

## Chapter 8—Appealing the Ratings

The commissioner of education is required to provide a process for school districts (districts) or open-enrollment charter schools (charter schools) to challenge an agency determination of its accountability rating (Texas Education Code [TEC] §39.151).

### Appeals Process Overview and Calendar

While districts and charter schools may appeal for any reason, the accountability system framework limits the likelihood that a single indicator or measure will result in an *F* rating. For this reason, a successful accountability appeal is usually limited to such rare cases as a data or calculation error attributable to the testing contractor(s), a regional education service center (ESC), or the Texas Education Agency (TEA). Online applications provided by TEA and the testing contractors ensure that districts and charter schools are aware of data correction opportunities, particularly through TSDS PEIMS data submissions and the Texas Assessment Management System (TAMS). District and charter school responsibility for data quality is the cornerstone of a fair and uniform rating determination.

District and charter school appeals that challenge the agency determination of the accountability rating are carefully reviewed by an external panel. District superintendents and chief operating officers of charter schools may appeal accountability ratings by following the guidelines in this chapter. Local Accountability System (LAS) districts and open-enrollment charter schools that wish to appeal LAS campus ratings must follow the LAS appeals process as is adopted in the *2019 Local Accountability System Manual*.

Following are the dates for appealing ratings. These deadlines are final. To maintain a fair appeal process, late appeals are denied. Please see “Chapter 12 —Calendar” for more information.

August 14, 2019	<i>Ratings Release on TEAL.</i> No appeals will be resolved before the public release of ratings.
August 15, 2019	<i>Ratings Release on TEA Public Website.</i>
August 14– September 13, 2019	<i>2019 Appeals Window.</i> Appeals may be submitted by the superintendent or chief operating officer once ratings are released. Districts and charter schools register their intent to appeal using the TEAL Accountability application and mail their appeal letter with supporting documentation. Appeals not signed by the district superintendent or chief operating officer of the charter school are denied. See the “How to Appeal” section later in this chapter.
September 13, 2019	<i>Appeals Deadline.</i> Appeals must be postmarked or hand-delivered no later than September 13, 2019, 5:00 p.m. CDT, to be considered.
December 2019	<i>Decisions Released.</i> Commissioner’s decisions are mailed in the form of response letters to each district and charter school that filed an appeal by the September 13 deadline. Letters are posted to the TEAL Accountability application.

December 2019	<i>Ratings Update.</i> The outcomes of all appeals are reflected in the ratings update scheduled for December 2019. The TEAL and public websites are updated.
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## General Considerations

The basis for appeals should be a data or calculation error attributable to TEA, an 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 Texas Education Data Standards). Appeals based on poor data quality will not receive favorable consideration. Poor data quality can, however, be a reason to lower a district's accreditation status (TEC §39.052[b][2][A][i]). When a district or campus rating is changed as the result of an appeal, the data and calculations on which the original rating was based are not changed; only the rating and affected scaled scores are changed. The Accountability Report Card and all other reports related to accountability for the 2018–19 school year (e.g., School Report Cards, TAPR, etc.) will include the same data and calculations as do the original reports.

Districts and charter schools 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, charter school, or campus are viewed unfavorably and will most likely be denied.

- Districts and charter schools may appeal any overall or domain rating and any campus overall or domain rating.
- Only appeals that would result in a changed rating are considered. For its appeal to be considered, a district, charter school, or campus must explain how the proposed change will affect the district, charter school, or campus rating. The district, charter school, or campus must submit all relevant data and revised calculations that support all requirements for a higher rating. All supporting documentation must be submitted at the time of the appeal. Districts and charter schools will not be prompted for additional materials.
- Per TAC 97.1061(j), districts, charter schools, and campuses must engage in required interventions that begin upon release of preliminary ratings. Interventions may only be adjusted based on final accountability ratings.
- Appeals of the Closing the Gaps domain will not affect identification for the comprehensive, targeted, or additional targeted interventions as this identification is based on August 2019 accountability data. District, charter school, 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, therefore, denied.
- Campuses identified for comprehensive, targeted, or additional targeted support interventions may not appeal the designation as this identification is based on August 2019 accountability data.
- Districts and charter schools are responsible for providing accurate information to TEA, including information provided on student answer documents or submitted via online testing systems. Districts and charter schools have several opportunities to confirm and correct data submitted for accountability purposes during the correction window.

