March 7, 2012

Armando Rodriguez, Board President
Annette Brigham, Interim Superintendent
Canutillo Independent School District
P.O. Box 100
Canutillo, TX 79835-0100

RE: Canutillo ISD Final Report
   NCLB/AYP Federal Accountability
   Special Accreditation Investigation

Dear Mr. Rodriguez and Ms. Brigham:

The Texas Education Agency (agency) has concluded its investigation of Canutillo Independent School District (ISD) with regard to alleged manipulation of limited English proficient (LEP) and special education (SPED) subgroups to affect the district's Annual Yearly Progress (AYP) rating under No Child Left Behind Act (NCLB) federal accountability system. The final report is attached.

As initially reported by the Canutillo ISD in early December 2012, this investigation independently finds that manipulation of LEP subgroup, specifically involving students who were new to the country (recent immigrants) occurred during the 2010 and 2011 school years at Canutillo High School under the direction of the former principal of Canutillo High School. The former principal was instrumental and responsible for actions and decisions that were made to affect the AYP rating for Canutillo High School. However, this investigation did not find manipulation of the SPED subgroup in the evaluation of AYP at Canutillo or Alderete Middle Schools. In addition, the agency finds that the wrongdoing is not ongoing. Canutillo ISD leadership team self-identified, and this investigation confirmed, that a number of procedural and regulatory compliance matters should be reviewed and addressed to ensure that federal and state program requirements are met.

In conclusion, Canutillo ISD and the agency have agreed upon a comprehensive corrective action plan to address not only the deficiencies identified for the district, but corrective actions for each student that was affected by the actions and decisions. To ensure full implementation, this investigation recommends an on-site focused monitoring visit to be conducted by the agency's Program Monitoring and Interventions Division to validate the progress and completion of the corrective actions.

On behalf of the agency, we appreciate that Canutillo ISD immediately self-reported its preliminary findings, cooperated fully in the investigative activities, and was prompt and responsive to all of the agency's requests. Please contact me at (512) 463-9342 should you have any questions concerning this matter.

Respectfully,

Emi Johnson, Director
Special Investigations
Introduction
On December 8, 2012, the Texas Education Agency (TEA) became aware of possible manipulation of the federal accountability system in the Canutillo Independent School District (ISD or district). The federal accountability system under the No Child Left Behind Act (NCLB) requires states to assign a rating to schools that indicate whether the school meets or missed the standards for Annual Yearly Progress (AYP).

The district provided to TEA an “Executive Summary,” dated December 6, 2012, of their ongoing internal investigative audit centering on transcripts and grade placement of limited English proficient students. Based on the district's Executive Summary, the Commissioner of Education, Michael L. Williams, authorized a Special Accreditation Investigation of the district. The district was notified on December 14, 2012. As part of its investigation, TEA conducted an onsite visit from January 8-10, 2013. The onsite visit was necessary to gather information that could not be obtained otherwise. TEA staff analyzed documents and data through desk reviews and conducted additional interviews by telephone and written statements.

Matters discovered in the course of this investigation that are outside the scope of this investigation or not within TEA’s jurisdiction will be referred to the proper agency or office.

Document Review
The documents reviewed included, but were not limited to:

- Internal audit records; student records; test administration records; district staff employment records;
- Public Education Information Management System (PEIMS) and Academic Excellence Indicator System (AEIS) data; written correspondence and communications; complaints; and district policies and procedures.

Interviews
Interviews with school staff were conducted onsite, as well as by telephone and by written statements. Select staff members from Central Administration and the campuses were interviewed based on their roles, responsibilities, and knowledge of the incidents reported in the district’s Executive Summary.

As required by state law, the TEA team ensured that teachers had an opportunity to provide information to the team; the Interim Superintendent sent an email to all staff at the middle and high school campuses on Thursday, January 10, 2013, inviting any staff member to provide information directly to the TEA, anonymously, orally, or in writing. In addition, parents whose child was subject to the internal audit were contacted for interviews.

Entry and Exit Meetings
The Interim Superintendent, Board President, and other district representatives participated in the Entry Meeting on January 8, 2013. Throughout this investigation, the district's leadership team and Board President remained responsive and fully cooperative. The district's Internal Auditor served as our primary point of contact and coordinated information requests and interviews effectively and efficiently.

At the Exit Meeting on January 10, 2012, the TEA team reported its tentative and preliminary observations and findings orally to the Board President, Interim Superintendent, and other district representatives.
1. In late April 2012, the Canutillo ISD had an indication or concern that it may be subject to allegations of manipulation of the federal accountability system similar to the ongoing investigation in El Paso ISD. The concern arose when the media reported that an email was sent by former administrator in El Paso ISD, Dr. Damon Murphy, related to the withholding credits from students enrolling with out-of-country transcripts. The investigations in El Paso ISD started in 2010.

2. Canutillo ISD hired Dr. Murphy as their Superintendent in February 2010. Because of the alleged involvement of Dr. Murphy, the Canutillo ISD Board of Trustees acted swiftly to investigate and audit the transcripts and grade placement of their students who were enrolled from out of the country:

3. At the May 2012 board meeting, the district's policies concerning student placement, transfer credits, and statewide testing were discussed.

