

015-904

**Via Certified Mail
& Regular Mail**

June 25, 2019

Reynaldo Madrigal, Superintendent
Ricardo Moreno, Board President
Juan Mancha, Board Vice-President
Esequiel Mendoza, Board Secretary
Christine Carrillo, Board Member
David Abundis, Board Member
Elaine Anaya-Ortiz, Board Member
Elizabeth F. Limon, Board member
Harlandale Independent School District
102 Genevieve
San Antonio, Texas 78214

Dear Mr. Madrigal and Members of the Board of Trustees:

The purpose of this letter is to provide Harlandale Independent School District (ISD or district) with official notification regarding my determination to lower the district's 2018-2019 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, Harlandale ISD's 2018-2019 accreditation status will be lowered to **Accredited-Warning**.

This letter also provides notice of my appointment of a board of managers to Harlandale 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), 39A.004, 39A.201, 39A.202; 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 in TEC §§39A.002(7) and 39.057(d), and 19 TAC §§ 97.1057, 97.1059, and 97.1073.

Background

In response to multiple complaints received by the Texas Education Agency (TEA or agency) alleging violations on the part of members of the board of trustees and the superintendent related to contracting practices, contract procurement, nepotism, and Open Meeting Act violations, TEA issued a Notice of Special Accreditation Investigation (SAI) on August 11, 2017, and an amended Notice of SAI on August 30, 2017. The Special Investigations Unit (SIU) of the TEA conducted an on-site investigation at Harlandale ISD in February 2018. On June 7, 2019, subsequent to issuing a Preliminary Investigative Report to the district and allowing the district an opportunity to respond, the SIU issued a Final Report, which documented the following findings:

- The superintendent entered into four agreements and made payments related to the agreements without board approval in violation of local board policy and TEC §11.151(c)(4);
- The board of trustees failed to monitor district finances to ensure that the superintendent properly maintained the district's financial procedures and records in violation of TEC §§11.1511(b)(9) and 11.1511(b)(15);
- The board of trustees acted individually on behalf of the board, exceeded the scope of their authority, and failed to collaborate with the district's administration in violation of TEC §§11.051(a-1), 11.1512(a), (b)(3), and (b)(5);
- The board of trustees as a quorum held meetings through electronic means and deliberated district business but failed to conduct these meetings as open to the public as required by Texas Government Code (TGC) §551.002, and the written electronic communications did not qualify as an exception from the definition of meeting or deliberation pursuant to TGC §551.006, thereby failing to comply with the Texas Open Meetings Act;
- The board of trustees approved six contract amendments and change orders that resulted in a changed contract over \$1 million and total change orders exceeding more than 25 percent over the original contract amount in violation of TEC §§44.0411(d) and 11.1511(b)(15); and
- The district circumvented the bidding process in that the contracts with the commissioning agent did not contain an effective end date, allowing the agent to continue work through six contract amendments and multiple change orders, thereby exceeding the \$50,000 threshold, in violation of local board policy, TEC §§44.031(a) and 11.1511(b)(15), and TGC, Chapter 2269.

Based on the aforementioned findings, the Final Report recommended lowering the district's accreditation status and appointing a conservator and a board of managers to ensure appropriate governance and financial oversight of the district and implementation of policies and procedures to address the issues raised in the Final Report.

Accreditation Status

Pursuant to TEC §§39.052(d) and 39.057(d), and 19 TAC §§97.1055(a)(8) 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 inability of the board of trustees 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 the board members' noncompliance with the Texas Open Meetings Act. These findings compel me to lower the district's 2018-2019 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 §97.1055(b)(2)(B)(ii). Given the inability of the board of trustees to govern the district, and the district's inefficient or ineffectual use of district funds, this sanction is necessary to protect the best interests of the district's current and future students. 19 TAC §97.1057(f). The findings in the Final 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) and 39A.004, and 19 TAC §§97.1057, 97.1059, 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 §§39A.004, 39.057(d). This intervention is in the best interests of the students. 19 TAC §97.1057(f). 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), (e)(7), and (e)(8), and 97.1059(b)(1)(E) and (b)(4).

A majority of the board of managers will consist of members of the Harlandale 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 Harlandale ISD, including oversight of the district's efforts to address and correct identified deficiencies, and implementation of effective structural and procedural improvement strategies for long-term positive change. Texas Education Code §39A.202 also requires that I appoint a superintendent. I will announce my appointments in future correspondence.

Appointment of Conservator

Additionally, I am 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 Judy Castleberry to the district to serve as the conservator.

As a TEA conservator, Ms. Castleberry'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 39A, and Title 19, TAC, Chapter 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 §39A.903. 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 required format and language for the public notice is posted at <http://tea.texas.gov/accredstatus/>. Harlandale ISD must complete the notification requirement **no later than July 25, 2019**. Harlandale 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 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, TEA may conduct a formal and informal review in a single proceeding.

A request for a formal/informal review must be in writing and received by TEA no later than **July 9, 2019, 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 **July 9, 2019, 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. 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 **July 9, 2019, at 5:00 p.m.**, 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. 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).

Compliance and Cooperation

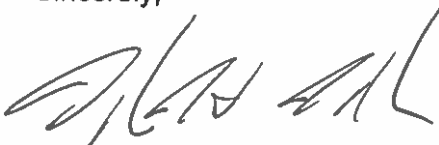
While the board of managers, once installed, will keep me apprised of the conditions in the district and the agency will continue to monitor the district's performance and its cooperation with the agency's interventions, I have appointed a board of managers comprised of a majority of members of the Harlandale 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 the review process may be addressed to the Division of Enforcement Coordination at (512) 463-3847 or by email at EnforcementCoordination@tea.texas.gov.

Any questions regarding the accreditation status may be addressed to the Division of Accreditation at (512) 463-5899 or by email at accred@tea.texas.gov.

Any questions regarding the appointment of a board of managers, superintendent, and conservator may be addressed to Jason Hewitt in the Division of Monitors, Conservators & Investigations at (512) 936-5962 or by email at Jason.Hewitt@tea.texas.gov.

Sincerely,



Mike Morath
Commissioner of Education

MM/cc

cc: Jeff Goldhorn, Executive Director, Region 20, Education Service Center
Jeff Cottrill, Deputy Commissioner, Governance & Accountability, TEA
Mike Meyer, Deputy Commissioner, Finance, TEA
Leo Lopez, Associate Commissioner/Chief School Finance Officer, TEA
Cory Green, Associate Commissioner, Contracts, Grants & Financial Administration, TEA
Joe Siedlecki, Associate Commissioner, System Support, TEA
Von Byer, General Counsel, TEA
Christopher Jones, Senior Legal Counsel, TEA
Jason Hewitt, Director, Monitors, Conservators & Investigations, TEA
Lizette Ridgeway, Director, School Improvement, TEA
Leah Martin, Director, Accreditation & Waivers, TEA
Judy Castleberry, Conservator