples

Satisfactory Appeal:	Unsatisfactory Appeals:
<p>Dear Commissioner Scott,</p> <p>This is an appeal of the 2009 state accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing TAKS mathematics for the Hispanic student group. This is the only indicator keeping Elm Street Elementary from achieving a rating of <i>Academically Acceptable</i>.</p> <p>My analysis shows a coding change made to one student’s 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 <i>Academically Acceptable</i> standard. Removing this student from the White student group does not cause the White student group performance to fall below the <i>Acceptable</i> standard.</p> <p>Attached is the student’s identification information as well as the PEIMS data for this student for the last six years (kindergarten through 5th grade) showing we have consistently reported this student as Hispanic.</p> <p>The second attachment shows the recalculated mathematics percent passing statistics for both the White and Hispanic student groups for Elm Elementary.</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>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, J. Q. Educator Superintendent of Schools <i>attachments</i></p>	<p>Dear Commissioner Scott,</p> <p>I have analyzed the percentage passing for the economically disadvantaged mathematics students. The campus is allowed two exceptions. The floor for using the exception table is 40% for mathematics. The campus has 39%. Therefore, the campus was not able to use both exceptions. I am seeking consideration for the 39% in mathematics for the economically disadvantage student group. If granted, the school’s rating would become <i>Academically Acceptable</i>. Attached is a copy of the preliminary accountability data table.</p> <p>Sincerely, J. Q. Educator Superintendent of Schools <i>attachment</i></p> <hr/> <p>Dear Commissioner Scott,</p> <p>Maple ISD feels that its rating should be <i>Exemplary</i>. The discrepancy occurs because TEA shows that the performance for Hispanic Writing is 89%.</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, J. Q. Educator Superintendent of Schools <i>(no attachments)</i></p>

How an Appeal Will Be Processed by the Agency

Once an appeal is received by the Division of Performance Reporting, the process for evaluating the information will be followed as outlined below:

- The details of the appeal are entered into a database for tracking purposes.
- 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), whether they are specifically named in the appeal or not. Similarly, the effect that granting a campus appeal may have on the district is evaluated, whether the district is named in the appeal or not. In single-campus districts, both the campus and the district are evaluated, whether the district submits the appeal as a campus or district appeal.
- Staff prepares a recommendation and forwards it to an external panel for review. Legislation passed in 2006 requires use of an appeals panel to ensure independent oversight of the appeals process. The use of an external, independent, three-member panel has been a feature of the state accountability system since 2004.
- The review panel examines the appeal, supporting documentation, staff research, and the staff recommendation. The panel determines its recommendation.
- The panel's recommendation is forwarded to the commissioner.
- The commissioner makes a final decision.
- The superintendent is notified in writing of the commissioner's decision and the rationale upon which the decision was made. The decision of the commissioner is final and is not subject to further negotiation. The commissioner will respond in writing to each appeal received.
- *If an appeal is granted, the data upon which the appeal was based will not be modified.* Accountability and AEIS 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.

When a rating is changed due to a granted appeal, the letter from the commissioner serves as notification of the official rating for the district or campus. Districts may publicize the changed rating at that time. The agency website and other state accountability products will be updated after the resolution of all appeals. This update will occur in October 2009 concurrent with the release of the Gold Performance Acknowledgments. Note that the update will reflect only the changed *rating*; the values shown on the report, such as percent met standard, are never modified. Between the time of receipt of the commissioner's letter granting an appeal and the update of agency state accountability products, the agency sources will not reflect the changed campus or district rating.

