



Texas Education Agency

Commissioner Mike Morath

1701 North Congress Avenue • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • tea.texas.gov

015-905

**Via Certified Mail
& Regular Mail**

March 1, 2016

Dr. Eddie Rodriguez, Board President
Ms. Velma Peña, Board Vice-President
Ms. Tina Morales, Board Secretary
Ms. Sonia Elizondo, Board Member
Ms. Mary Lou Mendoza, Board Member
Mr. Johnny Perez, Board Member
Mr. Kenneth Jacobs, Interim Superintendent
Ms. Anna Nieto, Interim Superintendent
Edgewood Independent School District
5358 W. Commerce Street
San Antonio, Texas 78237

Dear Trustees, Mr. Jacobs, and Ms. Nieto:

The purpose of this letter is to provide the Edgewood Independent School District (Edgewood ISD or district) with official notification regarding my determination to lower the district's 2015-2016 accreditation status under the authority of Texas Education Code (TEC) §§39.052(d) and 39.057(d) and 19 Texas Administrative Code (TAC) §§97.1055, 97.1057 and 97.1059. Specifically, Edgewood ISD's 2015-2016 accreditation status will be lowered to **Accredited-Warning**.

This letter also provides notice of my appointment of a board of managers to Edgewood ISD to exercise the powers and duties of the district's board of trustees, and of my appointment of a new superintendent. TEC §§39.052(d), 39.057(d), 39.102(a)(9), 39.112; 19 TAC §§97.1057, 97.1059, 97.1073. I will announce my appointments in future correspondence. Additionally, I am appointing a conservator to the district pursuant to the authority under TEC §§39.102(a)(7), 39.057(d), and 19 TAC §§ 97.1057, 97.1059, 97.1073.

Background

In response to a complaint received by the Texas Education Agency (TEA or agency) alleging violations on the part of board of trustee members with regard to their duties and responsibilities, the TEA issued a Notice of Special Accreditation Investigation (SAI) on January 14, 2016. The Special Investigations Unit (SIU) of the TEA conducted an on-site investigation at Edgewood ISD on January 20 - 21, 2016. On March 1, 2016, subsequent to issuing a Preliminary Investigative Report to the district and allowing the district an opportunity to respond, the SIU issued a Final SAI Report (Final Report, attached as Exhibit A), which documented the following findings: there is a systemic breakdown in the district's ability to govern and oversee the management of the public schools of the district as required by TEC §11.151(b); the board of trustees failed to collaborate with the district's administration in violation of TEC §11.1512; and members of the board of trustees acted individually on behalf of the board in violation of TEC §11.051(a-1). The Final Report also

noted that on February 19, 2016, three board of trustee members resigned from their positions, thereby rendering the board unable to maintain a quorum to govern the district. The three board members subsequently gave notice on February 26, 2016, that they were withdrawing their previously tendered resignations. Based on the aforementioned findings, the Final Report recommended lowering the district's accreditation status and appointing a conservator as well as a board of managers to resolve the existing conflicts, hire key personnel, and implement policies and procedures to address the issues raised in the Final Report.

Accreditation Status

Pursuant to TEC §§39.052(d) and 39.057(d), 19 TAC §§97.1055(a)(7), and 97.1055(b) a school district's accreditation status may be raised or lowered based on the district's performance or the results of a special accreditation investigation. I have evaluated and considered the issues documented in the Final Report relating to the board of trustees' inability to govern and oversee the management of the public schools of the district, and its failure to collaborate with the district's administration as required by TEC §§11.151(b) and 11.1512, respectively. I have additionally considered the findings relating to members of the board of trustees acting individually on behalf of the board in violation of TEC §11.051(a-1). These findings compel me to lower the district's 2015-2016 accreditation status to **Accredited-Warned** because the district exhibits serious or persistent deficiencies that may lead to the probation or revocation of the district's accreditation if not addressed because the breakdown in governance may impact academic and financial performance. 19 TAC §1055(b)(2)(B)(ii). Given the board of trustee's inability to govern the district, this sanction is necessary to protect the best interests of the district's current and future students. 19 TAC §97.1057(e). The findings in the report demonstrate material deficiencies that are serious and extensive. 19 TAC §97.1059(b)(1)(E). The deficiencies cited in the Final Report demonstrate a substantial and imminent threat to the welfare of the district's students and to the public interest because the board of trustees is unable to govern the district. 19 TAC §97.1059(b)(4).