4. In early December 2012, the Board received their Internal Auditor's Executive Summary of the investigative audit of transcripts and grade placement of students enrolled with out-of-country transcripts. The district provided its Executive Summary to TEA on December 7, 2012. The district also shared its audit working papers with TEA.

5. Following the Board's review of the Executive Summary, Dr. Murphy resigned from Canutillo ISD in December 2012.

6. As early as mid-January 2013, district leadership described its efforts and activities initiated to address the concerns that the district identified through its own investigative audit. For example, the district began securing professional services, including technical assistance from a regional Education Service Center and school organizations, to develop administrative regulations to implement board policies to address the evaluation of foreign coursework, award of credit, and credit recovery for attendance and course failures.

This investigation report presents TEA's independent findings and conclusions.
**Federal AYP Requirements** [source: TEA Accountability Performance Reporting]
The federal rating system is called AYP – Adequate Yearly Progress. AYP measures student performance and student participation on statewide assessments, such as the former Texas Assessment of Knowledge and Skills (TAKS). The federal accountability system measures a number of indicators for campuses and districts. The districts and campuses either “Meet AYP” or “Miss AYP.” The AYP system measures student performance in math and reading/English Language Arts (ELA).

**Subgroups**
For Texas, AYP assesses seven student subgroups - all students, African American, Hispanic, white, economically disadvantaged, special education (SPED), and limited English proficient (LEP) students. If any of the subgroups do not meet AYP on both Reading/ELA and Mathematics assessments, then the school or district is considered to have “Missed AYP” for that year.

**Subgroup Minimum Size Requirements**
To be evaluated for AYP, a district or campus must have:

- 50 or more students in the subgroup on the test date (summed across Grades 3–8 and 10) for the subject, and the subgroup must comprise at least 10 percent of all students enrolled on the test date; or
- 200 or more students in the subgroup enrolled on the test date, even if that group represents less than 10 percent of all students enrolled on the test date.

**Consequences of Missing AYP**
If a school or district misses AYP, it may be subject to escalating consequences for each consecutive year missed. The consequences include school choice for parents with the district paying for transportation, the district paying for supplemental educational services (SES), (free tutoring services), and restructuring or alternative management of the school.
AYP Status – Data Tables [source: TEA Accountability Campus Data Tables]

Findings:
The AYP data shows the following:

- The LEP subgroup did not meet the minimum size for 2010, 2011, or 2012 at Canutillo High School (CHS).

- Therefore, the LEP subgroup was not part of the evaluation of AYP and did not affect the AYP status for CHS in 2010, 2011, or 2012.

- The special education subgroup did not affect the AYP status for Canutillo Middle School (CMS) or Alderete Middle School (AMS) in 2010 and 2011.

The following data tables summarize the AYP status for CHS, CMS, and AMS.

<table>
<thead>
<tr>
<th>2010 AYP</th>
<th>Final AYP Status</th>
<th>Title I SIP Stage</th>
<th>Subgroup Affecting AYP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canutillo MS</td>
<td>Meets AYP</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Alderete MS</td>
<td>Meets AYP</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2011 AYP</th>
<th>Final AYP Status</th>
<th>Title I SIP Stage</th>
<th>Subgroup Affecting AYP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canutillo MS</td>
<td>Missed AYP Reading</td>
<td>None</td>
<td>Economically Disadvantaged LEP</td>
</tr>
<tr>
<td>Alderete MS</td>
<td>Missed AYP Reading</td>
<td>None</td>
<td>LEP</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Canutillo HS</th>
<th>Final AYP Status</th>
<th>Title I SIP Stage</th>
<th>Subgroup Affecting AYP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Meets AYP</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>2011</td>
<td>Meets AYP</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>2012</td>
<td>Missed AYP Reading and Mathematics</td>
<td>None</td>
<td>All Students, Hispanic, and Economically Disadvantaged</td>
</tr>
</tbody>
</table>
Certified Educators Named
This investigation report names one certified educator who was employed in the Canutillo ISD during the 2010 – 2012 school years.

- Mr. James Fry, former Principal, Canutillo High School (CHS). Mr. Fry was the Principal of CHS from July 2, 2008 through June 29, 2012.

Specific Allegations
Based on the evidence obtained by the district’s Executive Summary, the Internal Auditor concluded that “it appears that the Superintendent directed two administrators to avoid subpopulations and actions were taken by the administrators to ensure that the subpopulations were not created. In addition, many mid-year grade classifications were made to promote 10th graders to 11th graders resulting in the avoidance of the 10th grade accountability year.”

- Mr. Fry’s resignation letter to Dr. Murphy is dated January 26, 2012. Mr. Fry stated, “I will fulfill my contract through June 30, 2012 before relocating to assume my position as Executive Director of Curriculum Instruction, and Assessment in Clarkston, WA.”
- The Special Education Director’s notice of retirement was accepted on January 7, 2013 and effective June 28, 2013.
- The English Language (EL) Facilitator led the Language Proficient Assessment Committee meetings for limited English proficient (LEP) students at Canutillo High School and maintained student and program records.

