

Text of Adopted Amendment to 19 TAC

Chapter 97. Planning and Accountability

Subchapter EE. Accreditation Status, Standards, and Sanctions

Division 1. Status, Standards, and Sanctions

§97.1071. Special Program Performance; Monitoring, Review, and Supports.

- (a) For purposes of this section, school districts include open-enrollment charter schools.
- (b) ~~(a)~~ School districts ~~[and open enrollment charter schools]~~ are subject to general supervision and monitoring activities for compliance with state law and federal regulation , implemented by the Texas Education Agency (TEA) under [including] 34 Code of Federal Regulations (CFR), §§300.600-300.609, and review of program implementation and effectiveness within certain special populations of students. Activities may include:
- (1) random, targeted, or cyclical reviews authorized under Texas Education Code (TEC), §39.056, conducted remotely or on-site to identify problems implementing state and federal requirements and to provide support for development of reasonable and appropriate strategies to address identified problems; and/or
 - (2) intensive or special investigative remote or on-site reviews authorized under TEC, §39.003 and §39.004 ~~[§39.057]~~ .
- (c) ~~(b)~~ Activities described in subsection (b) ~~(a)~~ of this section are applicable for compliance with requirements for reading diagnosis in TEC, §28.006, and dyslexia and related disorders in TEC, §38.003, and §74.28 of

(6) other federally required elements.

(g) [(e)] The standards used to assign districts to specific determination levels

~~[alleged]~~ violations of the Individuals with Disabilities Education Act (IDEA), Part B, or a state statute or administrative rule created to implement IDEA, that arise from an area of concern. The following guidelines shall apply to this process.

- (1) "Area of concern" means that TEA has been made aware of an allegation regarding a violation of, or noncompliance with, a requirement of IDEA, Part B, or a state special education law or administrative rule.
- (2) "Credible allegation" means that TEA has determined that an allegation arising from an area of concern is credible enough to investigate further to determine if a violation or noncompliance has occurred.
- (3) ~~(2)~~ Information and awareness of an area of concern may arise directly from TEA or from external sources.
- (4) ~~(3)~~ TEA will engage in a process to determine if an area of concern is determined to be a credible allegation, and, if determined credible, TEA will initiate an investigation to determine if findings of noncompliance will be issued.
- (5) ~~(4)~~ TEA will generally not engage in the process described in paragraph (7) of this subsection to determine if an area of concern is a credible allegation if it is a ~~(A)~~ media report, ~~(or)~~ social media post, or an ~~[alleging special education noncompliance, as well as an]~~ anonymous report, ~~[of alleged noncompliance, will not be treated as an area of concern]~~ unless TEA ~~[identifies or]~~ receives corroborating information and facts that a specific violation of state or federal law or rule has occurred if the allegation were to be confirmed true.
- (6) ~~(5)~~ When an individual or organization reports a ~~[an allegation of]~~ special education area of concern ~~[noncompliance]~~, TEA may direct the individual or organization to the established dispute resolution processes. Depending on the frequency or specificity of the type of allegation made, TEA may engage in the activities described in paragraph (4) ~~(3)~~ of this subsection.
- (7) ~~(6)~~ The process to determine if an area of concern is a credible allegation, as ~~[and investigation]~~ described in paragraph (4) ~~(3)~~ of this subsection, may include one or more of the following actions:
 - ~~(A)~~ — contacting the district that is the subject of the allegation to gather more information, which may include staff, parent, or student interviews, and requesting a response to an allegation;
 - (A) ~~(B)~~ reviewing existing citations of noncompliance or any noncompliance identified within the last two school years on the same or similar alleged violation;
 - (B) ~~(C)~~ reviewing filed state complaints that are in process of being investigated or that have been substantiated within the last two school years on the same or similar alleged violation;
 - (C) ~~(D)~~ reviewing due process hearing decisions issued within the last two years in which the hearing officer's final written decision contains a finding of noncompliance on the same or similar alleged violation;
 - (D) ~~(E)~~ gathering evidence from ~~[contacting]~~ groups that represent or advocate for families and communities served by the district;
 - (E) ~~(F)~~ reviewing and analyzing available student- or district-level data that relate to the alleged violation;
 - (F) ~~(G)~~ reviewing and analyzing fiscal and program information, such as grant applications, contracts, self-assessments, and other special education documents submitted to TEA by the district; and
 - (G) ~~(H)~~ any other activity or measure used to gather evidence within TEA's general supervision and monitoring authority.

(8) The investigation to determine if a credible allegation will result in the issuance of findings as described under paragraph (4) of this subsection will include contacting the school district that is the subject of the allegation and requesting a response from the school district. Additional investigative actions may include one or more of the following:

(A) conducting interviews with the district, staff, parents, or students;

(B) a referral for review or investigation by any other appropriate unit or division within TEA;

(C) utilizing the review and analysis of the activities conducted during the review under paragraph (7) of this subsection to determine if noncompliance is found; and

(D) any other activity or measure within TEA's general supervision and monitoring authority.

(9) ~~(7)~~ TEA may apply any intervention or sanction within its authority if noncompliance or a violation is substantiated, including those described in subsection (h) of this section and §89.1076 of this title.