

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.

Districts should register their district and campus rating appeals using the Texas Education Agency Secure Environment (TEASE) Accountability website. This registration system provides a mechanism for tracking all state accountability rating appeals and allows districts to monitor the status of their appeals. After registering, districts must then submit their appeal via the mail. Submission of the TEASE registration form does not constitute an appeal. Districts are still required to mail an appeal packet by the appeal deadline and include all relevant information necessary for the Texas Education Agency (TEA) to process the appeal.

Below are the dates for appealing ratings. **These deadlines are final. To maintain a fair appeals process, late appeals will be denied.**

APPEALS CALENDAR

June 16, 2011	<i>Dropout/Completion Lists.</i> Superintendents are given access to confidential lists of dropouts and 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 19, 2011	<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.
July 19 through August 12, 2011	<i>2011 Appeals Window.</i> Appeals may be submitted <i>by the superintendent</i> after receipt of the preview data tables. Districts register their district and campus appeals using the TEASE Accountability website then submit the appeal with supporting documentation via the mail. Appeals not signed by the district superintendent will be denied. See “How to Appeal” later in this chapter for more details.
July 29, 2011	<i>Ratings Release.</i> No appeals will be resolved before the ratings release.
August 12, 2011	<i>Appeals Deadline.</i> Appeals must be postmarked or hand delivered no later than August 12, 2011, in order to be considered.
Late October 2011	<i>Decisions Released.</i> Commissioner’s decisions are mailed in the form of response letters to each appellant. Letters are posted to the TEASE site.
Late October 2011	<i>Ratings Update.</i> The outcome of all appeals will be reflected in the ratings update scheduled for October 2011. At that time, the TEASE and public websites will be updated.

A more detailed calendar can be found in *Chapter 17 – Calendar and Preview*.

General Considerations

APPEALS ARE NOT A DATA CORRECTION OPPORTUNITY!

The numbers shown on the data tables and on other agency products, such as the Academic Excellence Indicator System (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 TEA, regional education service centers, or the test contractor for the student assessment program. The appeals process is not intended to be a way to correct data that was inaccurately reported by the district. Poor data quality is not a valid reason to appeal. Statute permits consideration of data reporting quality in evaluating the merits of an appeal. However, problems due to district errors in Public Education Information Management System (PEIMS) data submissions or on Texas Assessment of Academic Skills (TAKS) answer documents are considered on a case-by-case basis. Specific guidelines for data quality issues are addressed for each type of indicator later in this chapter.

CHANGED RATINGS ONLY

Only appeals that would result in a changed rating will be considered. In other words, a campus or district must meet all other requirements for a higher rating in order for its appeal to be evaluated. Except in extremely special cases, a granted appeal will only result in the elevation of a rating to the next higher rating category.

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 automatically granted.

SITUATIONS NOT FAVORABLE FOR APPEAL

Districts may appeal for any reason. However, a 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 will likely be denied.
- *Rounding.* A request to calculate Required Improvement (RI), student group percentages, or indicator values differently from the method described in this *Manual* will likely be denied.
- *Minimum Size Criteria.* A request to evaluate student groups using minimum size criteria different from those described in this *Manual* will likely be denied.

- *Campus Configuration Changes.* A request for recalculation of prior-year results due to changes in campus configurations will likely be denied.
- *TAKS-Modified (TAKS-M) and TAKS-Alternate (TAKS-Alt).* A request to exclude the TAKS-M or TAKS-Alt results from the indicators that include these results will likely be denied.
- *Student Attribution Codes.* Requests to change inaccurate or incomplete student attribution codes that were submitted in PEIMS by districts with Residential Treatment Facility (RTF) campuses, Texas Juvenile Probation Commission (TJPC) campuses, or Texas Youth Commission (TYC) campuses will 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 will likely be denied.
- *Pairing.* A request to alter pairing relationships that districts had the opportunity to determine by April 29, 2011, will 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 will likely be denied.
- *Floors.* A request to waive the floor requirements when applying either the Exceptions Provision or Required Improvement will likely be denied.
- *Texas Projection Measure (TPM).* A request to determine ratings using the discontinued TPM feature will be denied. Specifically, requests to include the TPM for TAKS and TAKS-M and the growth measure for TAKS-Alt in the accountability results will not be evaluated.
- *Special Analysis.* A request to be subjected to Special Analysis when the criteria for inclusion in this process are not met will likely be denied. A request to revisit the decision made as a result of Special Analysis will likely be denied.