The actions alleged to have taken place to affect AYP included:

- Out-of-country transcripts of recent immigrants were reevaluated to reclassify the students;
- Students were reclassified to 11th grade to avoid the Grade 10 TAKS Test;
- A group of LEP students who were also receiving special education services (LEP/SPED), were exited from LEP status using the state’s special exit criteria; and
- A special education unit of 11 students was moved from CMS to AMS.
Section I: MANIPULATION OF CREDITS
9th Grade Recent Immigrants (referred to as Newcomers)

Findings:

a. Mr. Fry, the former Principal, directed the English Language (EL) Facilitator, to reevaluate the transcripts of 9th grade Newcomers to award additional credits to reclassify the students to 10th grade. The EL Facilitator changed credits for a number of the 9th grade Newcomers to reclassify to 10th grade. In reviewing the results, Mr. Fry realized that the reclassifications would cause the LEP subgroup to be evaluated in AYP. Mr. Fry retracted his initial directive and directed the EL Facilitator not to make any changes to the transcripts. Mr. Fry directed the Instructional Coordinator that he had changed his decision. The Instructional Coordinator wrote a note to this effect on behalf of Mr. Fry and gave the note to the EL Facilitator.

b. If the students’ out-of-country transcripts were reevaluated to ensure that the students received all earned credits, then this investigation questions why the changes were not made to the students’ official transcripts to reflect accurate credits and grade classifications.

c. Mr. Fry failed to ensure that the transcripts of the students new to the country were true and accurate. By his action, Mr. Fry denied the students an equal educational opportunity and access to the district's educational programs and services.

d. The district does not always ensure that foreign transcripts are evaluated accurately and credits are accurately recorded on the student’s transcript.

Reason for Findings:

1. In a statement dated January 30, 2013, Mr. Fry wrote, “Dr. Murphy communicated with me on his first day on the job in the spring of 2010 about LEP. He stated that we would not have a LEP subpop.” Subsequently, “In October of 2010, Dr. Murphy texted me about our LEP subpopulation graduation rate; he stated that we needed to fix this either finding more ways for LEP students to earn credits through LUCHA™ or to exit them from LEP so that they wouldn’t hurt our graduation rate.”

2. Mr. Fry further stated in the same January 30, 2013 statement, “Dr. Murphy came to me to tell me that he addressed some of my staff about the scoring of the TELPAS writing portion. He stated that he had reminded them that this was a portion of the students’ language progress rating and that it was in their hands. I believe his intent was to get them to inflate the scores based on his indication to me that my teachers should fully understand that they can change a student’s progress rating by their scoring of the writing sample. However, in my discussions with the staff afterwards, they did not respond to his pressure...”

3. The CHS implements a “Newcomer Admission Process” through which students new to the country are tested for English language proficiency, the foreign transcripts are evaluated for transfer credits, and the students’ grade placements are determined. The EL Facilitator is assigned these duties.
4. The EL Facilitator found it necessary to consult Socorro ISD to obtain procedures for evaluating foreign transcripts. Based on interviews, staff was not able to explain the standards and criteria used in evaluating out-of-country transcripts or the decision-making process for the grade placement of these students. However, the EL Facilitator indicated that in 2012, the district “received a LEP grant that was able to pay for obtaining LUCHA™ audits for Mexican students. I looked at the audit sheet of some of those that I received and their recommendations.”

5. Mr. Fry and the Executive Director of Curriculum and Instruction discussed the significance of having “50” students in the LEP subgroup with the EL Facilitator and whether it would count for AYP accountability.

6. The EL Facilitator recalls an instance where a parent did not agree to move her child to 11th grade because the student was not ready to take the Exit-level Test. The EL Facilitator did not recall how the administrators “moved” the student. The EL Facilitator was given the impression that having a subgroup “was a bad thing” for the Executive Director of Curriculum and Instruction and Mr. Fry.

7. Mr. Fry directed the EL Facilitator to meet with the Instructional Coordinator and the Test Coordinator to prepare a list of 9th grade Newcomers. The EL Facilitator understood Mr. Fry to want 9th grade Newcomers to move to the 10th grade.

8. The EL Facilitator met with the Instructional Coordinator and the Test Coordinator. The discussion included whether the students should take STAAR or TAKS and which would provide a better chance for the students to graduate. The EL Facilitator presented the list of the 9th grade Newcomers and “they asked me who will have credits to move up.”

9. In her written statement dated February 21, 2013, the EL Facilitator took the transcripts home for the weekend, probably the weekend of February 18, 2012. She took them home to reevaluate whether the student could receive additional credits to move the student to 10th grade. The EL Facilitator identified 13 students “who were going to be moved to 10th grade.”

10. After the weekend, probably February 20th or 21st, 2012, the EL Facilitator received a post-it note on which the Instructional Coordinator told the EL Facilitator “don’t move them to 10th” because moving them would create a subpopulation. The ALS Director confirmed that the Instructional Coordinator wrote the note to the EL Facilitator.