Appointment of Board of Managers and Superintendent

Given the critical nature of the findings, I am appointing a board of managers to the district to exercise the powers and duties of the district's board of trustees under the authority of TEC §§39.057(d), 39.102(a)(9), and 19 TAC §§97.1057-1059, and 97.1073(e).

As stated above, I have reviewed the Final Report and determined that the findings contained therein compel me to lower the district's accreditation status. For the same reasons cited above, these findings also compel me to appoint a board of managers to exercise the powers and duties of the board of trustees. This intervention is authorized because the district has a current accreditation status of **Accredited-Warned** (pending the results of any requested review of this determination) and because the findings in the Final Report warrant the intervention. TEC §§39.102(a)(9), 39.057(d). This intervention is in the best interests of the students. 19 TAC §97.1057(e). This intervention is needed to prevent imminent and substantial harm to the welfare of the district's students or to the public interest. 19 TAC §97.1073(e)(4).

A majority of the board of managers will consist of members of the Edgewood ISD community who are committed to service on behalf of the students of the district and the community. The members of the board of managers will be responsible for overseeing the management of the Edgewood ISD, including oversight of the district's efforts to address and correct identified deficiencies, and to implement effective structural and procedural improvement strategies for long-term positive change. Section 39.112(b) of the Education Code also requires that I appoint a superintendent. I will announce my appointments in future correspondence.

Appointment of Conservator

I am additionally assigning a conservator to the district due to the on-going and long-standing deficiencies and because such intervention is necessary to prevent substantial or imminent harm to the welfare of the district's students or to the public interest. I am appointing Sharon Doughty to the district to serve as the conservator.

As a TEA conservator, Ms. Doughty's role will include, but is not limited to, the following:

- Overseeing the financial management and governance of the district to ensure the district complies with state and federal law;
- Attending board meetings, including executive session, and directing the board as necessary; and
- Overseeing the general administration of the district.

Please note that the appointment of a conservator does not relieve the district and its governing board of the responsibility to, at all times, operate the district in compliance with all applicable statutes and rules. The agency reserves the right to implement all available interventions and sanctions under TEC, Chapters 39, and Title 19, TAC, Chapters 97, to address the current, or any future, deficiencies identified for the district.

Agency staff will be present at the next meeting of the district's governing board to introduce Sharon Doughty to the members of the board. The cost of the conservator's services will be paid by the district in accordance with TEC §39.110. The conservator's fee shall be \$85 per hour plus necessary travel expenses not to exceed the state per diem rate. Failure to make timely payments to the conservator may result in appropriate amounts being deducted from the district's Foundation School Program (FSP) funds.

Public Notification: Accreditation Status

Districts that are assigned a status of **Accredited-Warning** must take specific actions to notify the parents of students enrolled in the district and property owners in the district. The requirements for public notification are specified in 19 TAC §97.1055(f), and a template that reflects the TEA-required format and language for the public notice is posted at <http://tea.texas.gov/accredstatus/>. The Edgewood ISD must complete the notification requirement **no later than March 31, 2016**. The Edgewood ISD also must send by certified mail, return receipt requested, documentation showing compliance with the notification requirement. This documentation may be addressed as follows:

Division of Accreditation
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701
Fax: (512) 936-6474

Districts with an accreditation status below Accredited may be subject to additional accreditation sanctions as referenced in 19 TAC Chapter 97, Planning and Accountability, Subchapter EE. Questions related to the public notification requirements may be addressed to accred@tea.texas.gov or (512) 463-5899.

Review Process

The district may request a formal review of the appointment of the board of managers and assignment of the lowered accreditation status of **Accredited-Warned**. 19 TAC §157.1133. The district may also request an informal review of the appointment of a conservator. 19 TAC §157.1123. In the interest of efficiency, the TEA may conduct a formal and informal review in a single proceeding. The rules regarding the request for a formal and informal review are provided for your convenience (attached as Exhibit B).

