

## Chapter 8 – Appealing the Ratings

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Section 39.151 of the Texas Education Code (TEC), shown below, requires the commissioner of education to provide a process for local districts or charters to challenge an agency determination of accountability rating.

### 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.

### Overview of State Accountability Appeals Process

Because the new state accountability system relies on performance index calculations, the state accountability appeals process will be limited to rare cases where a data or calculation error is attributable to the testing contractor or the Texas Education Agency. 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 PEIMS or the STAAR assessment program negatively impact the overall accountability rating. In addition, the use of online applications provided by the agency and testing contractor ensures that districts are aware of data correction opportunities, particularly through the use of the Public Education Information Management System (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 reviewed carefully by an external panel. Superintendents may appeal the accountability ratings by following the guidelines provided in this chapter.

## General Considerations

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 a permissible method to correct data that was reported inaccurately 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, per TEC §39.052(b)(2)(A)(i). The numbers shown on the data tables and on other agency products or performance reports 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 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.

- Only appeals that would result in a changed rating will be considered. A campus or district must meet all other 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 and TAKS data files used in determining the 2013 accountability ratings.
- The appeals process is not a permissible method to correct data that was reported inaccurately 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 race/ethnicity categories,*
- *Student economic status,*
- *Student attribution codes,*
- *Student leaver data.*

### *STAAR and/or TAKS test answer documents, specifically:*

- *Student identification information, demographic or program participation,*
- *Student race/ethnicity categories,*
- *Student economic status,*
- *Score code or test version codes.*

- Requests to modify the 2013 state accountability calculations adopted by Commissioner Rule will not be considered. These rules were adopted pursuant to the Administrative Procedures Act (APA). Challenges to a Commissioner Rule should be brought pursuant to that statute. Recommendations for changes to state accountability rules submitted to the agency outside of the appeal process may be considered as advisory groups convene in late Fall 2013.
- 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 appeal process may be considered as the appropriate advisory groups convene, specifically the accountability advisory groups in late Fall 2013.
- Examples of issues unfavorable for appeal include:
  - *Campus Configuration Changes.* School districts have the opportunity to determine changes in campus identification numbers and grade configurations. A request for consideration of state accountability rules based on changes in campus configurations will be denied.
  - *Late Online Application Requests.* A request to submit or provide information after the deadline of the online Pairing application (5:00 p.m. on May 15, 2013), or the alternative education campus (AEC) registration (12:00 p.m. on May 3, 2013) will be denied.
  - *Inclusion or exclusion of test results, such as STAAR Modified or STAAR Alternate*
  - *Inclusion or exclusion of students, such as ELLs or Asylee/Refugees*
  - *STAAR Growth Measure Calculations*
  - *District and Campus Mobility*
  - *Rounding*
  - *Minimum Size Criteria*
  - *Criterion related to AEA campus registration such as percent at-risk, percent Grades 6-12 enrollment, or prior year safeguards*
  - *Small Numbers Analysis outcomes*
  - *New Campuses.* A request to assign a Not Rated: Other label to campuses that are designated Improvement Required in their first year of operation will be denied.

## Data Relevant to the 2012 Results

Appeals are considered for the 2013 ratings status based on information relevant to the 2013 evaluation. Appeals are not considered for circumstances that may have affected the prior year measures, regardless of whether the prior year results may impact the outcome of the current year rating status.

## 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 granted automatically.

## Special Circumstance Appeals

- 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 August 8, 2013.
- If other serious problems are found, copies of correspondence with the test contractor or the regional education service center 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.
- 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* 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.

## 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 special circumstance or error by the testing contractor that affected data used to determine accountability ratings. If the agency determines that the *Not Rated: Other* rating was assigned due to a unique circumstance, the agency can assign an updated rating.

## Distinction Designations

Academic Achievement Distinction Designations (AADD) cannot be appealed. AADD indicators are reported for most campuses regardless of eligibility for a designation outcome. Since campuses rated *Improvement Required* are not eligible for an AADD outcome, campuses that appeal an *Improvement Required* rating will automatically receive any Distinction Designation earned if their appeal is granted and their rating is raised to *Met Standard*.