11. Then, Mr. Fry requested to meet with the EL Facilitator. The Instructional Coordinator was present at the meeting and again. Mr. Fry directed the EL Facilitator not to move the students. Following this meeting, the Executive Director informed the EL Facilitator that the information she had given about the ‘M1’ and ‘M2’ was “not true and if we had more, to leave it.” M1 and M2 are used to indicate that the student is under a monitoring status for the first and second year after being exited from the LEP status.

12. This investigation confirmed that the EL Facilitator did not submit the credit changes as a result of her reevaluation of the transcripts, and the students were not “moved” (reclassified) per Mr. Fry’s directive.
Transcript Evaluation and Reclassification Procedures

13. In response to questions about the reevaluation of foreign transcripts, Mr. Fry wrote, “I do not recall that transcripts of students from Mexico were reevaluated.” Additionally, “All students have their transcripts examined each year.”

14. The EL Facilitator did not describe the policies or procedures used to make the decisions to evaluate and change credits on the transcripts. The documentation shows that LUCHA™ had evaluated some transcripts. LUCHA™ is a service available through the University of Texas at Austin to evaluate foreign transcripts. In some instances, in which LUCHA™ and the EL Facilitator evaluated the same transcript, the award of credits was not the same. The district did not implement a process to verify the accuracy and reliability of the evaluation or grade placement decisions for Newcomers.

15. In his statement to TEA dated January 30, 2013, Mr. Fry explained that the district “does not have a policy around when reclassification can and cannot be done…it is appropriate, necessary, and fully in compliance with board policy to reclassify when the student earns the credit necessary to meet the next grade level requirement for promotion.”

16. When asked how out-of-country transcripts are evaluated and the standards for awarding credit, the ASL Director indicated that the EL Facilitator performed those duties. In addition, the ALS Director stated that Dr. Murphy and Mr. Fry never approached him to manipulate the LEP data. The ALS Director stated that “everything was subjective” with respect to the evaluation of transcripts.

17. When asked when students were moved to the next grade level, the Executive Director of Curriculum and Instruction responded, “Well, it all depends.”

18. When asked about the reclassification of students, CHS staff explained that a number of individuals are able to submit credit changes to the “transcripting” clerk and not everyone who needed to know, including the teachers, was always aware of the credit changes. Staff indicated that reclassifications occurred prior to the snapshot date between August and October or a week before the snapshot.

19. The Intervention Specialist stated that the district “had/has no written policy regarding when and how often reclassifications can occur.” The Intervention Specialist was under the assumption that student transcripts were reviewed for reclassification prior to November 1st (specifically prior to the PEIMS snapshot). The Intervention Specialist stated further, “However, I do recall reclassifications not occurring prior to snapshot, and instead occurring at the end of each semester following the accrual of credits.”

Credit and Attendance Recovery Procedures

20. CHS has “The Learning Center” (TLC) lab to provide accelerated instruction for students who need to recover credit from failed courses. Any student can apply who has previously failed a course or received an “N” and does not intend to recover it through administrative contract or repeating the course.
21. When asked about credit recovery, the Executive Director of Curriculum and Instruction stated, “I don’t know…I’m not sure how they make up credits.” Further, the Executive Director could not clearly articulate the grade classification system at CHS. The Executive Director had little information with regard to the procedures of the LEP/Bilingual and Special Education program and explained that she relies on the ALS and Special Education Directors to implement the program requirements.

22. In a statement dated January 31, 2013, the Intervention Specialist wrote, “standard protocol was for students to adhere to specified contractual stipulations….common practice was 5 hours per ‘N’ via tutoring and/or community service in order for credit to be granted.”

23. The Intervention Specialist explained that “the term ‘minimester’ (verbiage that was never clearly defined in writing/CISD policy) was brought to our district by Dr. Damon Murphy, which resulted in former CHDS Principal, Jim Fry, adopting the term; as well as others (including myself).” According to the Intervention Specialist, the term was “abandoned by CHS once it surfaced as a topic of concern in the EPISD cheating scandal.”

Other Relevant Information

An employment action involving the manipulation of student grades/credits was discovered through this investigation.

A former teacher at CHS filed an employment claim with the Texas Workforce Commission (TWC) on August 12, 2012 and provided the following statement to TWC:

“Mr. Fry gave me the option to resign under the threat of non-renewal.” “I’ve refused to change enough grades to ‘passing’. I was put on ‘growth plans’ for three different years because I refused to give students passing grades that they did not earn." "I was told verbally and in writing that I would need to change in my grading policy so that a higher percentage of students would ‘pass’. I was also mandated to change grades to 50% even though the grade was not accurate, until the state senate determined last year that such a demand was not only unethical but illegal."

The former employee acknowledged, “I did change many grades to passing and modified my grades several times so that a high percentage of students would pass. I felt doing so was unethical and unprofessional, but I followed orders when they were issued in writing.”