- The appeals process is not a permissible method to correct data that were inaccurately reported by the district or charter school. Appeals from districts and charter schools that missed data resubmission window opportunities are denied. Appeal requests for data corrections for the following submissions are not considered:

*TSDS PEIMS data submissions for the following:*

- Student identification information or program participation
- Student racial/ethnic categories
- Student economic status
- Student at-risk status
- Student attribution codes
- Student leaver data
- Student grade-level enrollment data
- Student course completion

*STAAR, STAAR Alternate 2, TELPAS Alternate, and TELPAS answer documents, specifically, the following:*

- 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
  - Campus and group ID (header) sheets
- Requests to modify the 2019 state accountability calculations adopted by commissioner rule are not considered. Commissioner rules are adopted under the Administrative Procedures Act (APA) in Texas Government Code Chapter 2001, and challenges to a commissioner rule should be made under that chapter of the Government Code. 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. TSDS PEIMS requirements, campus identifications, and statutorily required exclusions are based on data submitted by 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 considered unfavorably by TEA on 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 (5:00 p.m. CDT on April 5, 2019) or the pairing application (5:00 p.m. CDT on May 10, 2019)
    - *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 end-of-course (EOC)

- *Inclusion or exclusion of specific students*
  - English learners (ELs)
  - Unschooled asylees, unschooled refugees, and students with interrupted formal education
  - Students receiving special education services
- *Requests to modify calculations or methodology applied to all districts and campuses*
  - STAAR progress measures; EL performance measures, longitudinal graduation rates; annual dropout rates; college, career, and military readiness indicators
  - District and campus mobility/accountability subsets
  - Rounding
  - Minimum size criteria
  - 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, previous year safeguard methodology, dropout recovery school (DRS) designations, and to waive the alternative education campus (AEC) enrollment criterion for charter schools
  - *School Types.* The four campus types categories used for 2019 accountability are identified based on TSDS PEIMS enrollment data submitted in fall 2018. Requests to redefine the grade spans that determine school types
  - *Campus Configuration Changes.* Districts and charter schools have the opportunity to determine changes in campus identification numbers and grade configurations. Requests for consideration of accountability rules based on changes in campus configurations are, therefore, viewed unfavorably
  - *New Campuses.* Requests to assign a *Not Rated* label to campuses that are rated in their first year of operation

## Data Relevant to the Prior-Year Results

Appeals are considered for the 2019 ratings status based on information relevant to the 2019 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 or charter school requests its writing results be rescored and the rescored results impact the rating, the district or charter school must provide a copy of the dated request to the testing contractor(s) and the outcome of the rescored tests with the appeal. This documentation is required as rescored results may not be processed in time to be included in the assessment data used to determine the accountability ratings released by August 14, 2019.

- *Other Issues.* If other serious issues are found, copies of correspondence with the testing contractor(s), the regional ESC, or TEA must be provided with the appeal.
- *Online Testing Errors.* Appeals based on STAAR or TELPAS online test submission errors must include documentation or validation of the administration of the assessment.
- *TSI Data.* A district or campus appeal based on mismatches in the student-identifying information between the TSI data files (used in the College, Career, and Military Readiness component) and the TEA 2018 annual graduates file, may submit an appeal. Sufficient documentation of student-identifying information and TSI assessment scores should be included.
- *Years in U.S. Schools.* Districts and charter schools should include documentation demonstrating that using prior-spring TELPAS records for students taking EOCs in summer or fall would result in a higher accountability rating.

