

The Texas Education Agency (TEA) adopts an amendment to §97.1071, concerning special program performance and monitoring, review, and supports. The amendment is adopted with changes to the proposed text as published in the May 24, 2024 issue of the *Texas Register* (49 TexReg 3692) and will be republished. The adopted amendment clarifies current practice and aligns with federal guidance related to state supervision requirements.

REASONED JUSTIFICATION: Section 97.1071 defines criteria for special program monitoring, review, and support that a school district or open-enrollment charter school must engage in with TEA.

New subsection (a) defines school districts to include open-enrollment charter schools.

Subsection (b) is amended to include 34 Code of Federal Regulations, §§300.600-300.609, as part of the compliance requirements that school districts are subject to for general supervision and monitoring. Based on public comment, the wording in subsection (b) was further revised at adoption to clarify that the federal regulations that are referenced are the responsibility of TEA. Subsection (b)(2) is amended to update a cross reference to include Texai TJ0 -1.157 TD(f)1.7

Response: The agency disagrees. As states continue to receive more guidance from the federal department of education, it is more appropriate to denote those actions that are within TEA's supervisory authority to implement.

Comment: TCASE commented that details around any findings and a written report should be included in this rule, along with a district's right to correct misinformation.

Response: The agency disagrees with adding this type of detail. Once noncompliance is found, the agency will follow the same processes as other instances of noncompliance that are discovered outside the area of concern process.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.028, which establishes limitations on compliance monitoring; TEC, §28.006, which establishes requirements for reading diagnostic instruments; TEC, §29.062, which establishes compliance requirements for programs designed for emergent bilingual students; TEC, §38.003, which establishes criteria for screening and treatment for dyslexia and related disorders; TEC, §39.003, which establishes the authority for special investigations; TEC, §39.004, which establishes the conduct of special investigations; TEC, §39.056, which establishes criteria for monitoring reviews; 34 Code of Federal Regulations (CFR), §300.149, which lists the state's responsibility for general supervision of the Individuals with Disabilities Education Act (IDEA), Part B; and 34 CFR, §§300.600-300.609, which describe the requirements for state monitoring and enforcement of IDEA, Part B.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.028, 28.006, 29.062, 38.003, 39.003, 39.004, and 39.056; and 34 Code of Federal Regulations, §§300.149 and 300.600-300.609.

<rule>

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

- (a) For purposes of this section, school districts include open-enrollment charter schools.
- (b) School districts are subject to general supervision and monitoring activities for compliance with state law and federal regulation, implemented by the Texas Education Agency (TEA) under 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.
- (c) Activities described in subsection (b) of this section are applicable for compliance with requirements for intensive or spe described in subsection (b) of this section are applicable for compliance with requirements for reading diagniEMC /P .9 ((o)12 (r)go)12 (r4.2 (a.9Tj0.00 a)4.2 (6.8 (afTfr)1.7 (c)1.6 (0.9 (s)9.5 (;)v12 (03)1n.9 (n s)9.4 (u

- (2) a comparison of the district's performance relative to aggregated state performance and state performance standards;
 - (3) a statistical distribution of districts exhibiting a comparable need for targeted support; and
 - (4) the length of time the performance standard has been in place and the length of time the district has exhibited deficiencies under the standard.
- (f) In addition to performance levels determined under §97.1001 of this title, the commissioner may consider any other applicable information, such as:
 - (1) complaints investigation results;
 - (2) special education due process hearing decisions;
 - (3) data validation activities;
 - (4) integrity of assessment or financial data;
 - (5) longitudinal intervention history; and
 - (6) other federally required elements.
- (g) The standards used to assign districts to specific determination levels under this section are established annually by the commissioner and communicated to all school districts. Determination level categories for assignment include:
 - (1) meets requirements;
 - (2) needs assistance;
 - (3) needs intervention; and
 - (4) needs substantial intervention.
- (h) In addition to determination levels described in subsections (e) and (g) of this section, the commissioner shall develop a system of cyclical monitoring to ensure every district participates in general supervision activities. Based on a district's assigned determination level, as part of its cyclical monitoring process, or as part of compliance monitoring activities, a district may be required to implement and/or participate in:
 - (1) focused self-analysis of district data and program effectiveness;
 - (2) focused remote and/or on-site review;
 - (3) required stakeholder engagement;
 - (4) focused compliance reviews;
 - (5) strategic support and continuous improvement planning; and/or
 - (6) corrective action plan development.
- (i) The commissioner shall notify in writing each district identified for review under this section as a result of assigned determination level or cyclical selection prior to requiring a district to implement or participate in any activities included in subsection (h)(1)-(6) of this section.
- (j) Actions taken under this section are intended to assist the district in raising its performance and/or

- (1) In exercising its general supervision authority under 34 CFR, §300.149 and §300.600, TEA has established a process that provides for the investigation and issuance of findings regarding credible allegations of 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.