Examples applicable to AEA procedures:

- *Late Registration Requests.* A request submitted after September 22, 2010 to be registered as an alternative education campus (AEC) in order to be evaluated under AEA procedures will 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 2011 ratings will likely be denied.
- *Late Requests by Charters with the Option to be Evaluated under AEA Procedures.* A request submitted after April 25, 2011, for a charter operator to be evaluated under AEA procedures will likely be denied.
- *Growth and the TAKS Progress Indicator.* Appeals to include either the Texas Growth Index (TGI) or TPM in the TAKS Progress Indicator will be denied.

Guidelines

TAKS AND COMMENDED PERFORMANCE 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 the TAKS, TAKS (Accommodated), or TAKS-M answer document or the online TAKS-Alt system 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 be included in the assessment data used to determine the accountability ratings released by July 29, 2011.
- If other serious problems are found, copies of correspondence with the test contractor should be provided with the appeal.
- Coding errors related to student economic status on the TAKS answer documents will be evaluated by reviewing the student's history in PEIMS. These appeals are more likely to be granted when the majority of the PEIMS history supports the claim; or, in cases where a district provides sufficient documentation, such as the Free and Reduced Price School Meals Application, signed by a parent or guardian and dated prior to testing.
- If discrepancies in student economic statuses are found between test administrations for students in the Student Success Initiative (SSI) grades, the information from the first administration is used. However, if the district provides documentation that the correct demographics were submitted at the time of testing and before test results are known, these appeals may be granted.
- Due to the application of the Federal Race/Ethnicity Provision to the 2011 state accountability ratings, appeals related to the reported race and ethnicity categories on test answer documents for administration during the 2009-10 and 2010-11 school year will not be considered. TEA will apply a Federal Race/Ethnicity Provision to the 2011 TAKS indicator to address multiracial students reporting more than one race that includes both Black/African American and White racial categories. Appeals to reconsider accountability results based on students' race and ethnicity reporting in any combination of multiple or single racial categories will not be considered. See *Appendix J*.
- As stated in *Chapter 2*, the TAKS indicator current year results use the new federal definition for race and ethnicity. The prior-year results that will be used in the calculation of RI use the former definitions. Appeals to use the new federal definition for race and ethnicity for the prior-year results for purposes of RI calculations will be denied.
- The student results included in the TAKS and the Commended Performance indicators are for the same students. Appeals to change information for a student in one indicator will also be evaluated in the other indicator.
- Appeals based on TAKS-Alt online test submission errors must include documentation or validation of the administration of the assessment.

- The TAKS indicator evaluated under the state accountability rating system is not the same as the performance indicator evaluated in the Adequate Yearly Progress (AYP) federal accountability system. Appeals to include or exclude students or alter performance outcomes based on a comparison to the AYP evaluation of performance will likely be denied.
- TEA offers districts the opportunity to correct the TEST TAKEN INFO field. This correction opportunity is 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 2011 accountability ratings. Appeals from districts that missed this corrections window will 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.

Appeals to change score codes will be considered on a limited basis when appropriate documentation is provided to support the change and evidence exists that efforts were made to correct the error prior to the release of ratings.
- In the case of appeals describing the extreme circumstance of a campus being shut down during a test administration, the issuance of a *Not Rated: Other* label is possible. In these cases, any affected results that may have been scored are not evaluated; nor can a rating be generated on the subset of results not impacted by the event. No reliable rating can be issued based on available data.

ENGLISH LANGUAGE LEARNERS (ELL) PROGRESS INDICATOR APPEALS

If a problem is identified with data received from the test contractor, the ELL Progress Indicator may be appealed. An appeal of the ELL Progress Indicator should reflect a serious problem such as a missing grade level or campus. However, coding errors on the TAKS, TAKS (Accommodated), or TAKS-M answer documents or the online Texas English Language Proficiency Assessment System (TELPAS) will be considered on a case-by-case basis. Appeals based on TELPAS online test submission errors must include documentation or validation of the administration of the assessment. Generally, the guidelines outlined for the TAKS and Commended Performance indicators apply to this indicator as well.

The ELL Progress Indicator evaluated under the state accountability rating system is not the same as the limited English proficient (LEP) student group evaluated in the AYP federal accountability system. Appeals to include or exclude students or alter performance outcomes based on a comparison to the AYP evaluation of LEP students will likely be denied.