On October 5, 2012, TWC issued its final decision. TWC found that the former employee was “fired” and that he was fired “for a reason that was not misconduct connected with the work.”

Mr. Fry failed to respond to TWC in this matter.
Regulatory Requirements:
An entry on a transcript is an official and permanent record of a student’s academic performance and must reflect actual courses taken, grades earned, credit awarded, and codes denoting special explanations must be consistent with teachers’ records. Entries may not be altered or removed except to correct errors. Error corrections must be fully explained in the student’s permanent record. Failure to maintain the transcript accurately or any attempt to alter the document with intent to use it for fraudulent purposes is a misdemeanor under TEC §25.001(h).

Texas Administrative Code §74.26(a)(2) requires a district to ensure that the records or transcripts of an out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school are evaluated and that the student is placed in appropriate classes promptly. The district may use a variety of methods to verify the content of courses for which a transfer student has earned credit.

Data entered on the transcript must accurately reflect the student’s actual course participation, and performance and must reflect teachers’ records and the student’s individualized education program, when applicable. All completed courses (regardless of the amount of credit earned) must be entered on the transcript.

Texas Administrative Code 247.2 (1)(F) Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.

Under TEC §25.092, the board of trustees is required to appoint one or more attendance committees to hear petitions from students who do not regain credit through a plan approved by the principal. An attendance committee may grant credit due to extenuating circumstances. The board is also required to adopt policies establishing alternative ways for such students to make up work or regain credit lost because of absences.

In the annual TEA “To the Administrator Addressed” Letter regarding student attendance requirements, “students are not required to spend a certain amount of time in an educational setting equal to time missed during regular school hours. The district should be prepared with other options that give the student a reasonable opportunity to make up work or regain credits, including excessive absences that occur late in the school year. Students with excessive absences will be given the grade earned, but in accordance with the decision made by the district attendance committee, may or may not be awarded credit”.

Texas Education Code § 29.081 requires districts to provide accelerated instruction to a student enrolled in the district who has taken the secondary exit-level assessment instrument and has not performed satisfactorily on each section or who is at risk of dropping out of school.
Section II: TESTING IRREGULARITY INCIDENT
2010 October Exit-level TAKS Re-test

Findings:

a. Mr. Fry directed his staff to administer the 11th grade Exit-level Re-test to one 9th grade and eight 10th grade students to avoid the Grade 10 TAKS that is evaluated in AYP accountability. The Exit-level Re-test was administered on October 19, 2010.

Mr. Fry directed staff to test the students because he projected the students would graduate prior to Sept 1 of the next school year and therefore, were eligible to take the Exit-level Re-test. Mr. Fry and the school counselor participated in test administration training. Even after the school counselor informed Mr. Fry and the assistant principal that testing the students raises concern, Mr. Fry directed staff to administer the Exit-level Re-test to these students. Mr. Fry, as the campus administrator, knew or should have known his directive was in violation of state regulations. The state requires students to be classified in grade 11 in order to take the Exit-level tests. The 9th and 10th graders subject to this incident clearly did not meet the eligibility criteria for TAKS exit-level participation. As a result, the district received an "Eligibility Error."

Two students in this group graduated before September 1, 2011. The students were required to take a test that they were not prepared to take and were denied the opportunity to participate in the federal accountability system.

b. The district does not ensure that test administration procedures are in place to prevent, detect, and promptly respond to incidents and irregularities in the local administration of statewide assessments. In this case, the campus either marked the students as being in grade 11 or 12 or left the grade blank, in which case the scoring program would default to classifying the student as an 11th or a 12th grader.

Reason for Findings:

1. Before joining the Canutillo ISD, the DTC was employed in El Paso ISD as an Evaluator from May 2008 until the time Dr. Murphy hired him to work in Canutillo ISD on September 27, 2010. The DTC reported directly to Dr. Murphy. The DTC referred to himself as “one of the crystal ball guys” in El Paso ISD who could do the statistics on data and acknowledged that he did not know much about test administration and often consulted with DTCs in neighboring districts, such as El Paso ISD and Ysleta ISD. The DTC explained that he had to arrange for Ysleta ISD staff to assist him in training the campus test coordinators (CTCs) in Canutillo ISD.

2. Over a month after the October 19, 2010 test irregularity incident, the DTC submitted the required report to TEA. The district's report is dated November 23, 2010.

The DTC wrote, “Immediately after finding out about the incident (11/10/2010), I contacted TEA and was told that the campus can choose how they are doing their promotion [reclassifications] internally but that students must be in 11th grade at the time of the test.”
Mr. Fry further stated that "he was sorry for the mistake and that his understanding was that students would be eligible to take the Exit Level Exam if they were scheduled to graduate by June."

3. The DTC obtained statements from Mr. Fry, the CTC, and the counselor as part of the local investigation required by TEA.

In his December 7, 2010 statement, Mr. Fry wrote, "We have students who are on a plan to be able to graduate with their cohort while recovering lost credits from attendance and past failures in order to graduate before Aug 2011. I was under the impression based on previous conversation with TEA that if a student was projected to graduate prior to Sept 1 of the next school year they were eligible to take the exit level retest."

