

Legislative Interpretations of the Accountability Provisions in Chapter 39 of Texas Education Code

Subchapter B. Assessment of Academic Skills	Legislative Interpretation
<p>§39.025. Secondary-Level Performance Required</p> <p>(f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:</p> <p>(1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and</p>	<p>The primary purpose of this subsection is to address the transition from the TAKS exit-level assessment graduation requirement to the STAAR EOC graduation requirement.</p> <p>During the transition when both TAKS exit-level and STAAR EOC assessments are being administered, TAKS results must be evaluated for purposes of accountability ratings. This will affect the 2013 accountability ratings.</p>

Subchapter C. Accreditation	Legislative Interpretation
<p>§39.053. Performance Indicators: Student Achievement</p>	<p>The primary purpose of this section is provisions related to accountability indicators that will be used for district and campus ratings.</p>
<p>(a) The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revision.</p>	<p>Authority to define accountability indicators is assigned to the commissioner. Indicator definitions must be included in sections of the accountability manual that are adopted as commissioner rule.</p>
<p>(b) Performance on the student achievement indicators adopted under this section shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status.</p>	<p>This subsection requires that campus and district performance on indicators adopted under this section be compared to state accountability targets. Subsections (e) and (f) assign authority for setting accountability targets to the commissioner, and specifically reference the indicators in Subsection (c).</p> <p>The indicators adopted under this section must include performance of race, ethnicity, and socioeconomic status student groups, as well as all students.</p>