## Not Rated Appeals

Districts, charter schools, 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 distinctions are reported for most districts, charter schools, and campuses regardless of eligibility for a designation. Districts, charter schools, and campuses receiving an *F* rating are not eligible for a distinction. However, districts, charter schools, and campuses that appeal an unfavorable rating will automatically receive any distinction designation earned if their appeal is granted and the district, charter school, or campus rating is revised to *A–D*.

## How to Submit an Appeal

Districts and charter schools should file their intent to appeal district, charter school, or campus ratings using the TEA Login (TEAL) Accountability application. This confidential online system provides a mechanism for tracking all accountability rating appeals and allows districts and charter schools to monitor the status of their appeal(s).

After filing an intent to appeal, districts and charter schools 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 TEAL at <https://tealprod.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* link will be available during the appeals window from Wednesday, August 14 through 5:00 p.m. CDT on Friday, September 13. The status of the appeal (e.g., intent notification and receipt of documentation) will be available on the TEAL Accountability application.

District superintendents and charter school chief operating officers who do not have TEAL access must request access at the TEA Secure Applications Information page at

[https://tea.texas.gov/About TEA/Other Services/Secure Applications/TEA Secure Applications Information/](https://tea.texas.gov/About%20TEA/Other%20Services/Secure%20Applications/TEA%20Secure%20Applications%20Information/).

- Districts and charter schools must submit their appeal in hard copy to TEA by 5:00 p.m. CDT on September 13, 2019. The appeal must include the following:
  - A statement that the letter is an appeal of a 2019 accountability rating
  - The name and ID number of the district, charter school, and 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 effect(s) a granted appeal would have on the district, charter school, and/or campuses
  - The reason(s) why granting the appeal may result in a revised rating, including calculations and data that support that rating
  - A statement that all information included in the appeal is true and correct to the best of the district superintendent's or charter school chief operating officer's knowledge and belief
  - The district superintendent's or charter school chief operating officer's signature on official district or charter school letterhead
- The appeal shall be addressed to the Performance Reporting Division as follows:

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

- The letter of appeal should be addressed to Mr. Mike Morath, Commissioner of Education (see example letters on the following page).
- Appeals for more than one campus, including alternative education campuses, within a single district or charter school must be included in the same letter.
- Appeals for more than one indicator must be included in the same letter.

- All appeals and supporting documentation must be included in the original appeal submission. The appeal must contain information for all the campuses for which the district or charter school is appealing. If the district or charter school is appealing the district or charter school rating, this documentation must also be included in the original appeal.
- It is the district’s or charter school’s responsibility to ensure all relevant information is included in an appeal at the time of submission as districts and charter schools will not be prompted for additional materials.
- If the appeal will impact the rating of the district, the charter school, or a paired campus, the consequence must be noted.
- Appeals postmarked after September 13, 2019, are not considered. Appeals delivered to TEA in person must be time-stamped by the Performance Reporting Division before 5:00 p.m. CDT on September 13, 2019. Overnight courier tickets or tracking documentation must indicate package pickup on or before September 13.
- Only send one copy of the appeal letter and/or supporting documentation.
- Districts and charter schools are encouraged to obtain delivery confirmation services from their mail courier.
- 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.*
- If the appeal involves student level information, the following table shows an example of the data needed in order for staff researchers to validate appeal statements. Appeals submitted without sufficient data cannot be processed.

Data Element	Note
County-District-Campus-Number	9-digits
District Name	
Campus Name	
Student ID	As used for TSDS PEIMS, please do not submit a Local ID. The student’s social security number or a state-approved alternate ID consisting of an “S” followed by eight digits.
Last Name	
First Name	
Test Administration	e.g. spring administration
Subject Information	e.g. reading, mathematics, writing

Examples of satisfactory and unsatisfactory appeals are provided for illustration only.