Mr. Fry added, "I would like to see where TEA or Pearson have addressed this in any sort of TAKS administrator handbook so that other campuses do not follow and do the same thing we did." Mr. Fry and the Assistant Principal believed that it was the guidance from TEA that allowed for this irregularity to occur.

4. The Assistant Principal served as the CTC and explained, "I was a late hire. I was given a roster of the kids to be tested and was unaware of this irregularity at the time of testing. I did not question the list because it had been done prior to my working there."

5. The Counselor acknowledged that the counselor had "a list of students that have failed TAKS 11th or 12th this year, but I also have kids that are out of cohort that are trying to graduate. Even though they are out of credits we are trying our best to try and help them to catch back up to their cohort. We compiled a list of students that have potential to graduate but still need TAKS to graduate."

The Counselor explained, "I brought it to both of my administrators’ attention and asked. And through their directive I was told that [the students] were to be placed on the list." Of course, I raised the concern about all of these students but there is nothing in writing."

The Counselor concluded, "I guess now that there is an awareness one thing that bugs me is that this was not really an accident. We were all aware that this was a concern and I went through the proper chain of command to make sure we did the right thing, but somewhere along the line there was a miscommunication between our administration and TEA."

6. The Intervention Specialist stated, “It is my understanding that CISD had/has no written policy regarding when and how often reclassifications can occur.” The Intervention Specialist was under the assumption that students were reviewed for reclassification prior to November 1st (specifically prior to PEIMS snapshot). The Intervention Specialist understood that “student’s classification status at the time of snapshot should indicate which state assessment they will take during that year.”

7. The credits each student had at the time of the 2010 October XL Retest are shown below. This investigation questions whether all of these students, especially the 9th grader, were on track to graduate before August 2011. Regardless of projected
graduation, none of the students were first classified as grade 11 in the fall of a 2010 to be eligible to participate in the October TAKS administration.

S1 - 9th grade 0.5 credits (leaver code 98)
S2 - 10th grade 9.5 credits (graduated 8/15/12)
S3 - 10th grade 10 credits (graduated 8/17/11)
S4 - 10th grade 10.5 credits (leaver code 98)
S5 - 10th grade 12 credits (graduated 5/15/12)
S6 - 10th grade 8.5 credits (graduated 3/17/12)
S7 - 10th grade 10 credits (did not take the 2010 Oct XL)/(leaver code 98)
S8 - 10th grade 0 credits (graduated 11/10/11)
S9 - 10th grade 7 credits (graduated 6/4/11)

Leaver code “98” is used for students who are withdrawn by the school district after a period of time because they have quit attending school and their reason for leaving is not known.

**Regulatory Requirements:**

According to TEA’s District Test Coordinator’s Manual, to participate in any of the TAKS exit-level test administrations, a student must be officially enrolled in grade 11 or above at the time of testing. This means that if a student has enough credits to be classified as 11 but the district still has the student as a 10th grade student, the student is not eligible to take the TAKS exit-level assessments.

In addition, students first classified as grade 11 in the fall of a school year are only eligible to participate in the October TAKS administration if they are on track to graduate by August 31 of the same school year. The district and campus test coordinators and campus administrator are expected to know that for exit-level tests, the answer documents and all header sheets used by the district to send materials back for scoring only include bubbles for grades 11 and above.
Section III: EXITING LEP STUDENTS

Findings:

a. This investigation validated the findings of the Internal Audit Executive Summary for the 25 exited students selected for the sample testing.

b. During the 2010-2011 school year, 9th grade LEP students were exited from the LEP status without properly held Language Proficiency Assessment Committee (LPAC) meetings and LPAC consultation with key special education staff. Some LEP students were also in the Special Education (LEP/SPED) program.

c. Mr. Fry designated the Instructional Coordinator to serve on the LPAC. This violates state requirements. The state requires LPAC campus administrator to be a principal or assistant principal or related staff who is coded to “Function 23 under School Leadership” in TEA’s federal grant funding report. The district did not and does not code Instructional Coordinators to Function 23. Therefore, they are not authorized to serve as the LPAC campus administrator.

d. The EL Facilitator made the decision to exit a number of LEP students without holding duly constituted LPAC meetings and in some cases in conjunction with key special education staff. This violates state requirements. A number of LEP and LEP/SPED students were improperly exited. As a result, the students were denied educational services for which they were eligible.

e. In addition, LPAC records for some students were altered or tampered with, and records were not maintained for some students. Mr. Fry, as the campus administrator is responsible for ensuring all student records are maintained and destroyed in accordance to the district’s Records Retention Schedule.

Reason for the Findings:

1. In his January 30, 2013 statement, Mr. Fry wrote, "I agree that an administrator is required to attend each LPAC meeting and I do not recall any LPAC meetings being held without an administrator. I do recall instances where I was notified that a trained administrator was not present and another administrator was sent to attend such meeting."