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<p>(c) Indicators of student achievement adopted under this section must include:</p>	<p>This subsection describes indicators that must be included in the accountability system.</p> <p>Following are references to the indicators in this subsection.</p> <ul style="list-style-type: none">• Subsection 39.052(b) requires that performance on the indicators in this subsection be included in the evaluation for district accreditation status.• Subsection 39.053(b) requires the commissioner to set accountability targets for the indicators in Section 39.053 and to disaggregate performance by student groups based on race, ethnicity, and socioeconomic status.• Subsection 39.053(e) requires the commissioner to set accountability targets and required improvement targets.• Subsection 39.053(f) requires the commissioner to set accountability targets for the indicators in this subsection for the current year and next two years.• Subsection 39.054(b) references the indicators in this subsection as the basis of the ratings evaluation.• Subsection 39.054(c) states that districts and campuses have the option of meeting the acceptable accountability target using either current year performance or three-year average performance.• Subsection 39.054(e) references evaluation of the indicators in this subsection as the basis of the acceptable/unacceptable ratings, in relation to state targets and in relation to required improvement as defined under Subsection 39.053(e).• Section 39.055 requires that certain students be excluded from all indicators adopted under Section 39.053 and reporting indicators adopted under Section 39.301. <p>The commissioner is not prohibited from including additional indicators in the accountability system.</p>
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<p>(1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:</p> <p>(A) for the performance standard determined by the commissioner under Section 39.0241(a):</p> <p>(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and</p> <p>(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area; and</p> <p>(B) for the college readiness performance as determined under Section 39.0241:</p> <p>(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and</p> <p>(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area;</p>	<p>Indicators adopted by the commissioner must include assessment results from:</p> <ul style="list-style-type: none"> STAAR Gr. 3-8 English STAAR Gr. 3-5 Spanish EOC, including retests <p>This provision does not prohibit the commissioner from including additional assessment results in the indicators, such as results from modified and alternate assessments, LAT assessments, and TELPAS results.</p> <p>The assessment indicators must combine performance across grade levels. This provision does not prohibit the commissioner from developing separate indicators for elementary, middle, and high school grade spans or separate indicators for STAAR Gr. 3-8 results and high school EOC results.</p> <p>Separate indicators must be developed for each subject area.</p> <p>Paragraphs (A) and (B) require that the assessment indicators include both Level II performance and progress for students who do not meet the Level II performance standard, and Level III performance and progress for students who do not meet the Level III performance standard. This provision does not prohibit using progress for students who do meet the student performance standard and does not require that students who fail the test be counted as passing.</p> <p>Use of the term “percentage of students” in Subparagraphs (i) and (ii) under Paragraphs (A) and (B) is not intended to prescribe a methodology for calculation of the required indicators. This subdivision does not prohibit combining Level II and Level III performance and progress in a weighted index, using scale scores, or using a cumulative score for EOC results.</p> <p>Other subsections reference specific provisions of Subdivision 39.053(c)(1) and are relevant to the interpretation.</p> <ul style="list-style-type: none"> • Subsection 39.053(d) gives the commissioner the authority to determine which EOC retest results are included in this indicator. • Subsection 39.053(d-1) requires that EOC results for students enrolled below Grade 9 be combined with assessment results for other students in the same grade. • Subsection 39.053(e) requires the commissioner to set state targets and required improvement targets; required improvement targets must be set for both Level II and Level III performance. • Subsection 39.053(f) references Subparagraph (c)(1)(B)(i) [performance Level III] in relation to accountability targets and accountability goals for student performance.
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<p>(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education; and</p> <p>(3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.)</p>	<p>Indicators adopted by the commissioner must include dropout or completion rates, and graduation rates.</p> <p>These subdivisions refer to the NCES dropout definition and NCLB graduation rate but Subsection (g-1) requires exclusions that are not allowed under the NCES dropout definition and NCLB graduation rate calculation. Therefore, the federal definitions are not used for the state accountability indicators.</p> <p>This provision does not prohibit the commissioner from adopting dropout rates for students below Gr. 9.</p> <p>Other subsections that reference this provision are:</p> <ul style="list-style-type: none"> • Subsections (g) and (g-1) contain required exclusions to the dropout definition and exclusions from the dropout rate and completion rate calculations.
<p>(d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.</p>	<p>Subdivision (c)(1) states that results from EOC assessments retaken by a student must be included in the assessment indicators. Subsection (d) gives the commissioner the authority to determine which retest results are included in the indicator. That decision must be included in the part of the accountability manual that is adopted as commissioner rule.</p>
<p>(d-1) In aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school grade level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.</p>	<p>This subsection requires that EOC results for students enrolled below Grade 9 be combined with assessment results for other students in the same grade.</p>
<p>(e) Performance on the student achievement indicators under Subsections (1) and (2) shall be compared to state standards and required improvement. The state standard shall be established by the commissioner. Required improvement is the progress necessary for the campus or district to meet state standards and, for the student achievement indicator under Subsection (c)(1), for its students to meet each of the performance standards as determined under Section 39.0241.</p>	<p>Authority to set accountability targets is assigned to the commissioner.</p> <p>This subsection references two of the statutory indicators in Subsection (c); however, it does not prohibit the commissioner from setting accountability targets for additional indicators, as required under Subsections (b) and (f).</p> <p>For the dropout rate indicator, required improvement is defined as the progress necessary for the campus or district to meet accountability targets. The 2016 ratings are the first year that two years of longitudinal dropout or graduation rates will be calculated under the same definition (classes of 2014 and 2015) due to changes that were effective in 2010-2011.</p> <p>For the assessment indicator, required improvement must address both the Level II and Level III performance standards on the assessments. A calculation based on either campus improvement or student progress could be used to meet the requirement. If the required improvement calculation is based on campus improvement, it is not necessary to calculate required improvement for student progress.</p>

