

Chapter 7 – Appealing the Ratings

The commissioner of education is required to provide a process for districts or charters to challenge an agency determination of its accountability rating (Texas Education Code [TEC], §39.151).

Appeals Process Overview and Calendar

The state accountability system performance index framework limits the likelihood that a single indicator or measure will result in an *Improvement Required* rating. For this reason, the state accountability appeals process is limited to rare cases where a data or calculation error is attributable to the test contractor(s) or the Texas Education Agency (TEA). The compensatory nature of the performance index framework minimizes the possibility that district data coding errors in the Public Education Information Management System (PEIMS) or State of Texas Assessments of Academic Readiness (STAAR) program will negatively impact the overall accountability rating. Online applications provided by TEA and the testing contractors ensure that districts are aware of data correction opportunities, particularly through the use of 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 carefully reviewed by an external panel of educators. Superintendents may appeal accountability ratings by following the guidelines in this chapter.

Following are the dates for appealing ratings. These deadlines are final. To maintain a fair appeal process, late appeals are denied. Please see *Chapter 10 – Calendar* for more information.

August 12, 2016	<i>Ratings Release.</i> No appeals will be resolved before the ratings release.
August 12– September 30, 2016	<i>2016 Appeals Window.</i> Appeals may be submitted <i>by the superintendent</i> once ratings are released publicly. Districts register their intent to appeal using the TEASE Accountability website and mail their appeal letter with supporting documentation. Appeals not signed by the district superintendent are denied. See the “How to Appeal” section later in this chapter.
By August 26, 2016	<i>Data tables released.</i> Data tables used to calculate accountability ratings are released through TEASE (unmasked) and public website (masked).
By September 16, 2016	<i>Remaining accountability reports released.</i> System safeguards, distinction designations, and accountability summaries released through TEASE (unmasked) and public website (masked)
September 30, 2016	<i>Appeals Deadline.</i> Appeals must be postmarked or hand-delivered no later than September 30, 2016, in order to be considered.
December 2016	<i>Decisions Released.</i> Commissioner’s decisions are mailed in the form of response letters to each school district and charter that filed an appeal by the September 30 deadline. Letters are posted to the TEASE website.
December 2016	<i>Ratings Update.</i> The outcome of all appeals are reflected in the ratings update scheduled for December 2016. The TEASE and public websites are updated.

General Considerations

The basis for appeals should be a data or calculation error attributable to TEA, regional education service centers (ESC), or the testing contractor(s). The appeals process is not an appropriate method to correct data that were inaccurately reported by the district. A district that submits inaccurate data must follow the procedures and timelines for resubmitting data, e.g., the PEIMS data standards. Poor data quality is not a valid reason to appeal. Poor data quality can, however, be a reason to lower a district's accreditation status (TEC §39.052[b][2][A][i]). The data tables and other agency performance reports include data that are final and cannot be changed even if an appeal is granted, unless it is an error by TEA and/or the testing contractor(s).

Districts may appeal for any reason. However, the accountability system requires that the rules be applied uniformly. Therefore, requests for exceptions to the rules for a district or campus are viewed unfavorably and most likely denied.

- Only appeals that would result in a changed rating are considered. A district or campus must meet all requirements for a higher rating in order for its appeal to be considered.
- Appeals of system safeguard results are not considered. District or campus intervention requirements are determined in part by the current rating outcome. Requests to waive Professional Service Provider (PSP) requirements are not considered an appeal of the accountability rating and are denied.
- 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 several opportunities to confirm and correct data submitted for accountability purposes.
- The appeals process is not a permissible method to correct data that were inaccurately reported 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 racial/ethnic categories,
- student economic status,
- student at-risk status,
- student attribution codes,
- student leaver data, and
- student grade-level enrollment data.

STAAR and TELPAS answer documents, specifically

- student identification information, demographic, or program participation;
- student racial/ethnic categories;
- student economic status;
- score codes or test version codes;
- student year in U.S. schools information reported on TELPAS; and
- campus and group ID (header) sheets.