2. Mr. Fry further explained, "Upon my departure from the district [June 2012], it is my understanding that CISD demoted the Instructional Coordinator from the level of Administrator. During my time at CHS, the Instructional Coordinator performed as an administrator." The Instructional Coordinator was, according to Mr. Fry "LPAC Administrator trained by the ALS department" and was therefore, according to Mr. Fry, "qualified to attend the LPAC as the administrator."

3. The "ESL - Student's Progress/Classification/Placement Reports" and "ARD/LPAC Collaborative Meeting Forms" of students exited in 2010-2011 were reviewed.
   - Six students were exited from LEP status without the participation of required LPAC members.
• Nine other students who were LEP/SPED were exited from LEP status without the required participation of LPAC members.

4. For the LEP/SPED students, the Instructional Coordinator participated in three of the meetings in 2011 and the EL Facilitator participated in the meetings held in 2010 and 2011. For the LEP students, no staff member signed in participation of the LPAC meetings. Additionally, required members did not participate in the ARD Committee meetings to make decisions for the LEP/SPED student. Some ARD Committee signature pages had no participant signatures.

5. The diagnosticians indicated that they were not included in the fall LPAC meetings. The EL Facilitator meets with the diagnosticians and the special education teachers in the spring to share the names of the students being considered for LEP exit and the exit criteria they have set. In the spring the LPAC meets again to exit the students and then gives the list of students to the diagnosticians to discuss at the annual ARD committee meeting. According to staff, the meetings with the EL Facilitator were initiated in the 2011-2012 school year, and the EL Facilitator began maintaining documentation of the LPAC/ARD committee collaboration meetings in 2010.

6. The diagnosticians reported that they are not always part of the discussion to exit a special education student from LEP status. There is significant delay in informing special education staff of LPAC recommendations. The special education staff acknowledged that they were conducting ARD committee meetings for students that were exited from LEP status two years ago. The special education staff does not remove the LEP indicator code until the ARD committee has met; however, they have found some LEP indicator codes were already removed for some students prior to the ARD committee meetings.

7. On August 29, 2012, TEA sent an email to the Bilingual/ESL contacts at the regional Education Service Centers and districts. The email informed the districts that the LPAC campus administrator "must be personnel coded as Function 23 (principals, assistant principals and related staff) under School Leadership." The "Principal and assistant principals and related staff are personnel that (a) supervise all operations of the campus; (b) evaluate campus staff members; and (c) assign duties to staff members maintaining the records of the students on the campus."

8. On August 30, 2012, the ALS Director requested a list of personnel who are coded as "Function 23" from the district's Accounting Department. According to the district's Accounting Department, all "campus principals and assistant principal have been and are coded to function 23." Therefore, according the district's Accounting Department, "the required campus administrator position serving on the LPAC must be either a principal or assistant principal."

Minimum High School Program Opt-in Agreements
9. During the course of this investigation, investigators found that from the group of students who were exited from LEP status, 11 students were under the Minimum High School Graduation Program. The required Minimum High School Graduation Program "written (Opt-in) agreement" was found for six students in regular education. The
remaining five students were in special education and an “Opt-in” form was not necessary.

**Suspicion of Tampering with Government Records**

10. During the course of this investigation, investigators discovered three ARD/LPAC Collaborative Meeting forms (dated 11/22/10 and 11/08/10) that appear to have been altered or tampered with. It appears that the signature of the Campus Administrator was redacted or "whited out".

At TEA’s request, the district’s Internal Auditor inspected the original documents and confirmed that “white out” was used to remove signatures written on the Campus Administrator line for all three forms. The original documents are maintained by The EL Facilitator.

TEA must refer suspicions of tampering with a government record to appropriate prosecutorial authorities for proper determinations.

**Regulatory Requirements:**

*Texas Administrative Code 247.2(1)(F) Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.*

*Texas Penal Code §37.10 states that a person commits an offense if the person knowingly makes a false entry in, or false alteration of, a governmental record, makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record; intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record.*

*The Texas Education Code §28.025, requires districts to provide written notice to the parent explaining the benefits of the Recommended High School Plan before the student is permitted to take courses under the Minimum Plan. In addition, the student, the student’s parent or guardian, and a school counselor or school administrator must agree that the student should be permitted to take courses under the Minimum Plan. The agreement must be in writing and signed by each party.*

*Texas Administrative Code §89.1220 (a-f) established the LPAC and its responsibilities. The ARD Committee in conjunction with LPAC shall determine appropriate assessments for identification, placement, and exit for students with a disability [TAC §89.1225(f)(4)(k)].*

*Title III, Part C, Sec. 3302(a)(6); Texas Education Code 29.056(a); and Texas Administrative Code §89.1240(b) requires parent notification of exit.*

*Student records must be maintained and destroyed in accordance with the local Records Retention Schedule approved and certified by the Texas State Library and Archives Commission.*
Section IV: MOVING A SPECIAL EDUCATION UNIT

Finding:
The Special Education Integrated Skills Class (ISC) was moved from CMS to AMS in fall 2010. The discussions, intent, and plans to move the unit, as a whole, to AMS began in 2009, before Dr. Murphy joined the district. The decision to move the ISC unit was implemented in June 2010. In his June 23, 2010 letter to special education staff, Dr. Murphy stated, “Canutillo will continue to experience growth and change that will require planning and a focus on serving the needs of the students.”

