

ATTACHMENT II
Text of Proposed New 19 TAC

Chapter 228. Requirements for Educator Preparation Programs

§228.70. Complaints and Investigations Procedures.

- (a) Purpose. Texas Education Agency (TEA) staff shall maintain a process through which a candidate or former candidate in an educator preparation program (EPP), an applicant for candidacy in an EPP, an employee or former employee of an EPP, a cooperating teacher, a mentor, or an administrator in a school district, charter school, or private school may submit, in accordance with subsection (c)(1) of this section [writing], a complaint about an EPP for investigation and resolution.
- (b) EPP responsibilities.
- (1) The EPP shall adopt and send to TEA staff, for inclusion in the EPP's records, a complaint [grievance] procedure that requires the EPP to timely attempt to resolve complaints [grievances] at the EPP level before a complaint is filed with [the grievance is forwarded to] TEA staff.
 - (2) The EPP shall post on its website a link to the TEA complaints website and information regarding how to file a complaint under the EPP's complaint policy .
 - (3) The EPP shall post a notification at all of its physical site(s) used by employees and candidates , in a conspicuous location, information regarding filing a [written] complaint with TEA staff in accordance with subsection (c)(1) of this section .
 - (4) Upon request of an individual, the EPP shall provide information in writing regarding filing a complaint under the EPP's complaint policy and the procedures to submit a [written] complaint to TEA staff in accordance with subsection (c)(1) of this section .
- (c) TEA responsibilities.
- (1) Filing a complaint. TEA staff will develop a complaint form to standardize information received from an individual making a complaint against an EPP. The complaint form will be available on the TEA website. All complaints filed against an EPP must be in writing on the complaint form. The written complaint must clearly state the facts that are the subject of the complaint and must state the measures the complainant has taken to attempt resolution of the complaint with the EPP. Anonymous complaints may not be accepted or investigated.
 - (2) Processing the complaint.
 - (A) TEA staff will record all complaints in the TEA complaints tracking system. Each complaint, no matter the severity, shall be assigned a tracking number.
 - (B) The complaint will be forwarded to the division responsible for educator preparation for further action, including assessing the complaint, providing a severity status and prioritizing the complaint accordingly, and determining jurisdiction.
 - (C) If TEA staff determines that the complaint is not within the State Board for Educator Certification's (SBEC's) jurisdiction, TEA staff shall notify the complainant that the complaint will be closed without action for lack of jurisdiction. TEA staff and the SBEC do not have jurisdiction over complaints related to contractual arrangements with an EPP, commercial issues, obtaining a higher grade or credit for training, or seeking reinstatement to an EPP.
 - (D) If TEA staff determines the [a] complainant knew or should have known about the events giving rise to a complaint more than two years before the earliest date the complainant filed a complaint with either TEA staff or the EPP, TEA staff will notify the complainant that the complaint will be closed without action.

(E) If a complainant has not exhausted all applicable complaint and appeal procedures that the EPP has established to address complaints, TEA staff may delay initiating an investigation until the EPP's complaint and appeal process is complete.

~~[(E) TEA staff will not initiate an investigation if the complainant has not exhausted all grievance and appeal procedures that the EPP has established to address complaints.]~~

(3) Investigating the complaint.

(A) If TEA staff determines a complaint is within the SBEC's jurisdiction, TEA staff will notify the respondent EPP that a complaint has been made, provide a summary of the allegations in the complaint, and request that the EPP respond to the complaint.

(B) TEA staff may request further information from the individual and from the EPP.

(C) An EPP shall:

(i) cooperate fully with any SBEC investigation; and

(ii) respond within 21 business days of receipt to requests for information regarding the complaint(s) and other requests for information from the TEA, except where:

(I) TEA staff imposes a different response date; or

(II) the EPP is unable to meet the initial response date and requests and receives a different response date from TEA staff.