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<p>(f) Annually the commissioner shall define the state standard for the current school year for each student achievement indicator described by Subsection (c) and shall project the state standards for each indicator for the following two school years. The commissioner shall periodically raise the state standards for the student achievement indicator described by Subsection (c)(1)(B)(i) for accreditation as necessary to reach the goals of achieving by not later than the 2019-2020 school year:</p> <ol style="list-style-type: none"> (1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and (2) student performance, including the percentage of students graduating under the recommended or advanced high school program, with no significant achievement gaps by race, ethnicity, and socioeconomic status. 	<p>Each year the commissioner must set accountability targets for the current year and the next two years for the indicators in Subsection (c).</p> <p>The statute requires the commissioner to periodically raise the accountability target for the indicator described by Subparagraph (c)(1)(B)(i) [Level III performance].</p> <p>This subsection lays out the student performance goals for the accountability system. Texas will be among the top ten states in postsecondary readiness by 2020, by:</p> <ul style="list-style-type: none"> • Improving student achievement at the postsecondary readiness performance level in the core subjects of the state curriculum; • Closing postsecondary readiness performance gaps among groups; • Closing gaps among groups in the percentage of students graduating under the recommended high school program and advanced high school program; and • Progressing toward postsecondary readiness for all students.
<p>(g) In defining the required state standard for the indicator described by Subsection (c)(2), the commissioner may not consider as a dropout a student whose failure to attend school results from:</p> <ol style="list-style-type: none"> (1) the student’s expulsion under Section 37.007; and (2) as applicable: <ol style="list-style-type: none"> (A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or (B) conviction of and sentencing for an offense under the Penal Code. 	<p>This subsection contains required exclusions to the dropout definition for students who were expelled from school for criminal behavior and cannot return to school due to court action. These exclusions are allowed under the federal definitions.</p>
<p>(g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:</p> <ol style="list-style-type: none"> (1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate; (2) students who were previously reported to the state as dropouts; (3) students in attendance who are not in membership for purposes of average daily attendance; (4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1); (5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and (6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults. 	<p>This subsection contains required exclusions from the dropout rate and completion rate computations that are not allowed under the federal dropout and graduation rate definitions.</p>

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<p>(h) Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter.</p>	
<p>(i) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241 (a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023 (a), (c), or (l).</p>	<p>The indicators adopted under this subsection must include measures of the progress of students who did not meet the Level II or Level III performance standards in the prior school year. (The indicators adopted under Subsection (c) include progress of students who did not meet student performance standards in the current school year.) This subsection is not specifically referenced in the provisions related to accountability targets or ratings. These indicators are not required to be part of the rating system. These will be report-only indicators.</p> <p>Subsection 39.053(b) requires the commissioner to set accountability targets for the indicators in Section 39.053 and to disaggregate performance by student groups based on race, ethnicity, and socioeconomic status.</p>

<p>§39.054. Methods and Standards for Evaluating Performance</p>	<p>The primary purpose of this section is provisions related to the assignment of district and campus ratings.</p>
<p>(a) The commissioner shall adopt rules to evaluate school district and campus performance and, not later than August 8 of each year, assign each district and campus a performance rating that reflects acceptable performance or unacceptable performance. If a district or campus received a performance rating of unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent designation on or before June 15.</p>	<p>This subsection requires the commissioner to assign district and campus accountability ratings and gives the commissioner the authority to define the criteria for assigning the ratings. Those criteria must be included in portions of the accountability manual that are adopted as commissioner rule.</p> <p>This subsection gives the commissioner authority to determine the number of rating levels and the labels associated with each rating level.</p> <p>This section requires that districts and campuses be assigned ratings annually and establishes dates by which districts must be notified of ratings. Ratings for all districts and campuses must be released by August 8.</p> <p>Districts must be notified by June 15 if the district or any campus that received an unacceptable rating in the previous year will receive an unacceptable rating in the current year. This early notification will be implemented in 2014.</p>
<p>(b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053(c).</p>	<p>This provision requires that the indicators adopted under Subsection 39.053(c) [assessment and dropout/graduation] be included in the ratings evaluation. It does not prohibit including other indicators.</p>