Based on the information available to TEA, this investigation does not have sufficient evidence to find that the district moved the ISC unit to AMS to avoid having the SPED subgroup evaluated in AYP.

Reasons for the Findings:
1. The investigation team interviewed special education staff and parents whose children were subject to the relocation of the unit. Overall, the interviews indicated that special education unit was moved from CMS to AMS for the benefit of students to have opportunities to transition or interact with students in other instructional settings. Therefore, the relocation or move of the ISC unit is a “change in placement,” under special education policy and regulations.

2. ARD committee meetings were held for each affected student to discuss the change in placement to AMS.

3. Special education staff was informed of the move at the beginning of the 2010 school year and was told to hold brief ARD committee meetings for those students affected by the change of placement.

4. The principal of AMS at the time initiated the move of the unit because she had always wanted both special education units on her campus and felt it was the right time since the unit at CMS was going to have several students moving to CHS.

5. Some staff stated that most parents “loved the new school”. When a parent disagreed with the placement change, the ARD committee determined to the student’s placement should remain at CMS. ARD committee meetings were conducted at the end of the 2009-2010 school year to prepare for the students’ change of placement.

6. Parents reported that they are always invited to ARD committee meetings. Parents were informed that the whole class would be moving. Some parents indicate that they didn’t feel that they were given an option or a reason for the move. However, the ARD committees included the deliberations of the change in placement.

Regulatory Requirement:
Under 34 CFR §300.552(a)(1)-(3) and §300.552(c), unless the student’s IEP requires some other arrangement, the child must attend the school that he or she would attend if not disabled. Therefore, the placement must be determined by the ARD committee and must be based on the child’s IEP, and must be in the school close as possible to the student’s home.
CORRECTIVE ACTIONS

RECOMMENDATIONS

The TEA investigation team shared tentative observations with the district leadership at the January 10, 2013 Exit Meeting.

It was recommended that the district consider establishing written procedures or administrative regulations, to include standards and criteria, and to implement and carry out the requirements for the following activities:

- a. Evaluation of Transcripts;
- b. Grade Placement for students new to the country;
- c. Grade Reclassifications;
- d. Credit and Attendance Recovery; and

The investigation team provided information and sources, including the regional Education Service Centers, as a resource for technical assistance and support to address these observations.

DISTRICT-INITIATED CORRECTIVE ACTION PLAN | ACCEPTED ON FEBRUARY 22, 2013

On February 18, 2013, the Canutillo ISD submitted documentation to evidence that it has been working on reported concerns identified by the TEA or by the district itself. The district has self-initiated, and TEA has reviewed and accepted, a comprehensive plan of action resubmitted to include full details on March 5, 2013. The district’s plan sufficiently address the following areas:

1. Federal program compliance oversight;
2. External funding coordination and oversight;
3. Test Administration and Monitoring;
4. Personal Graduation Plans/Minimum/Recommended/DAP plans;
5. Academic Achievement Records (Transcripts);
6. Award of Credit and Attendance;
7. Credit and Attendance Recovery;
8. English Language Learners services and Special Education; and
9. Grade Level Placement Decision-making processes.

The district has contacted and secured professional services or technical assistance from:

1. Regional Education Services Centers;
2. The Texas Association of School Boards; and
3. Independent contractors.
REQUIRED ACTIONS

A. Progress Report
Progress on the corrective actions must be presented to the board of trustees at each regularly scheduled board meeting. After the board meeting, the district must submit a written progress report to the TEA Deputy Chief Commissioner. The report must include the status of each corrective action item and anticipated date of completion. The report must describe any obstacles, barriers, and circumstances that prevent or cause revision or delay in the implementation of the action item.

B. Program Monitoring Focused On-site Review
Canutillo ISD will be recommended for a focused follow up on-site monitoring review to be conducted by the TEA Program Monitoring and Interventions (PMI) Division. The specific purpose of the review is to validate status/disposition of each corrective action item. The monitoring visit is recommended for the beginning of the 2013-14 school year. However, the timeline is subject to change.

C. Corrective Action Plan Completion
TEA will base the district’s completion of its corrective actions on the progress reports and PMI findings. Any new or unrelated issues discovered through the PMI review will not be considered in determining the completion of this CAP.

D. Accreditation Sanction
The TEA may recommend to the Commissioner of Education one or more accreditation sanctions authorized under Chapter 39 of the Texas Education Code at any time during TEA’s monitoring of the district’s corrective action plan.

This investigation report, findings, and conclusion do not preclude any other intervention, monitoring, investigation, or activity by the TEA.

E. Report to Division of Investigations and Referrals
This investigation finds the persons named below to have violated a state law, rule, or policy. This investigation report will be referred to the Division of Investigations for further review and determinations.

- Mr. James Fry, Principal, former Principal

END OF REPORT