## Calendar

Below are the dates for appealing ratings. These deadlines are final. To maintain a fair appeals process, late appeals will be denied. See *Chapter 12 – Calendar* for more information.

June 6, 2013	<i>Graduation/Dropout Summary Reports and Lists.</i> Superintendents are given access to confidential lists of dropouts and cohort membership. These reports provide a preview of the data that will be used to calculate the Graduation Rate and Annual Dropout Rate base indicators for the accountability ratings.
August 1, 2013	<i>Preview Data Tables.</i> Superintendents are given access to 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, 2013	<i>Ratings Release.</i> No appeals will be resolved before the ratings release.
August 8 through September 9, 2013	<i>2013 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.
September 9, 2013	<i>Appeals Deadline.</i> Appeals must be postmarked or hand delivered no later than September 9, 2013, in order to be considered.
Early November 2013	<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.
Early November 2013	<i>Ratings Update.</i> The outcome of all appeals will be reflected in the ratings update scheduled for November 2013. At that time, the TEASE and public websites will be updated.

## How to Submit an Appeal

Districts should indicate their intention to appeal their district and campus rating by using the Texas Education Agency Secure Environment (TEASE) Accountability website. This online system provides a mechanism for tracking all accountability rating appeals and allows districts to monitor the status of their appeals. After completing your intent to appeal, districts must mail their appeal packet, including all supporting documentation. Submission of a district’s intent to appeal on the TEASE application 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.

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

1. Log on to TEASE at <https://seguin.tea.state.tx.us/apps/logon.asp>.
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>

Once the agency is notified of an intent to appeal, districts have until September 9, 2013 to submit their appeal to TEA. As in past years, the submitted appeal must include:

- A statement that the letter is an appeal of the 2013 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, 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 about submission of appeals follows.

- The appeal should be addressed to the Division of Performance Reporting as follows:

<p>Your ISD Your address City, TX Zip</p>	<div style="border: 1px solid black; width: 80px; height: 60px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <p><b>postage</b></p> </div>
<p>Division of Performance Reporting Texas Education Agency 1701 Congress Avenue Austin, TX 78701-1494</p>	
<p><b>Attn: Accountability Ratings Appeal</b></p>	

- The appeal letter should be addressed to Mr. Michael Williams, Commissioner of Education (see letter examples, below).
- Appeals for more than one campus, including alternative education campuses, within a 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 campus appeal will impact the rating of a paired campus, that must be noted.
- If the campus appeal will impact the rating of the district, that must be noted.
- 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 reference indicator data 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. 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, 2013. 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 September 9, 2013. 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 for illustration.

Satisfactory Appeal:	Unsatisfactory Appeals:
<p>Dear Commissioner Williams,</p> <p>This is an appeal of the 2013 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD. Specifically, I am appealing STAAR mathematics for this campus. This is the only indicator keeping 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 circumstance. The 5<sup>th</sup> grade class was disrupted during the test administration by an emergency situation. Documentation on the incident and district personnel adherence to testing irregularity processes are included.</p> <p>Attached is the student’s 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>Dear Commissioner Williams,</p> <p>This is an appeal of the 2013 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 5<sup>th</sup> 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 <i>Attachments</i></p>

J. Q. Educator  
Superintendent of Schools  
*Attachments*

Dear Commissioner Williams,  
Maple ISD feels that its rating should be *Met Standard*. The discrepancy occurs because TEA shows that the performance in Index 1 for Writing is 48%.  
We have sent two compositions back for scoring, and are confident they will be changed to passing.  
If you have questions, do not hesitate to contact us, at 701-555-1234.  
Sincerely,  
J. Q. Educator  
Superintendent of Schools  
*(no attachments)*

### How an Appeal Is 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 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. This website will include the postmark date for each appeal and the date on which 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.
- 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 appeal and/or negotiation. 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.
- *If an appeal is granted, the data upon which the appeal was 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.

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 accountability products will be updated after the resolution of all appeals. This update will occur in early November 2013. Note that 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 and PBMAS**

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

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