- Requests to modify the 2016 state accountability calculations adopted by commissioner rule are not considered. Commissioner rules are adopted under the Administrative Procedures Act (APA), and challenges to a commissioner rule should be made under that statute. Recommendations for changes to state accountability rules submitted to the agency outside of the appeals process may be considered by accountability advisory groups for future accountability cycles.
- Requests to modify statutorily required implementation rules defined by the commissioner are not 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(s), 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 appeals process may be considered as the appropriate advisory groups reconvene annually.
- Examples of issues unfavorable for appeal are described below.
 - *Late Online Application Requests.* Requests to submit or provide information after the deadline of the online alternative education accountability (AEA) campus registration (noon on April 8, 2016) or the pairing application (2:00 p.m. on May 13, 2016) are denied.
 - *Inclusion or exclusion of specific test results*
 - Specific administration results used to meet grade 5 or 8 Student Success Initiative (SSI)
 - Grade-level mathematics assessment for a middle school student who took the Algebra I EOC
 - *Inclusion or exclusion of specific students*
 - English language learners (ELLs),
 - Asylees/refugees, and
 - Students receiving special education services
 - *Requests to modify calculations or methodology applied to all districts and campuses*
 - STAAR progress measures, ELL progress measure, longitudinal graduation rates, longitudinal or annual graduation plan rates, or annual dropout rates,
 - District and campus mobility/accountability subsets,
 - Rounding,
 - Minimum size criteria, and
 - Small numbers analysis
 - *Requests to modify provisions or methodology applied to accountability*
 - *AEA Provisions.* Requests for consideration of campus registration criteria, at-risk or grades 6–12 enrollment criteria, prior-year safeguard methodology, dropout recovery school (DRS) designations, and to waive the alternative education campus (AEC) enrollment criterion for charters are denied.
 - *School Types.* The four campus types categories used for 2016 accountability are identified based on PEIMS enrollment data submitted in fall 2015. Requests to redefine the grade spans that determine school types are denied.

- *Campus Configuration Changes.* School districts have the opportunity to determine changes in campus identification numbers and grade configurations. Requests for consideration of state accountability rules based on changes in campus configurations are denied.
- *New Campuses.* Requests to assign a *Not Rated* label to campuses that are designated *Improvement Required* in their first year of operation are denied.

Data Relevant to the Prior-Year Results

Appeals are considered for the 2016 ratings status based on information relevant to the 2016 evaluation. Appeals are not considered for circumstances that may have affected the prior-year measures, regardless of whether the prior-year results impacted the current-year rating.

No Guaranteed Outcomes

Each appeal is evaluated on the details of its unique situation. Well-written appeals that follow the guidelines are more easily processed but not automatically granted.

Special Circumstance Appeals

- *Rescoring.* If a district requests its writing results be rescored, the district must provide a copy of the dated request to the testing contractor(s) and the outcome of the rescored tests 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 12, 2016.
- *Other Issues.* If other serious issues are found, copies of correspondence with the testing contractor(s), the regional ESC, or TEA should be provided with the appeal.
- *Online Testing Errors.* Appeals based on STAAR or TELPAS online test submission errors—other than those discussed in the special processing section of chapter 2 of this manual—must include documentation or validation of the administration of the assessment.
- *SB 1867 Provision.* A district or campus rated *Improvement Required* because of the inclusion in the calculation of graduation rates those students who are allowed to be excluded (under SB 1867 [84th Texas Legislature, 2015]) may submit an appeal.

These students are

- at least 18 years old as of the PEIMS fall submission of the school year for which ratings are being assigned,
- have satisfied the credit requirements for high school graduation, and
- have not completed their individualized education program (IEP) services.