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<p>(b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):</p> <ul style="list-style-type: none"> (1) must: <ul style="list-style-type: none"> (A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and (B) include results of assessments required under Section 39.023; and (2) may be based on the results of a special accreditation investigation conducted under Section 39.057. 	<p>This subsection contains requirements for calculation of any indicators of effectiveness of district programs for special populations or career and technology programs, which are optional for use in determining district accreditation status under Section 39.052.</p>
<p>(c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:</p> <ul style="list-style-type: none"> (1) student performance in the current school year; or (2) student performance as averaged over the current school year and the preceding two school years. 	<p>For the indicators required to be included in the ratings evaluation (assessment and dropout/graduation indicators), districts and campuses have the option of meeting the acceptable accountability target using either current year performance or three-year average performance.</p> <p>For the assessment indicators, three years of performance results will not be available to implement this provision until 2014. The statute does not require or prohibit use of two-year average performance to meet the target until three years of results are available.</p> <p>For the dropout/graduation indicators, the 2014 ratings are the first year that three years of annual dropout rates are calculated under the same definition (2010-2011, 2011-2012, and 2012-2013) due to changes that were effective in 2010-2011. The 2017 ratings are the first year that three years of longitudinal dropout or graduation rates are calculated under the same definition (classes of 2014, 2015, and 2016).</p>

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<p>(d) In evaluating performance under Subsection (c), the commissioner:</p> <ul style="list-style-type: none"> (1) may assign an acceptable performance rating if the campus or district: <ul style="list-style-type: none"> (A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and (B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years; (2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or (3) may establish other performance criteria for a district or campus to obtain an exception under this subsection. <p>(d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.</p>	<p>This subsection allows but does not require the commissioner to implement a proportional or exceptions provision so that an acceptable rating can be assigned if the district or campus meets accountability targets on 85 percent of the assessment and dropout/graduation measures on which it is evaluated.</p> <p>If the provision is implemented, it cannot be used for the same measure for two consecutive years. The commissioner may either require minimum performance on a measure to which the provision applies or establish other criteria for use of the provision.</p> <p>The commissioner may consider alternative criteria to the 85 percent provision only in special circumstances, including campuses and districts with student groups that are substantially similar to all students. This would be campuses and districts with student demographics that are homogeneous in relation to the characteristic used for assigning students to a group.</p>
<p>(e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:</p> <ul style="list-style-type: none"> (1) standards established for each indicator; and (2) required improvement as defined under Section 39.053(e) 	<p>District and campus performance evaluation for determination of acceptable and unacceptable ratings is based on achievement on the indicators adopted by the commissioner under Section 39.053(c) [assessment, dropout/graduation] in relation to state targets and required improvement.</p> <p>This section requires the indicators in Subsection 39.053(c) to be used for the ratings under this section, which reflect acceptable and unacceptable performance.</p>
<p>§39.055. Student Ordered by a Juvenile Court Not Considered for Accountability Purposes</p> <p>Notwithstanding any other provisions of this code, for purposes of determining the performance of a school district or campus under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Youth Commission, the Texas Juvenile Probation Commission, a juvenile board, or any other governmental entity is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.</p>	<p>This provision requires that performance of students court ordered to attend programs or facilities operated by the Texas Youth Commission, Texas Juvenile Probation Commission, and other government entities be excluded from performance of the school district in which the program or facility is located for purposes of all rating indicators adopted under Section 39.053 and reporting indicators adopted under Section 39.301. These exclusions are allowed under federal accountability provisions.</p> <p>Although this section does not reference indicators that are used for distinction designations adopted under Subchapter G, the intent is that the provision apply to all accountability indicators.</p>

