



November 17, 2006

## **COMAL ISD STATEMENT TO THE STATE BOARD OF EDUCATION:**

### **I. Introduction**

The Comal Independent School District (District), located in central Texas in the New Braunfels area, encompasses portions of five counties and serves approximately 14,000 students in 16 schools. Recently, nine of the District's schools proudly achieved the rating of "Exemplary" or "Recognized" status under the Texas Accountability Rating System.

Despite the extraordinary academic accomplishments by the students and staff of Comal ISD, the District has been notified by the Texas Education Agency (TEA) that the District has been ranked overall as "Academically Acceptable." Of all rating indicators considered, all but one was rated at the "Exemplary" or "Recognized" level, but the application of one indicator resulted in an overall rating of "Academically Acceptable." As the members of the State Board Of Education are well aware, the implications for the school district of such a rating are far-reaching. In the public's eye, this rating is the equivalent of "average," a term that does not fairly or accurately describe the level of academic excellence and dedication demonstrated by the students and educators in the school district. Whether seeking to attract new teachers in this fast-growing district or passing a bond election, the "label" given the District shapes the public's perception of the quality of education provided in Comal ISD.

### **II. The school district has exhausted all available administrative remedies.**

The district has protested this rating, but to no avail. The TEA determination concerning the ranking of "Academically Acceptable" was appealed to a TEA-appointed panel of three individuals who have reviewed the District's arguments and made a recommendation to the Commissioner of Education. The Commissioner has denied the appeal. Members of the Comal ISD administration, Board of Trustees and legal counsel met with members of the TEA administrative staff and legal counsel in an effort to further detail the reasons why the District rating should be changed to "Recognized" status. To date, TEA has declined to change the rating. Under Texas Education Code, Chapter 39, effective May 26, 2006, school districts apparently have no right of appeal to the courts for review of the Commissioner's decision.

### **III. The School District's Position**

#### **A. TEA's arbitrary and capricious application of its own rules as they relate to Comal ISD resulted in unfairly ranking the school district as "Academically Acceptable."**

Under the accountability system in Texas, economically disadvantaged students in the district are required to be reported for PEIMS purposes in one of five categories: graduates,

continuers, general education development (GED) recipients, other leavers and dropouts. TEA then applies a formula to determine the district's overall rating. As a matter of public policy, the Legislature and TEA discourage students' enrollment in GED programs whenever possible. This attitude is reflected in the weight given to this classification of students when ranking the District. As you can see, the rules relating to how students are categorized and how those rules are applied to the District becomes critically important in the ranking formula.

Comal ISD has found itself in a unique position: the application of this particular formula under TEA's rules has resulted in the lower overall ranking of the District. Under TEA's rules, court-adjudicated GED students are categorized by TEA as "GEDs" for the purposes of calculating the accountability rating. The county judges reviewing these cases have ordered students to attend state-operated GED programs and, under their own court orders, have ruled that these students are no longer within the jurisdiction of the school district. TEA, however, continues to count these students as students receiving their GEDs through the District, effectively "penalizing" the school district as a result of the Courts' mandate. This situation applies to less than 20 of the 14,000 students in the district and yet it was enough of an impact to result in an "Academically Acceptable" rating.

From the school district's perspective, these court-adjudicated GED students are very much like home-schooled or private school students who are also outside the control of the school district. Under TEA's rules, however, home or private-schooled students are counted as "other leavers," a category that does not weigh against the District in this rating process. It is the District's position that court-adjudicated GED students should be counted as "other leavers," too. This arbitrary and capricious application of the rules by TEA has resulted in an unfair ranking of the District.

**B. The retroactive application of TEA's rules relating to accountability did not give the District proper notice, was highly damaging to the school district's reputation and flies in the face of notions of fair play.**

The rules in controversy are those which were issued by the Commissioner of Education in June of 2004. The school district operated in good faith and has accurately reported its PEIMS data to the Agency since the accountability system has been in effect. However, TEA did not inform the districts at that time that the categories, formula and impact of that formula would be applied retroactively to data going back to 2001. The retroactive application of the rules required that students who should have been categorized as "other leavers" were, instead required to be placed in the category of "GED," thus tipping the scales against the school district in its overall ranking. Consequently, the rules published in 2004 were applied retroactively, without adequate notice, to the District's detriment.

At Comal ISD, we recognize the importance of taking all possible measures to see that students complete the full school program and graduate with a diploma. Our district makes a very determined effort to address the issues facing individual students who are at-risk of not completing their education. We also recognize that there are circumstances which are outside the school district's control which result in students not following the traditional path: students may be withdrawn from school by their parents to be home-schooled, attend private schools or

be court-adjudicated to attend a state-operated GED program. It is the position of the Comal Independent School District that such circumstances should not weigh against the district in determining its overall rating.

**IV. A Solution to the Problem has been Rejected by TEA**

A solution has been posed to the TEA administrative team responsible for accountability. In particular, it has been recommended that TEA create a "split," more descriptive, PEIMS code for GED recipients, one for school-assigned GED programs and one for court-adjudicated GED completion. The court-adjudicated codes would not be reflected in calculations for the school district or campus accountability ratings, since these are controlled by the Court system, not the school district. The Court-adjudicated GED students would be treated just like "other leavers," the same as the home-schooled or private school students over whom the school district has no authority or control. This approach would not impact the data reported to the Federal government, the districts, the schools, the parents or the students.

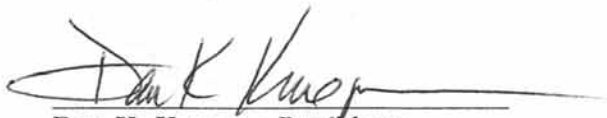
**V. Comal Independent School District requests that the State Board of Education exercise its authority to provide the school district relief.**

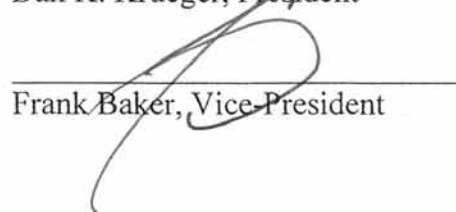
Comal ISD's Board of Trustees respectfully requests that the State Board of Education exercise its lawful authority under Chapter 39 of the Texas Education Code and examine the implementation of the rules adopted to evaluate the performance of school districts and the subsequent assignment of performance ratings. In particular, Comal ISD seeks the following:


1. Overturn TEA's interpretation and application of its rules concerning the categorization of court-adjudicated GED students, treat these students as "other leavers" and award the District its properly-earned ranking as a "Recognized" District;
2. Revise the current authority of TEA to apply its rules retroactively; and
3. Recommend to the state legislature the need to amend the Texas Education Code 39.301(d) to the extent that Districts are foreclosed from seeking legal recourse beyond the Commissioner of Education concerning academic or financial accountability ratings.

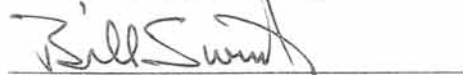
Respectfully submitted,

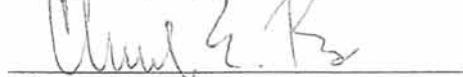
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