APPEALS OF LEAVER DATA

Districts are responsible for providing accurate information to TEA, including student leaver data which are used to determine the grade 7-8 and grade 7-12 annual dropout rate indicators, the longitudinal Completion Rate I and II indicators, and the Underreported Students indicator. A January 5, 2011, letter was sent from the commissioner to remind school districts of the importance of submitting accurate leaver records prior to the January 20, 2011, PEIMS resubmission deadline. The commissioner noted that these leaver records would be used to produce the 2009-10 completion, graduation, and dropout rates that will be

evaluated in the 2011 state and federal accountability systems and used to fulfill 2011 state and federal monitoring requirements. The commissioner’s letter also highlighted that state law requires use of an external panel to ensure independent oversight of the state accountability appeals process. For the 2009 and 2010 ratings, the state accountability appeal panel consistently recommended that appeals related to completion and dropout rates only be granted in limited circumstances given the opportunities that districts are provided to submit accurate leaver records for students who attended their schools in the prior year. Specific guidelines are addressed below for each leaver indicator.

Dropout Exclusions under House Bill (HB) 3. A request to apply dropout exclusions as specified in HB 3, passed during the 81st legislative session (2009) will be denied. These exclusions apply beginning with the 2012 year (the 2010-11 dropout year). HB 3 is clear that the current National Center for Education Statistics (NCES) definition of a dropout is to remain in place until 2011-12. The two most common dropout exclusions unsuccessfully appealed in prior years are for students who are court-ordered to receive a General Educational Development (GED) diploma and students who are incarcerated in adult jails.

ANNUAL DROPOUT RATE APPEALS

With respect to appeals of the Annual Dropout Rate please note the following:

- 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.
- **NEW!!** No more than ten dropouts may be appealed for any campus or district. Appeals that exceed this limit will not be considered.
- **NEW!!** Appeals requiring a change in status of more than two students (from among the maximum ten appealed) will likely be denied.
- Appeals of the Annual Dropout Rate are more likely to be granted if all of the following conditions are true:
 - Documentation is provided that the non-dropout status for the students appealed occurred prior to the last day of the school-start window; and,
 - Documentation is provided that the non-dropout status was known prior to the PEIMS resubmission deadline; and,
 - The status of no more than two students needs to change from dropout to non-dropout to elevate the rating.
- Student groups for the annual dropout rate indicators are based on the new federal definitions for African American, Hispanic, and White. Since the Federal Race/Ethnicity Provision does not apply to the annual dropout rate indicator, appeals to use student race/ethnicity values under the former definition will be evaluated on a limited basis for districts that find the omission of grade 7-8 students who are Two or More Races adversely affects their ratings.
- 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. Other indicators of leaver data quality

will be considered in concert with dropout appeals, such as excessive counts or rates of underreported students.

COMPLETION RATE APPEALS

With respect to completion rate appeals please note the following:

- For 2011, 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 2011.
- In June, the agency provides superintendents access to longitudinal completion information. This includes lists showing the final status of students in the 2010 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.
- NEW!! 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. Appeals that exceed this limit will not be considered.
- NEW!! Appeals requiring a change in status of more than two students (from among the maximum allowed) will likely be denied.
- Appeals of the longitudinal completion rate are more likely to be granted if all of the following conditions are true:
 - Documentation is provided that the correct status for the students appealed occurred prior to the last day of the school-start window; and,
 - Documentation is provided that the correct status was known prior to the PEIMS resubmission deadline; and,
 - The status of no more than two students needs to change to elevate the rating.
- Appeals to change the economic status of a student are more likely to be granted if the student was not enrolled on the October PEIMS “as of” date, meaning the district was unable to update the students’ economic information. Documentation supporting the status is required.
- Student groups for the longitudinal completion rate indicators are based on the former definitions for African American, Hispanic, and White. The Federal Race/Ethnicity Provision does not apply to the completion rate indicators. Appeals to use student race/ethnicity values under the new federal definitions will be denied.
- 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. Other indicators of leaver data quality will be considered in concert with completion appeals, such as excessive counts or rates of underreported students.

UNDERREPORTED STUDENTS APPEALS

Underreported students represent a data quality problem with leaver data. Only districts are held accountable for this indicator. An appeal of the Underreported Students indicator is more likely to be granted if the all of the following conditions are met:

- The appeal is based on no more than one or two underreported students; and,
- Leaver records were submitted for the underreported students, but weren't found due to matching problems (Personal Identification Database (PID) errors); especially when PID changes were done by another district; and, research of PEIMS data verifies the district statements; and,
- The district does not have a persistent history of underreported data problems; and,
- The district has good dropout data quality and low PID errors.

GOLD PERFORMANCE ACKNOWLEDGMENT (GPA) APPEALS

GPA outcomes may not 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.

NOT RATED APPEALS

Districts rated *Not Rated: Other* are responsible for appealing this rating by the scheduled appeal deadline if the basis for this rating was a result of errors made by the district in their submission of PEIMS data, assessment data, or other data collections used to determine accountability ratings. If the agency determines that the *Not Rated: Other* rating was assigned due to district error, the agency can assign an updated rating based on the correct data.

