

198-905

**Via Certified Mail  
& Regular Mail**

April 3, 2017

Dr. Adrain Johnson, Interim Superintendent  
Mr. James Taylor, Board President  
Ms. Nelda Calhoun, Board Vice-President  
Ms. Samantha Salazar, Board Secretary  
Ms. Latonya Darnell, Board Member  
Ms. Mary Jane Ramirez, Board Member  
Ms. Quila Robinson, Board Member  
Ms. Tina Rocha, Board Member  
Hearne Independent School District  
900 Wheelock Street  
Hearne, Texas 77859

Dear Trustees and Dr. Johnson:

The purpose of this letter is to provide Hearne Independent School District (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, Hearne ISD's 2015-2016 accreditation status will be lowered to **Accredited-Warned**.

This letter also provides notice of my appointment of a board of managers to Hearne 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 escalating the role of the monitor currently appointed to the district to a conservator 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 several complaints received by the Texas Education Agency (TEA or agency) in February 2016 alleging violations of the district, the TEA issued a Notice of Special Accreditation Investigation (SAI) on May 18, 2016. The Special Investigations Unit (SIU) of the TEA conducted an on-site investigation at Hearne ISD on May 24-25, 2016. On March 20, 2017, 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, which documented the following findings: the board of trustees and the superintendent are failing to work together to provide educational leadership for

the district in violation of TEC §11.1512(b); members of the board of trustees are acting in their individual capacities on behalf of the board in violation of TEC §11.051(a-1); the district did not comply with state law and TEA rules by failing to collect criminal history information to facilitate the State Board of Education's (SBEC) national criminal history review for ten noncertified employees as required by TEC, Chapter 22, Subchapter C; and the district lacks internal controls in the business office in violation of 19 TAC §109.41.

In addition, the district has received 2015 and 2016 accountability ratings of "Improvement Required," and a 2016-2017 accreditation status of **Accredited-Warned**. 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 and implement policies and procedures to address the issues raised in the Final Report. This action is authorized by the findings in the Final Report as well as the district's current accreditation status of **Accredited-Warned**. TEC §§39.057(d), 39.102(a)(9).

### **Lowered 2015-2016 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 as required by TEC §§11.151(b). 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** due to the fact that 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 trustees' 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 2015-2016 accreditation status. I have also reviewed the district's 2015 and 2016 accountability ratings of Improvement-Required and the district's current 2016-2017 accreditation status of **Accredited-Warned**. 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 2015-2016 accreditation status of **Accredited-Warned** (pending the results of any requested review of this determination), a current 2016-2017 accreditation status of **Accredited-Warned** and because the findings in the Final Report warrant the intervention. TEC §§39.102(a)(9), 39.057(d). This intervention is warranted for the same reasons cited for the lowering of the 2015-2016 accreditation status above.

This intervention is further 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 Hearne 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 district, 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**

As a result of the findings contained in the SAI, I am escalating the role of Patricia Hayes, the monitor currently appointed to the district, to a conservator. This appointment is authorized under TEC §§39.102(a)(7), 39.057(d)-(e), and 19 TAC §§ 97.1057, 97.1059, 97.1073. This intervention is necessary 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. 19 TAC §97.1059(b)(1), (2), (4).

As a TEA conservator, the role of Ms. Hayes 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, including contracting laws;
- Attending board meetings, including executive sessions, 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.

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-Warned** 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/>. Hearne ISD must complete the notification requirement **no later than May 3, 2017**. Hearne 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) 475-3665

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](mailto: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 2015-16 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 attached for your convenience. The district's 2015 and 2016 accountability ratings of **Improvement Required** and 2016-2017 accreditation status of **Accredited-Warned** are final and unappealable.

A request for a formal and/or informal review must be in writing and received by TEA no later than **April 13, 2017**. If no formal/informal 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 **April 13, 2017**. Review requests, responses and notices may be addressed as follows:

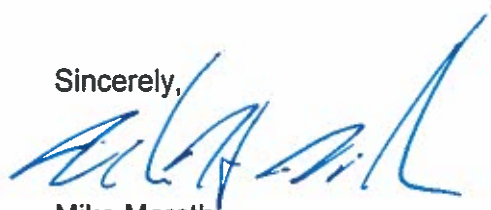
Division of Enforcement Coordination  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701  
Fax: (512) 475-3665  
[EnforcementCoordination@tea.texas.gov](mailto:EnforcementCoordination@tea.texas.gov)

Should the district wish to appear in person at the review or attend via telephonic conference, the district must give such notification within its request for review no later than **April 13, 2017**, and subsequent notification from TEA will be issued scheduling 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.

### **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 from the Hearne 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](mailto:EnforcementCoordination@tea.texas.gov).

Sincerely,



Mike Morath  
Commissioner of Education

MM/cc

cc: Michael Holland, Executive Director, Region 6, Education Service Center  
A.J. Crabill, Deputy Commissioner of Governance, TEA  
Kara Belew, Deputy Commissioner of Finance, TEA  
Penny Schwinn, Deputy Commissioner of Academics, TEA  
Leo Lopez, Associate Commissioner, Chief School Finance Officer, TEA  
Von Byer, General Counsel, TEA  
Christopher Jones, Senior Legal Counsel, TEA  
Ashley Jernigan, Legal Counsel, TEA  
Ron Rowell, Director, Governance & Investigations, TEA  
Leah Martin, Director, Accreditation & Waivers, TEA  
Lizette Ridgeway, Director, School Improvement, TEA  
Brenda Meyers, Director, Special Investigations, TEA  
Patricia Hayes, Conservator

**§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. For an informal review of a decision to non-renew the charter of an open-enrollment charter school pursuant to the Texas Education Code (TEC), §12.1141(c), or a decision to revoke the charter of an open-enrollment charter school or reconstitute the governing board of the charter holder under the TEC, §12.115(a), the TEA representative shall, at the request of the open-enrollment charter school, meet with representatives from the open-enrollment charter school at the TEA headquarters in Austin, Texas, or by telephone if requested by the open-enrollment charter school. This meeting is part of the informal review but is not a contested case hearing. The meeting will not include the examination of any witnesses, including TEA staff. The rules of civil procedure and evidence, including rules prohibiting ex parte communications, do not apply.
- (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 TEC, §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. For an informal review of a decision to non-renew the charter of an open-enrollment charter school pursuant to the TEC, §12.1141(c), or a decision to revoke the charter of an open-enrollment charter school or reconstitute the governing board of the charter holder under the TEC, §12.115(a), the final decision shall provide a written response to any information the charter holder submits under this section.

*Source: The provisions of this §157.1123 adopted to be effective September 18, 2014, 39 TexReg 7334; amended to be effective June 9, 2016, 41 TexReg 4010.*

### **§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.*