Appeals should be based on the students who match each of these criteria and whose IEPs include graduation plans that exceed the longitudinal (four- or five-year) cohort period. Sufficient documentation for students developed in their earliest years of inclusion in the class of 2015 cohort should be included. Students served in special education programs with IEPs developed during the last year of their longitudinal cohort will not be favorable for appeal.

Documentation should include only the information necessary to show the date that the graduation plan was established. Providing a student's entire IEP and other ARD paperwork is not necessary.

- *TSI Data*. A district or campus rated *Improvement Required* because of mismatches in the student-identifying information between the TSI data files (used in the postsecondary readiness component of Index 4) and the TEA 2015 annual graduates file, may submit an appeal. Sufficient documentation of student-identifying information and TSI assessment scores should be included.

Not Rated Appeals

Districts and campuses assigned *Not Rated* labels are responsible for appealing this rating by the appeal deadline if the basis for this rating was due to special circumstance or error by the testing contractor(s). If TEA determines that the *Not Rated* label was indeed due to special circumstances, it may assign a revised rating.

Distinction Designations

Decisions regarding distinction designations cannot be appealed. Indicators for these distinctions are reported for most districts and campuses regardless of eligibility for a designation. Districts and campuses rated *Improvement Required* are not eligible for a distinction. However, districts and campuses that appeal an *Improvement Required* rating will automatically receive any distinction designation earned if their appeal is granted and their rating is revised to *Met Standard*.

How to Submit an Appeal

Districts should file their intent to appeal district and campus ratings by using the TEA Secure Environment (TEASE) Accountability website. This confidential online system provides a mechanism for tracking all accountability rating appeals and allows districts to monitor the status of their appeal(s).

After filing an intent to appeal, districts must mail an appeal packet including all supporting documentation necessary for TEA to process the appeal. Filing an intent to appeal does not constitute an appeal. To file an intent to appeal

1. Log on to TEASE at <https://sequin.tea.state.tx.us/apps/logon.asp> or TEAL at <https://pryor.tea.state.tx.us>,
2. Click ACCT – Accountability,
3. From the Welcome page, click the *Notification of Intent to Appeal* link and follow the instructions.

The *Notification of Intent to Appeal* website will be available during the appeals window from August 12 through 5:00 p.m. CDT on September 30. 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 TEA Secure Applications Information page at http://tea.texas.gov/About_TEA/Other_Services/Secure_Applications/TEA_Secure_Applications_Information/.

- Districts must submit their appeal in writing via mail to TEA by September 30, 2016. The appeal shall include the following:
 - A statement that the letter is an appeal of a 2016 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(s) regarding the appeal, including details of the data affected and what caused the problem
- If applicable, the reason(s) why the cause for appeal is attributable to TEA, a regional ESC, or the testing contractor(s)
- The reason(s) why granting the appeal may result in a revised rating, including calculations that support that rating
- A statement that all information included in the appeal is true and correct to the best of the superintendent's knowledge and belief
- The superintendent's signature on official district letterhead
- The appeal shall be addressed to the Division of Performance Reporting as follows:

Your ISD Your address City, TX Zip	postage
Division of Performance Reporting Texas Education Agency 1701 North Congress Avenue Austin, TX 78701-1494	
Attn: Accountability Ratings Appeal	

- The letter of appeal should be addressed to Mr. Mike Morath, Commissioner of Education (see example letters, below).
- Appeals for more than one campus, including AECs, within a single 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 appeal will impact the rating of the district or a paired campus, the consequence must be noted.
- When student-level information is in question, supporting documentation must be provided for review, i.e., a list of the students by name and identification number. It is not sufficient to reference indicator data without providing documentation 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 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.
- Appeals postmarked after September 30, 2016, are not considered. Appeals delivered to TEA in person must be time-stamped by the Division of Performance Reporting before 5:00 p.m., CDT on September 30, 2016. Overnight courier tickets or tracking documentation must indicate package pickup on or before September 30.
- 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 only.