A request for a formal/informal review must be in writing and received by TEA no later than **March 4, 2016, at 5:00 p.m.** If no informal/formal review is requested by the deadline, a final decision may be issued without review. 19 TAC §§157.1123(d), 157.1133(5). Additionally, any information and supporting documentation that the district wishes to submit for consideration during the formal/informal review must be received no later than **March 4, 2016, at 5:00 p.m.** Review requests, responses and notices may be addressed as follows:

Division of Enforcement Coordination
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701
Fax: (512) 475-3665
EnforcementCoordination@tea.texas.gov

If both a formal review of the lowered accreditation status and appointment of a board of managers and an informal review of the appointment of a conservator are requested, the formal and informal reviews will be conducted in a single proceeding and the district is invited to attend the review. The district is not required to attend the review; however, if the district requests a review and chooses not to attend, the review will proceed and a final decision will be made based upon the documentation that was submitted by the district, if any, with its request for review.

The formal and informal review will be presided over by the Commissioner of Education or his designee and will occur at **2:30 p.m. on Wednesday, March 9, 2016**. The district may appear in person at the review or attend via telephonic conference. The district must give notification to the Division of Enforcement Coordination no later than **5:00 p.m. on March 4, 2016**, as to whether the district wishes to attend the review in person or via telephonic conference. The review is scheduled to take place as follows:

Location: William B. Travis Building
1701 North Congress Avenue
Austin, Texas 78701
Room 2-195, 2nd Floor

Date: Wednesday, March 9, 2016

Time: 2:30 p.m.

Additionally, with regard to a request by the district to attend the review, please note the following:

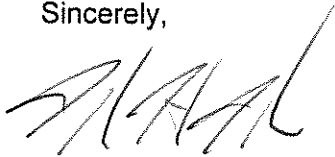
- The review will be scheduled not to exceed 60 minutes.
- Documentation for consideration will be limited to that which is submitted by the deadline referenced above. No new documentation will be considered.
- The scope of the review is limited to the appointment of a board of managers and conservator, and the lowered accreditation status.
- Please be advised that if the district wishes to attend the review in-person or via telephonic conference, and the attendees include members of a body covered by the Texas Open Meetings Act, they shall be less than a quorum of the body.
- The review is a closed proceeding and will not be open to the public or media.
- The district must notify the Division of Enforcement Coordination no later than **March 4, 2016**, if accommodations are needed and specify the type of accommodation needed, for example, the need for sign language interpreters. Similarly, if the district requests equipment, such as a projector, etc., the request should be made no later than **March 4, 2016**.
- The review will not constitute a formal administrative hearing, and the Rules of Evidence will not apply to the review.

Compliance and Cooperation

While the board of managers, once installed, will keep me apprised of the conditions in the district and the agency will continue to monitor the district's performance and its cooperation with the agency's interventions, I have appointed a board of managers comprised of a majority of members of the Edgewood ISD community because I believe the community is in the best position to effectuate long-term, positive change for the district. It is my sincere desire that all parties work together in a cooperative and productive manner to address the issues within the district.

Any questions regarding this correspondence may be addressed to the Division of Enforcement Coordination at (512) 463-3847 or EnforcementCoordination@tea.texas.gov.

Sincerely,



Mike Morath
Commissioner of Education

MM/cc

Enclosures

cc: Dr. Ronald L. Beard, Executive Director, Region 20, Education Service Center
Michael Berry, Deputy Commissioner, Policy and Programs, TEA
Kara Belew, Deputy Commissioner, Finance, TEA
Alice McAfee, Associate Commissioner, Complaints, Investigations, and Enforcement, TEA
Lisa Dawn-Fisher, Associate Commissioner, School Finance, TEA
Sally Partridge, Associate Commissioner, Accreditation and School Improvement, TEA
Nora Hancock, Associate Commissioner, Grants and Federal Fiscal Compliance, TEA
Von Byer, General Counsel, TEA
Christopher Jones, Senior Legal Counsel, TEA
Brenda Myers, Director, Special Investigations Unit, TEA
Leah Martin, Director, Accreditation, TEA
Ron Rowell, Director, School Governance, TEA
Sharon Doughty, Conservator
Jennifer Hall, Attorney, Escamilla & Poneck, LLP

March 1, 2016

Final Report

Dr. Eddie Rodriguez, Board President
Edgewood Independent School District
5358 W. Commerce Street
San Antonio, Texas 78237