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Subchapter E. Accreditation Interventions and Sanctions	Legislative Interpretation
<p>§39.105. Campus Improvement Plan</p> <p>(a) This section applies if a campus performance satisfies performance standards under Section 39.054(e) for the current school year but would not satisfy performance standards under Section 39.054(e) if the standards to be used for the following school year were applied to the current school year. On request of the commissioner, the campus-level committee established under Section 11.251 shall revise and submit to the commissioner in an electronic format the portions of the campus improvement plan developed under Section 11.253 that are relevant to those areas for which the campus would not satisfy performance standards.</p> <p>(b) If the campus to which this section applies is an open-enrollment charter school, the school shall establish a campus-level planning and decision-making committee as provided for through procedures as much as practicable the same as those provided by Sections 11.251(b)-(e) and develop a campus improvement plan as provided by Section 11.253. On request of the commissioner, the school shall submit to the commissioner in an electronic format the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards.</p>	<p>This section requires identification of campuses that receive an acceptable accountability rating in the current year but whose current year performance does not meet the acceptable rating requirements for the following school year. Campus Improvement Plan (CIP) campuses will not be identified in 2012 because the criteria are linked to performance ratings, which are suspended in 2012.</p> <p>The CIP criteria for 2013 must be based on accountability requirements for the 2014 ratings.</p> <p>Release of the CIP campus list is not subject to the August 8 ratings release deadline.</p>
<p>§39.116. Transitional Interventions and Sanctions</p> <p>(a) During the period of transition to the accreditation system established under H.B. No. 3, Acts of the 81st Legislature, Regular Session, 2009, to be implemented in August 2013, the commissioner may suspend assignment of accreditation statuses and performance ratings for the 2011-2012 school year.</p>	<p>No accountability ratings will be issued in 2012. Since an acceptable accountability rating is an eligibility requirement for distinction designations, no distinction designations will be awarded in 2012.</p>
<p>(b) As soon as practicable following the 2011-2012 school year, the commissioner shall report district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B).</p>	<p>The 2011-2012 STAAR results are to be reported as soon as possible following the 2011-2012 school year.</p>
<p>(c) For the 2012-2013 school year, the commissioner shall:</p> <p>(1) report district and campus performance under the student achievement indicator under Section 39.053(c)(1)(B); and</p> <p>(2) evaluate district and campus performance under the student achievement indicator under Section 39.053(c)(1)(A) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.</p>	<p>In 2013, Level III student performance will be reported but will not be evaluated for acceptable/unacceptable performance ratings.</p> <p>Level III student performance will not be evaluated for recognized and exemplary distinction designations in 2013.</p> <p>Level III performance of students in Grade 3-8 will be used to award distinction designations for academic achievement in English language arts and mathematics under Section 39.203(c) in 2013.</p> <p>The 2013 accountability ratings will be based on Level II student performance.</p>

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(d) Beginning with the 2013-2014 school year, the commissioner shall evaluate district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.	The 2014 accountability ratings will be based on Level II and Level III student performance.
(e) During the 2011-2012 and 2012-2013 school years, the commissioner shall continue to implement interventions and sanctions for districts and campuses identified as having unacceptable performance in the 2010-2011 school year and may increase or decrease the level of interventions and sanctions based on an evaluation of the district's or campus's performance.	
(f) For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions under this subchapter, the performance ratings and accreditation statuses issued in the 2010-2011 and 2012-2013 school years shall be considered consecutive.	
(g) This section expires September 1, 2014.	

Subchapter F. Procedures for Challenge of Accountability Determinations, Intervention, or Sanction	Legislative Interpretation
<p>§39.151. Review by Commissioner: Accountability Determination</p> <p>(a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency determination made under this chapter relating to an academic or financial accountability rating that affects the district or school.</p>	<p>This section requires the commissioner to establish a process for districts and campuses to appeal an academic accountability rating. The appeals process must be included in the chapters of the accountability manual that are adopted as commissioner rule.</p> <p>The commissioner has the authority to determine appeal deadlines and appeal submission procedures, including requiring submission of documentation supporting the appeal. The commissioner has the authority to establish rules for review of appeals by the appeals committee described in Subsection (b) to ensure uniform decisions, including denial of appeals based on errors in data submitted by districts and limitations on the type of appeals based on application of accountability criteria adopted by the commissioner.</p> <p>The appeals process extends to distinction designation recognized and exemplary ratings awarded under Section 39.202. The appeals process does not extend to campus distinction designations awarded under Sections 39.203.</p> <p>[The section also covers appeals of financial accountability ratings, which are not addressed in this document.]</p>
<p>(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.</p>	<p>The appeals process must provide for a committee appointed by the commissioner to make recommendations to the commissioner regarding granting and denying appeals of accountability ratings. TEA employees may not serve on the committee.</p>
<p>(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.</p>	<p>This subsection allows the commissioner to require that appeals be submitted in writing.</p>

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(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.	The commissioner’s decision regarding an appeal is final and may not be appealed under other appeals processes.
(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 of academic accountability ratings must be made using the process adopted by the commissioner under this section.