<b>Satisfactory Appeal:</b>	<b>Unsatisfactory Appeals:</b>
<p>Dear Commissioner Morath,</p> <p>This is an appeal of the 2019 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing the overall and Student Achievement domain ratings. The STAAR writing test results for this campus are the only indicator preventing Elm Street Elementary from achieving a rating of <i>D</i>.</p> <p>We sent two grade 4 writing tests back for rescoring. Upon rescore, these two tests are now at Masters Grade Level. The first attachment contains the rescore request and outcomes.</p> <p>The second attachment shows the recalculated percentages in the Student Achievement domain 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, J. Q. Educator Superintendent of Schools</p> <p><i>Attachments</i></p>	<p>Dear Commissioner Morath,</p> <p>This is an appeal of the 2019 accountability rating issued for Elm Street Elementary School (ID 123456789) in Elm ISD.</p> <p>Specifically, I am appealing the Closing the Gaps Academic Achievement indicator in reading for the Hispanic student group. This is the only indicator keeping Elm Street Elementary from achieving a rating of <i>D</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 fifth grade Hispanic student was miscoded as white on the answer document. Had this student, who achieved Meets Grade Level on the reading test, been included in the Hispanic student group, this group would have met the target. Removing this student from the white student group does not cause the white student group performance to fall below the target.</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>Dear Commissioner Morath,</p> <p>Maple ISD feels that its rating should be an <i>A</i>. The discrepancy occurs because TEA shows the performance in the Student Achievement domain for Writing is 48%.</p> <p>We have sent two compositions back for scoring and are confident they will be changed to Masters Grade Level.</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 Performance Reporting Division receives an appeal packet.
- Once the appeal is received, TEA staff updates the TEAL Accountability application to reflect the postmark date for each appeal and the date on which each appeal packet is received by the agency. Districts and charter schools may monitor the status of their appeal(s) using the TEAL Accountability application.
- Performance Reporting will process appeals in the following order:
  - District and campus appeals of *D* or *F* overall ratings will be processed first. Priority will be given to districts and campuses facing sanctions and/or interventions.
  - District and campus appeals of *D* or *F* domain ratings will be processed second.
  - District and campus appeals of *C* overall or domain ratings will be processed third.
  - District and campus appeals of *A* or *B* overall or domain ratings will be processed last.
- 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*.
- Researchers analyze the effect that granting a campus appeal may have on other campuses in the district or charter school (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 or charter school is evaluated, even if the district or charter school is not named in the appeal. In single-campus districts or charter schools, both the campus and district or charter school are evaluated, regardless of whether the district or charter school submits the appeal as a campus or district or charter school appeal.
- Staff prepares a recommendation and submits it to an external panel 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.
- District superintendents and charter school chief operating officers 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 TEAL Accountability application at the same time the letters are mailed. District superintendents and charter school chief operating officers are also notified via email that appeal decisions are available on TEAL.
- 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 or negotiation. The letter from the commissioner serves as notification of the final district or campus rating. Districts and charter schools may publicize the changed ratings at that time. The agency website and other accountability products are updated in December after the resolution of all appeals to reflect any changed rating. When a district, charter school, or campus rating is changed as the result of an appeal, the data and calculations on which the original rating was based are not changed; only the rating itself is changed. The Accountability Report Card and all other reports related to accountability for the 2018–19 school year (e.g., School Report Cards, TAPR) will include the same data and calculations as do the original reports.

## **Relationship to the Federal Accountability Indicators, PBM, and Effective Schools Framework**

Federal accountability indicators, Performance-Based Monitoring system (PBM) indicators, and Effective Schools Framework (ESF) intervention requirements are considered when evaluating the appeal. District or charter school data submitted through TSDS PEIMS or to the state testing contractor(s) are also considered. Certain appeal requests may lead the Division of School Improvement to address potential issues related to data integrity.