Special Circumstance Appeals

HURRICANE IKE

The class of 2010 completion rates may be negatively affected by students displaced by Hurricane Ike during 2008-09. 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. For Hurricane Ike-displaced students, only students with a final status of "dropout" during 2008-09 (the year of the hurricane) will be considered favorable for appeal. This special circumstance appeal will be permitted through the 2013 accountability cycle, the last year students with a final status during 2008-09 are part of a cohort used for accountability.

For this special circumstance appeal, the district is required to supply appropriate documentation that the student was displaced due to Hurricane Ike. Use of the PEIMS Crisis Code for appealed students will be researched. 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.

ALTERNATIVE EDUCATION SETTINGS

In general, campuses and charter operators rated under standard procedures that appeal to be rated under AEA procedures are not recommended to be granted. As stated earlier in this chapter, requests after the deadline to be registered as an AEC in order to be evaluated under AEA procedures are situations unfavorable for appeal. However, AECs appealing to be *Not Rated* are evaluated on a case-by-case basis as these may involve very unique circumstances and students.

ELL REQUIRED IMPROVEMENT FOR PAIRED CAMPUSES

As stated in *Chapter 6*, since the ELL Progress Indicator is new in 2011, there was no pairing of ELL Progress Indicator data in 2010. Therefore, a campus with paired ELL Progress Indicator data in 2011 cannot participate in RI for this indicator this year. Appeals to use paired ELL Progress Indicator data in the prior year will be evaluated on a case-by-case basis for districts that find the application of ELL Progress Indicator RI for a paired campus would improve its rating.

How to Appeal

A district wishing to appeal a campus or district rating should register their intention to appeal on the TEA Secure Environment (TEASE) Accountability website. To register an appeal:

- Log on to TEASE at <https://seguin.tea.state.tx.us/apps/logon.asp>
- Click on **ACCT – Accountability**.
- From the Welcome page, click on the **Appeals Registration** link and follow the instructions.
- The Appeals Registration site will be available during the appeals window, from July 19 through 5:00 p.m. CDT on August 12, 2011.
- The status of the appeal, *e.g.*, receipt of registration 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>

Once the appeal is registered, districts have until August 12, 2011, to submit their appeal to TEA. As in past years, the submitted appeal must include:

- A letter stating it is an appeal of the 2011 state accountability rating;
- The name and identification number (county-district-campus) 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 the cause of the problem;
- If applicable, the reason(s) the cause of the problem is attributable to TEA, a regional education service center, or the test contractor;
- The reason(s) 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 accurate to the superintendent’s best knowledge and belief; and
- The superintendent’s signature on official district letterhead. Appeals that are not signed by the superintendent will not be considered.

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.
- If the campus appeal will impact the rating of a paired campus, this must be noted.
- If the campus appeal will impact the rating of the district, this must be noted.
- When student-level information is in question, supporting information must be provided for review, *e.g.*, 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 letter should be addressed to Mr. Robert Scott, Commissioner of Education.
- The appeal should be mailed to the Division of Performance Reporting as follows:

Your ISD Your Address City, TX Zip	<div style="border: 1px solid black; width: 60px; height: 60px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <i>Postage</i> </div>
Division of Performance Reporting Texas Education Agency 1701 Congress Avenue Austin, TX 78701-1494	
<u>Attn: 2011 State Accountability Rating Appeal</u>	

- Appeal letters must be postmarked on or before August 12, 2011. 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. CDT on August 12, 2011. Overnight courier tickets or tracking documentation must indicate package pickup on or before August 12.
- Appeals delivered to TEA in person are processed in the same manner as mailed appeals.
- **Only send one copy of the appeal letter and/or supporting documentation.**
- Districts are encouraged to obtain delivery confirmation services from their mail courier.

How an Appeal Will Be Processed by the Agency

Once an appeal is received by the Division of Performance Reporting, the information will be processed as outlined below:

- The TEASE Accountability website is updated to indicate when each appeal is received. Districts may monitor the status of their appeal(s) using the TEASE Accountability website. For example, this website will include the postmark date for each appeal and the date each appeal packet is received by the agency.
- 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. Districts are not invited to present their appeal to the panel or the commissioner.
- 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 commissioner will respond in writing to each appeal received. The commissioner's response letters are posted to the TEASE site at the same time the letters are mailed. Superintendents are notified via email that the appeal decisions are available on TEASE.
- The decision of the commissioner is final and is not subject to further negotiation. There is no additional grievance process for denied appeals. State law specifies that the commissioner's decision may not be challenged in another proceeding if the district has had a previous opportunity to dispute the decision.
- *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 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 2011, concurrent with the release of the GPAs. 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 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.