Subchapter G. Distinction Designations	Legislative Interpretation
<p>§39.201. Distinction Designations</p> <p>Not later than August 8 of each year, the commissioner shall award distinction designations under this subchapter. A district or campus may not be awarded a distinction designation under this subchapter unless the district or campus has acceptable performance under Section 39.054.</p>	<p>This section requires the commissioner to assign district and campus distinction designations.</p> <p>The date by which distinction designations must be awarded is the same date as the ratings under Section 39.054 and only districts and campuses that receive an acceptable rating under Section 39.054 are eligible for distinction designations.</p>
<p>§39.202. Academic Excellence Distinction Designation for Districts and Campuses</p> <p>The commissioner by rule shall establish a recognized and exemplary rating for awarding districts and campuses an academic distinction designation under this subchapter. In establishing the recognized and exemplary ratings, the commissioner shall adopt criteria for the ratings, including:</p> <ol style="list-style-type: none"> (1) percentages of students who: <ol style="list-style-type: none"> (A) performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area; or (B) met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grades by subject area, for students who did not perform satisfactorily as described by Paragraph (A); and (2) other factors for determining sufficient student attainment of postsecondary readiness. 	<p>This section requires the commissioner to award district and campus distinction designations for recognized and exemplary performance and gives the commissioner the authority to define the criteria for awarding the distinction designations. Those criteria must be included in the portions of the accountability manual that are adopted as commissioner rule.</p> <p>Indicators for the recognized and exemplary distinction designations must include assessment results from:</p> <ul style="list-style-type: none"> STAAR Gr. 3-8 English STAAR Gr. 3-5 Spanish EOC Modified and Alternate assessments <p>This provision does not prohibit the commissioner from including additional assessment results in the indicators, such as results from LAT assessments and TELPAS results. Inclusion of EOC retests is not prohibited.</p> <p>The assessment indicators must combine performance across grade levels. This provision does not prohibit the commissioner from developing separate indicators for elementary, middle, and high school grade spans or separate indicators for STAAR Gr. 3-8 results and EOC results. Combining EOC results for students enrolled below Grade 9 with assessment results for other students in the same grade is not required but is not prohibited.</p> <p>Separate indicators must be developed for each subject area.</p> <p>This section requires that the assessment indicators for recognized and exemplary distinction designations include Level III performance and progress for students who do not meet the Level III performance standard. This provision does not require that students who fail the test be counted as passing. It does not prohibit combining Level III performance and progress in a weighted index or using a cumulative score for EOC results.</p> <p>This subsection gives the commissioner authority to determine the number of distinction designation levels and</p>

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	<p>the labels associated with each level.</p> <p>In addition to the STAAR assessment indicator, the recognized and exemplary distinction designation criteria must include other factors for determining student attainment of postsecondary readiness. These other factors are defined by the commissioner and could include indicators such as recommended high school program/distinguished achievement program graduates.</p> <p>This section does not require or prohibit use of student group performance in assigning recognized and exemplary distinction designations, or use of other features such as required improvement and three-year average performance.</p> <p>Section 39.116, which prohibits use of Level III performance for ratings in 2013, extends to the recognized and exemplary distinction designations. These distinction designations will first be awarded in 2014.</p> <p>This section gives the commissioner the option of treating the recognized and exemplary distinction designations as higher ratings assigned under the system developed under Section 39.054 or as additional acknowledgments attached to an acceptable rating.</p>
<p>§39.203. Campus Distinction Designations</p>	<p>The distinction designations under this section will be awarded only to campuses.</p>
<p>(a) The commissioner shall award a distinction designation if the campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement as determined under Section 39.034.</p>	<p>For the distinction designations awarded under this subsection, campuses will be ranked on performance on the student progress measure. Although not specified in this section, the intent is that the indicator be a measure of student progress in relation to the Level III student performance standard.</p> <p>This distinction designation is based on a single ranking on progress of all students. Distinction designations based on student group performance are described under the following subsection.</p> <p>This distinction designation will first be awarded in 2014 because the student progress measures cannot be finalized until after a second year of STAAR results are available.</p>
<p>(b) In addition to the distinction designation described by Subsection (a), the commissioner shall award a campus a distinction designation if the campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses in this state under performance criteria described by this subsection. The commissioner shall adopt rules related to the distinction designation under this subsection to ensure that a campus does not artificially diminish or eliminate performance differentials through inhibiting the achievement of the highest achieving student subpopulation.</p>	<p>For the distinction designations awarded under this subsection, campuses will be ranked on reduction of performance gaps between student groups. Although not specified in this section, the intent is that the indicator be a measure of performance gaps in relation to the Level III student performance standard.</p> <p>This subsection does not specify which student groups are to be evaluated.</p> <p>This distinction designation will first be awarded in 2014 because indicators of change in performance gaps cannot be finalized until after a second year of STAAR results are available.</p> <p>Criteria for this distinction designation must be included in sections of the accountability manual that are adopted as commissioner rule.</p>