Ms. Velma Pena, Board Vice-President
Edgewood Independent School District
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Mr. Johnny Perez, Board Member
Edgewood Independent School District
5358 W. Commerce Street
San Antonio, Texas 78237

Mr. Kenneth Jacobs, Interim Superintendent
Edgewood Independent School District
5358 W. Commerce Street
San Antonio, Texas 78237

Dear Trustees, Mr. Jacobs, and Ms. Nieto:

The enclosed report presents the findings resulting from a Special Accreditation Investigation (SAI) conducted by the Texas Education Agency (TEA) Special Investigations Unit (SIU) relating to allegations of a systemic breakdown of the Edgewood Independent School District (EISD) Board of Trustees' ability to govern and oversee the management of public schools of the district as required by Texas Education Code (Tex. Educ. Code) §11.151(b); members of the Board of Trustees acting individually on behalf of the board in violation of Tex. Educ. Code §11.051(a-1); and failure of the Board of Trustees to collaborate with the district's administration in violation of Tex. Educ. Code §11.1512.

This final report covers only those allegations described herein and investigated by the SIU to date. These findings do not necessarily address all of the allegations raised before, during, or after our investigation. Additional investigative work may be conducted in the future to address any remaining allegations. Furthermore, other TEA divisions may be in the process of investigating EISD or issuing other investigative reports regarding the district.

The school district or any person identified in this report was afforded the opportunity to request an informal review of the preliminary report sent to the district by email and certified mail on February 19, 2016 in accordance with Tex. Educ. Code §39.058 and 19 Tex. Admin. Code §157.1123. The deadline for requesting an informal review was February 29, 2016. The EISD Board of Trustees did not request an informal review, however, an EISD Trustee did respond to one finding identified in this report via email and fax.

If you have any questions, please contact me at (512) 936-3355.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda Meyers". The signature is fluid and cursive, with the first name "Brenda" and last name "Meyers" clearly distinguishable.

Brenda Meyers, Director
Special Investigations Unit
Office of Complaints, Investigations and Enforcement

TEA Special Accreditation Investigation

Final Investigative Report

Edgewood Independent School District

Introduction

The Special Investigations Unit (SIU) received a complaint on October 16, 2015 alleging a systemic breakdown of the Edgewood Independent School District (EISD) Board of Trustees' ability to govern and oversee the management of public schools of the district, as required by the Texas Education Code (Tex. Educ. Code) §11.151(b); members of the Board of Trustees acting individually on behalf of the board, in violation of Tex. Educ. Code §11.051(a-1); and failure of the Board of Trustees to collaborate with the district's administration in violation of Tex. Educ. Code §11.1512. These allegations were reviewed by the Texas Education Agency (TEA) and a Notice of Special Accreditation Investigation (SAI) was issued on January 14, 2016. An on-site investigation was conducted at EISD on January 20 and 21, 2016.

The SIU investigation identified and substantiated the following findings:

1. **There is a systemic breakdown in the Edgewood Independent School District (EISD) Board of Trustees' ability to govern and oversee the management of the public schools of the district as required by the Texas Education Code (Tex. Educ. Code) §11.151(b).**
2. **The EISD Board of Trustees failed to collaborate with the district's administration in violation of Tex. Educ. Code §11.1512.**
3. **Members of the EISD Board of Trustees acted individually on behalf of the board in violation of Tex. Educ. Code §11.051(a-1).**

The findings are fully described below and are based on supporting evidence, including interviews of EISD Board of Trustee members and current and former EISD employees, a review of documentation provided by EISD and witnesses, as well as the application of state law.

Finding #1: There is a systemic breakdown in the Edgewood Independent School District (EISD) Board of Trustees' ability to govern and oversee the management of the public schools of the district as required by the Texas Education Code §11.151(b).

Tex. Educ. Code §11.151(b) states, "the trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district." The EISD Board of Trustees is currently comprised of six members with one board vacancy.¹ Each of the six trustees were interviewed individually and each confirmed that the EISD Board is divided in a 3-3 split, resulting in 3-3 votes on important issues and thereby impeding the district's ability to govern and make decisions in order to carry out the business of EISD.