(D) If an EPP fails to comply with subparagraph (C) of this paragraph, the SBEC may amend the complaint to reflect the violation and may deem admitted the violation of [~~at any time during an investigation, fails to cooperate with the investigation, including failing to provide requested information in a timely manner, or provides insufficient information, the EPP may be deemed to be out of compliance with the~~] SBEC rules and/or [~~§~~] Texas Education Code (TEC), Chapter 21 [~~and/or Public Law 110-315, Sections 205-208~~], [~~as~~] alleged in the original complaint.

(4) Resolving the complaint.

(A) Upon completion of an investigation, TEA staff will notify both the individual and the EPP in writing of the findings of the investigation. If TEA staff finds that a violation occurred, the notice will specify the statute and/or rule that was alleged to have been violated.

(B) Each party will have ten business days to present additional evidence or to dispute the findings of the investigation.

(C) After reviewing any additional evidence, if TEA staff finds that no violation has occurred, the complaint will be closed and TEA staff will notify both parties in writing.

(D) [~~(C)~~] After reviewing any additional evidence, if [~~TEA staff will make a proposed recommendation and notify both parties in writing. If~~] TEA staff finds that the EPP has violated SBEC rules and/or [~~§~~] TEC, Chapter 21 [~~and/or Public Law 110-315, Sections 205-208~~], the following provisions apply. [~~the proposed recommendation will include a recommendation that SBEC impose sanctions affecting the EPP's accreditation status in accordance with §229.5 of this title (relating to Accreditation Sanctions and Procedures) and/or continuing approval status in accordance with §229.6 of this title (relating to Continuing Approval).~~]

(i) TEA staff will notify the EPP in writing and specify for each violation the seriousness and extent of the violation, including whether the EPP has been found to have violated that statute and/or rule previously.

(ii) Within ten business days of TEA staff notifying the EPP in writing that a violation has occurred, the EPP and TEA staff will collaboratively develop and agree to a timely resolution of each violation. If the parties cannot agree on a

resolution within ten business days, TEA staff will unilaterally propose a resolution within ten business days of TEA staff issuing the violation notice.

(iii) If the EPP complies with the agreed or proposed resolution, the investigation is closed and results recorded in accordance with subparagraph (E) of this paragraph.

(iv) If the EPP does not comply with the agreed or proposed resolution within the timelines set out in the resolution, TEA staff will make a recommendation that the SBEC impose sanctions affecting the EPP's accreditation status in accordance with §229.5 of this title (relating to Accreditation Sanctions and Procedures) and/or continuing approval status in accordance with §229.6 of this title (relating to Continuing Approval).

(v) The EPP shall be entitled to an informal review of the proposed recommendation for sanctions under the conditions and procedures set out in §229.7 of this title (regarding Informal Review of Texas Education Agency Recommendations).

~~[(D) The EPP shall be entitled to an informal review of the proposed recommendation under the conditions and procedures set out in §229.7 of this title (regarding Informal Review of Texas Education Agency Recommendations).]~~

~~[(E) When a final recommendation following the opportunity for informal review finds that an EPP is out of compliance with SBEC rules; TEC, Chapter 21; and/or Public Law 110-315, Sections 205-208, the EPP shall provide to TEA staff evidence of compliance within 30 business days after receiving the final recommendation. If evidence of compliance is insufficient or is not received within the required time frame, SBEC may include a determination of non-compliance in the EPP's consumer information posted on the TEA website and may impose sanctions affecting the EPP's accreditation status in accordance with §229.5 of this title and continuing approval status in accordance with §229.6 of this title, in accordance with the procedures set out in §229.7 of this title, and §229.8 of this title (relating to Contested Cases for Accreditation Revocation). These sanctions for non-compliance may be in addition to sanctions imposed against the EPP for other violations of SBEC rules; TEC, Chapter 21; and/or Public Law 110-315, Sections 205-208.]~~

~~[(E)]~~ The final disposition of the complaint will be recorded in the TEA complaints tracking system.