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<p>(c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner for the following programs or the following specific categories of performance:</p> <ol style="list-style-type: none"> (1) academic achievement in English language arts, mathematics, science, or social studies; (2) fine arts; (3) physical education; (4) 21st Century Workforce Development program; and (5) second language acquisition program. 	<p>Campus distinction designations will be awarded for academic achievement in areas other than STAAR performance and four new program areas.</p> <p>These distinction designations will be developed through a committee process described in Section 39.204.</p> <p>Distinction designations under this subsection will be phased in. For 2013 indicators will be developed for academic achievement in English Language Arts and Mathematics, and for 21st Century Workforce Development programs.</p>
<p>(d) In addition to the distinction designations otherwise described by this section, the commissioner may award a distinction designation to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c).</p>	<p>This subsection gives the commissioner the option to award distinction designations to middle schools with significant numbers of students below Grade 9 who meet the Level II performance standard on EOC assessments. If implemented, these will be the only distinction designations awarded for Level II performance.</p>
<p>§39.204. Campus Distinction Designation Criteria: Committees</p> <p>(a) The commissioner by rule shall establish:</p> <ol style="list-style-type: none"> (1) standards for considering campuses for distinction designations under Section 39.203(c); and (2) methods for awarding distinction designations to campuses. <p>(b) In adopting rules under this section, the commissioner shall establish a separate committee to develop criteria for each distinction designation under Section 39.203(c).</p> <p>(c) Each committee established under this section must include:</p> <ol style="list-style-type: none"> (1) individuals who practice as professionals in the content area relevant to the distinction designation, as applicable; (2) individuals with subject matter expertise in the content area relevant to the distinction designation; (3) educators with subject matter expertise in the content area relevant to the distinction designation; and (4) community leaders, including leaders from the business community. <p>(d) For each committee the governor, lieutenant governor, and speaker of the house of representatives may each appoint a person described by each subdivision of Subsection (c).</p> <p>(e) In developing criteria for distinction designations under this section, each committee shall:</p> <ol style="list-style-type: none"> (1) Identify a variety of indicators for measuring excellence; and (2) Consider categories for distinction designations, with criteria relevant to each category, based on: <ol style="list-style-type: none"> (A) the level of a program, whether elementary school, middle or junior high school, or high school; and (B) the student enrollment of a campus. 	<p>The criteria for distinction designations under Subsection 39.203(c) will be developed with the advice of committees and will be adopted as commissioner rule.</p> <p>Five distinction designation committees will be appointed corresponding to the five categories of performance under Subsection 39.203(c). The governor, lieutenant governor, and speaker of the house appoint individuals to the committees who meet the qualifications listed in this section.</p> <p>The distinction designation committees will identify a variety of indicators to measure excellence for the program or category of performance, and consider criteria relevant to different campus sizes and grade spans.</p>