¹ Exhibit 4.
Edgewood Independent School District (CDN 015-905)

A review of board meeting minutes confirmed that the Board of Trustees has consistently been divided on two critical issues: (1) the process to search for a new superintendent and; (2) approval to fill two vacant high school principal positions.² The Board of Trustees are deadlocked on the approval of a superintendent search firm. The district has already gone six months without a superintendent and given the inability of the district to approve a search firm for a new superintendent, it appears unlikely that the district will be able to hire a qualified superintendent as long as there is a 3-3 deadlock of the Board. And to date, the Board has failed to approve recommended individuals to fill the two vacant principal positions at Kennedy and Memorial High Schools, which have been vacant since the beginning of the 2015-2016 school year. The following timeline summarizes the EISD Board of Trustee actions that led to or result from the deadlock of the Trustees:

Date of EISD Board Meeting	EISD Board Action
7/27/2015	<ul style="list-style-type: none"> Board appoints Police Chief as the Chief of District Operations.
8/19/2015	<ul style="list-style-type: none"> Board accepts resignation of former Board Trustee (the ongoing vacancy on the Board). No motions made to hire HS principals at Kennedy and Memorial High Schools.
8/25/2015	<ul style="list-style-type: none"> Board accepts the resignation of the former EISD Superintendent, effective close of business August 31, 2015.
9/8/2015	<ul style="list-style-type: none"> Board to select interim and/or Superintendent.
9/30/2015	<ul style="list-style-type: none"> TASB Presentation regarding its proposal to conduct a Superintendent search.
10/13/2015	<p><u>Superintendent Search</u></p> <ul style="list-style-type: none"> Presentations by Ray & Associates and McShan Consulting Firm regarding their proposals to conduct a Superintendent search. <p><u>Principal Vacancies</u></p> <ul style="list-style-type: none"> No action taken on motion to hire principal for Kennedy HS (Vote 3-3). No action taken on motion to hire principal for Memorial HS (Vote 3-3).
11/10/2015	<p><u>Superintendent Search</u></p> <ul style="list-style-type: none"> No action was taken on the following EISD Board motions regarding the superintendent search: <ul style="list-style-type: none"> McShan Consulting (No second to the Trustee's motion to approve) Ray and Associates (Vote 3-3) TASB (Vote 3-3) RFP for Search Firm (Vote 3-3) <p><u>Principal Vacancies</u></p> <ul style="list-style-type: none"> Tabled from the Board's Agenda
1/19/2016	<p><u>Superintendent Search</u></p> <ul style="list-style-type: none"> No action was taken on the EISD Board motion on the process for selection of a superintendent search (Vote 3-3)

² Exhibits 3-8.

Further, when interviewed individually, each Trustee acknowledged the problems and requested that the TEA intervene and, if necessary, dissolve the Board to assist the district in moving forward. Additionally, on February 19, 2016, three EISD Board Trustees resigned from their position, depriving the board of their ability to make a quorum in order to govern the district.³

The inability to hire a superintendent search firm and the inability to agree on the hiring of two high school principals, along with the EISD Board of Trustees current inability to even create a quorum of the board represent a critical failure on the part of the district.

Finding #2: The EISD Board of Trustees failed to collaborate with the district's administration in violation of Tex. Educ. Code §11.1512.

In accordance with Tex. Educ. Code §11.1512(a), (b)(3), and (b)(5), the Board of Trustees and the superintendent(s) are required to work together to provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plans, and shall support the professional development of principals, teachers, and other staff. The evidence provided to TEA demonstrates the dysfunction within the EISD administration that results from this lack of collaboration.

The former EISD superintendent, who resigned effective close of business August 31, 2015,⁴ informed the Board of Trustees that both the Chief of District Operations as well as the Executive Officer for Curriculum would lead EISD. In interviews with TEA, the Board of Trustees acknowledged that they had not provided direction to the "superintendent designees"⁵ as to what their specific duties and responsibilities are or which designee is over which duties. The superintendent designees, in interviews with TEA, acknowledged that the lack of clarity from the Board of Trustees has caused confusion as to the roles and responsibilities of the two designees.

EISD organizational charts, which purport to delegate the responsibilities between the interim superintendents further reflect why there is confusion.⁶ The EISD organizational charts have not been updated to reflect the current roles of the EISD superintendent designees, as well as other EISD employees and do not show how the responsibilities are divided amongst the EISD superintendent designees.