Satisfactory Appeal:	Unsatisfactory Appeals:
<p>Dear Commissioner Morath,</p> <p>This is an appeal of the 2016 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing STAAR reading test results for this campus. This is the only indicator preventing Elm Street Elementary from achieving a rating of <i>Met Standard</i>.</p> <p>During the day of the reading test administration at Elm Street Elementary School, the campus was subjected to a disrupted schedule due to an unusual and unique event. The fifth grade class was disrupted during the test administration by an emergency situation. Documentation of the incident and district personnel adherence to testing irregularity processes is included.</p> <p>Attached is the students' identification information as well as the PEIMS data for the students whose tests were affected.</p> <p>The second attachment shows the recalculated reading 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>Dear Commissioner Morath,</p> <p>This is an appeal of the 2016 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing STAAR reading 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 5th grade Hispanic student was miscoded as White on the answer document. Had this student, who passed the reading 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, J. Q. Educator Superintendent of Schools</p> <p><i>Attachments</i></p>
<p>Sincerely, J. Q. Educator Superintendent of Schools</p> <p><i>Attachments</i></p>	<p>Dear Commissioner Morath,</p> <p>Maple ISD feels that its rating should be <i>Met Standard</i>. The discrepancy occurs because TEA shows that the performance in Index 1 for Writing is 48%.</p> <p>We have sent two compositions back for scoring and are confident they will be changed to passing.</p> <p>If you have questions, do not hesitate to contact us, at 701-555-1234.</p> <p>Sincerely, J. Q. Educator Superintendent of Schools</p> <p><i>(no attachments)</i></p>

How an Appeal is Processed by the Agency

- The Division of Performance Reporting receives an appeal packet.
- Once the appeal is received, TEA staff updates the TEASE Accountability website to reflect the postmark date for each appeal and the date on which each appeal packet is received by the agency. Districts may monitor the status of their appeal(s) using the TEASE Accountability website.
- 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 students specifically named in the appeal correspondence.*
- Researchers analyze the effect that granting a campus appeal may have on other campuses in the district (such as paired campuses), even if they are not specifically named in the appeal. Similarly, the effect that granting a campus appeal may have on the district is evaluated, even if the district is not named in the appeal. In single-campus districts, both the campus and district are evaluated, whether the district submits the appeal as a campus or district appeal.
- Staff prepares a recommendation and submits it to an external panel of educators for review.
- The review panel examines all appeals, supporting documentation, staff research, and the staff recommendation. The panel determines its recommendation.
- The panel's recommendations are forwarded to the commissioner.
- The commissioner makes the final decision on all appeals.
- Superintendents receive written notification of the commissioner's decision and the rationale upon which the decision is based. The commissioner's response letters are posted to the TEASE Accountability website at the same time the letters are mailed. Superintendents are also notified via email that appeal decisions are available on TEASE.
- *If an appeal is granted, the data upon which the appeal is based are not modified.* Accountability and performance reports, as well as all other publications reflecting accountability data, must report the data as submitted to the TEA. Accountability data are subject to scrutiny by the Office of the State Auditor.
- The commissioner's decisions are final and not subject to further appeal and/or negotiation.

The letter from the commissioner serves as notification of the official district or campus rating when changed due to a granted appeal. Districts may publicize the changed rating at that time. The agency website and other accountability products are updated in December after the resolution of all appeals. The update reflects only the changed rating. The values shown on the report, such as performance index values, are not modified. Between the times 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 district or campus rating.

Relationship to the Accountability System Safeguards, PBMAS, and TAIS

System safeguards, Performance-Based Monitoring Analysis System (PBMAS) indicators, and Texas Accountability Intervention System (TAIS) staging requirements are considered when evaluating the appeal. School district data submitted through PEIMS or to the state test contractor(s) are also considered. Certain appeal requests may lead the Division of Program Monitoring and Interventions to address potential issues related to data integrity.