In January, 2016, the superintendent designees signed correspondence clarifying that the current Executive Officer for Curriculum "will continue to work with all facets of the Academic Division" and the Chief of District Operations (the person currently designated as Interim Superintendent in Ask Ted) will be responsible for the "operational division." Both designees sign in their stated capacities as "Superintendent Designees."⁷

Finding #3: Members of the EISD Board of Trustees acted individually on behalf of the board in violation of Tex. Educ. Code §11.051(a-1).

"Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting.

³ Exhibit 9

⁴ Exhibit 5.

⁵ There is no designation in the Texas Education Code or the rules for a "Superintendent Designee." There is a provision for districts to name an interim superintendent if the superintendent position is vacant. In the TEA AskTed system, Mr. Kenneth Jacobs, the Chief of the EISD Police Department, is designated as Interim Superintendent for the district. (Exhibit 1)

⁶ Exhibit 14-15.

⁷ Exhibit 16.

The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting.” Tex. Educ. Code §11.051(a-1).

SIU Investigators interviewed the Board of Trustees, employees of the district and reviewed electronic communications and official reports. Based on the interviews and documentation, SIU investigators identified that certain Trustees directed the reassignment of district employees, questioned employees about their supervisors whereabouts and duties, and directed employees to perform duties outside the scope of their authority for the benefit of that Trustee, and, in violation of Tex. Educ. Code §11.051(a-1). Although many examples of overreach by Trustees were described by witnesses, more concerning examples include:

- An EISD Trustee filed an incident report with the EISD Police Department. Upon requesting a copy of the report, the Trustee was dissatisfied with what had been written and made handwritten changes to the report, directing the employee to incorporate the changes.⁸
- An EISD Trustee directed employees in the EISD Police Department to patrol her private residence.⁹
- An EISD Trustee directed an employee in the EISD Police Department to leave his assignment on campus to interrogate an individual regarding a personal matter.

EISD’s Board policies regarding Board Authority and Employment Practices clearly define the Board of Trustees’ authority and the Superintendent’s authority.¹⁰ In accordance with Tex. Educ. Code §11.201(a) and (d)(2), the Superintendent is the educational leader and Chief Executive Officer of a school district and has administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district.

Response from Trustee described in Finding #3:

The EISD Trustee whose conduct is described in Finding #3 submitted two timely responses to TEA’s preliminary report, on February 22 and 29, 2016. These responses are attached hereto and referenced as Exhibit 17 (redacted as requested.) In accordance with Tex. Educ. Code §39.058(b), the Agency considered the information provided by this Trustee in conducting the Agency’s informal review of this finding.

TEA’s Informal Review of Finding #3:

Although the Trustee provided information explaining the reasons the Trustee interacted with district employees, the Trustee presented no information refuting the underlying fact that the Trustee acted individually, without the authorization of the EISD Board, to direct EISD employees. The EISD Police Department is responsible for serving the needs of EISD, not individuals who serve on the EISD Board of Trustees in mediating disputes of a personal nature or addressing personal matters. In all instances described, the EISD Trustee acted outside of the authority that the Trustee holds as an individual Trustee.

The Trustee also provided additional legal arguments in the response provided, stating, in part, that the Trustee’s rights were violated. The Agency is not persuaded to change its findings based on these legal arguments. Other than the attached responses, the Trustee presented no additional documentation for the Agency to review in order to reconsider its preliminary findings, as required by 19 Tex. Admin. Code §157.1123. Therefore, the Agency has determined that this finding stands.

⁸ Exhibit 13.

⁹ Exhibit 12.

¹⁰ Exhibits 10-11.

¹¹ Exhibit 17.

Summary

The findings establish that a systemic breakdown of the EISD Board of Trustees' ability to govern and oversee the management of the EISD exists as demonstrated by their inability to select a new superintendent and/or principals for two high schools; by taking actions outside the scope of their authority in directing the reassignment of district employee duties, by directing employees to perform tasks that personally benefit the Trustees, and by questioning employees about their supervisors. The Board's failure to collaborate with the interim superintendents as to their specific duties and to work with them to demonstrate and provide leadership for the district is further evidence of the Trustees' inability to govern and oversee the management of the public schools of the district as required by the Texas Education Code (Tex. Educ. Code) §11.151(b).

It should be noted that on February 19, 2016, three EISD Trustees resigned from their positions, thereby rendering the board unable to maintain a quorum to govern the district. The three EISD Trustees subsequently gave notice on February 26, 2016, that they were withdrawing their previously tendered resignations.

Recommendation for Corrective Action

Based on the findings, the SIU will recommend to the Commissioner that the accreditation status of the district be lowered and that a conservator be appointed and a Board of Managers be installed in accordance with Tex. Educ. Code §39.057(d) to replace the existing Board of Trustees so that the conflicts can be resolved, key personnel can be hired, and policies and procedures can be implemented to address the issues raised in this investigation.

TEA reserves the right to implement all available interventions and sanctions under Tex. Educ. Code, Chapter 39, and 19 Tex. Admin Code Chapter 97, to address the current, or any future deficiencies identified for EISD.

§157.1123. Informal Review.

- (a) A school district, an open-enrollment charter school, or any person who is subject to an investigation, assignment, determination, or decision identified in §157.1121 of this title (relating to Applicability) may request, in writing, an informal review under this section.
- (b) A written request for informal review must be addressed to the designated Texas Education Agency (TEA) representative. The written request must be received by the TEA representative on or before the deadline identified in the notice issued under §157.1122 of this title (relating to Notice).
- (c) A school district, an open-enrollment charter school, or any person requesting the informal review may submit written information to the TEA representative by the deadline set forth in the notice issued under §157.1122 of this title. In addition, the TEA representative may require attendance at a meeting at the TEA headquarters in Austin, Texas, or by telephone, to discuss the findings and/or provide additional information for review.
- (d) If no informal review is requested by the deadline, a final report, assignment, determination, or decision may be issued without informal review.
- (e) An informal review is not governed by the Texas Education Code, §7.057, or by the Texas Government Code, Chapter 2001.
- (f) Following the informal review by the TEA representative, a final report, assignment, determination, or decision will be issued. The final report, assignment, determination, or decision may include changes or additions to the preliminary report or action, and such modifications are not subject to another informal review procedure. A final report, assignment, determination or decision issued following an informal review is final and may not be appealed, except as provided by law or rule.

Source: The provisions of this §157.1123 adopted to be effective September 18, 2014, 39 TexReg 7334.

§157.1133. Request.

The superintendent of the school district or chief executive officer of the open-enrollment charter school may request, in writing, a formal review under this division.

- (1) The request must be properly addressed to the Texas Education Agency (TEA) representative identified in the notice issued under §157.1132 of this title (relating to Notice) and must be received by the TEA representative on or before the deadline specified in the notice.
- (2) The request must include a summary of all arguments and documentation supporting the position of the school district or open-enrollment charter school.

(3) The summary of arguments must not exceed 20 single-spaced pages and must contain citations to specific pages in the supporting documentation. The summary must concisely state, in numbered paragraphs:

(A) if alleging the decision was made in violation of a statutory provision, the statutory provision violated and the specific facts supporting a conclusion that the statute was violated by the decision;

(B) if alleging the decision was made in excess of the TEA's statutory authority, the TEA's statutory authority and the specific facts supporting a conclusion that the decision was made in excess of this authority;

(C) if alleging the decision was made through unlawful procedure, the lawful procedure and the specific facts supporting a conclusion that the decision was made through unlawful procedure;

(D) if alleging the decision was affected by other error of law, the law violated and the specific facts supporting a conclusion that the decision violated that law;

(E) if alleging the decision was not reasonably supported by substantial evidence considering the reliable and probative evidence as a whole, each finding, inference, conclusion, or decision that was unsupported by substantial evidence;

(F) if alleging the decision was arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion, each finding, inference, conclusion, or decision affected and the specific facts supporting a conclusion that each was so affected;

(G) for each violation, error, or defect alleged under subparagraphs (A)-(F) of this paragraph, the substantial rights of the school district or open-enrollment charter school that were prejudiced by such violation, error, or defect;

(H) a concise statement of the relief sought by the requestor; and

(I) the name, mailing address, telephone number, and facsimile number of the requestor's representative.

(4) Supporting documentation must be "bates stamped" numbered consecutively on each page.

(5) If no formal review is requested by the deadline specified in the notice, a final order may be issued without formal review.

Source: The provisions of this §157.1133 adopted to be effective September 18, 2014, 39 TexReg 7334.