

**STATE BOARD OF EDUCATION**  
*(State Board for Career and Technology Education)*

**DONNA BAHORICH, Houston**  
Chair of the State Board of Education  
District 6

**MARTY ROWLEY, Amarillo**  
Vice Chair of the State Board of Education  
District 15

**RUBEN CORTEZ, JR., Brownsville**  
Secretary of the State Board of Education  
District 2

**Board Members**

**LAWRENCE A. ALLEN, JR., Houston**  
District 4

**TOM MAYNARD, Florence**  
District 10

**ERIKA BELTRAN, Fort Worth**  
District 13

**SUE MELTON-MALONE, Robinson**  
District 14

**DAVID BRADLEY, Beaumont**  
District 7

**KEN MERCER, San Antonio**  
District 5

**BARBARA CARGILL, Conroe**  
District 8

**GERALDINE MILLER, Dallas**  
District 12

**KEVEN ELLIS, Lufkin**  
District 9

**GEORGINA C. PÉREZ, El Paso**  
District 1

**PATRICIA HARDY, Fort Worth**  
District 11

**MARISA B. PEREZ-DIAZ, Converse**  
District 3

## **Committees of the State Board of Education**

### **INSTRUCTION**

Sue Melton-Malone, Chair  
Geraldine Miller, Vice Chair  
Donna Bahorich  
Erika Beltran  
Georgina C. Pérez

### **SCHOOL FINANCE/PERMANENT SCHOOL FUND**

David Bradley, Chair  
Tom Maynard, Vice Chair  
Lawrence A. Allen, Jr.  
Patricia Hardy  
Ken Mercer

### **SCHOOL INITIATIVES**

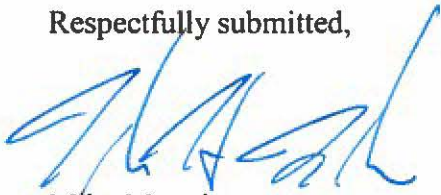
Barbara Cargill, Chair  
Marisa B. Perez-Diaz, Vice Chair  
Ruben Cortez, Jr.  
Keven Ellis  
Marty Rowley

September 11, 2018

State Board of Education  
Austin, Texas

I certify that this is the official agenda of the State Board of Education for its meeting on September 11-14, 2018. Agenda items have been prepared and reviewed by Texas Education Agency staff and are presented for the board's discussion and consideration. Where appropriate, I have proposed an action.

Respectfully submitted,



Mike Morath  
Commissioner of Education

This page has been intentionally left blank.

**William B. Travis Building  
1701 N. Congress Avenue, Austin, Texas**

## **SCHEDULE AND AGENDAS**

### **Committees and Board State Board of Education, Austin, Texas**

<b>Meeting Times</b>	
<b>September 11 - 14, 2018</b>	
<b><u>Tuesday, September 11, 2018</u></b>	
<b>9 a.m.</b>	<b>Committee of the Full Board (Room 1-104)</b>
<b><u>Wednesday, September 12, 2018</u></b>	
<b>9 a.m.</b>	<b>Committee of the Full Board (Room 1-104)</b>
<b><u>Thursday, September 13, 2018</u></b>	
<b>9 a.m.</b>	<b>Committee on Instruction (Room 1-100)</b>
<b>9 a.m.</b>	<b>Committee on School Finance/Permanent School Fund (Room 1-104)</b>
<b>9 a.m.</b>	<b>Committee on School Initiatives (Room 1-111)</b>
<b><u>Friday, September 14, 2018</u></b>	
<b>9 a.m.</b>	<b>General Meeting (Room 1-104)</b>

\*If the Committee of the Full Board does not complete its agenda Tuesday or Wednesday, it will resume its meeting in Room 1-104 on Thursday and/or Friday. If the Committee on Instruction does not complete its agenda Thursday, it will resume its meeting in Room 1-100 on Friday. If the Committee on School Finance/Permanent School Fund does not complete its agenda Thursday, it will resume its meeting in Room 1-104 on Friday. If the Committee on School Initiatives does not complete its agenda Thursday, it will resume its meeting in Room 1-111 on Friday.

NOTE: The chair may permit the board to take up and discuss any of the discussion items on a committee agenda, including hearing any invited presentations to a committee, based upon a recommendation from the committee or inability of the committee to complete its agenda on a preceding day.

The SBOE or a committee of the SBOE may conduct a closed meeting on any agenda item in accordance with Texas Open Meetings Act, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

Agenda is online at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/State\\_Board\\_of\\_Education\\_Agenda/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/State_Board_of_Education_Agenda/) on the Texas Education Agency website. The posted information contains links to board action and discussion items. Public comments on proposed rules may be submitted electronically. All agenda items and rule text are subject to change at any time prior to each board meeting. To the extent possible, copies of changes made after the agenda and the schedule are published will be made available at the board meeting.

**TUESDAY**  
**September 11, 2018**

**9 a.m.**

**COMMITTEE OF THE FULL BOARD – Room 1-104**

*Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.*

- 1. Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education under Proclamation 2019 (Board agenda page I-29)**      **COMMITTEE - DISCUSSION  
SBOE – NO ACTION**

A public hearing before the State Board of Education (SBOE) is scheduled for September 11, 2018, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding instructional materials submitted for adoption under *Proclamation 2019*. This proclamation calls for instructional materials in English language arts and reading; kindergarten- grade 8; Spanish language arts and reading, kindergarten-grade 6; English Learners Language Arts, grades 7 and 8; handwriting, kindergarten-grade 5 (English and Spanish); spelling, grades 1-6 (English and Spanish); and Personal Financial Literacy. Products submitted in response to *Proclamation 2019* were reviewed in the summer of 2018. Due to the anticipated volume of testimony during the public hearing, oral testimony will be limited to two minutes per person. Statutory authority is the Texas Education Code (TEC), §7.110 and §31.022

**COMMITTEE OF THE FULL BOARD** (continued)

2. **Public Hearing on Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits (Board agenda page I-33)**

A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, September 11, 2018, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, and Subchapter C, High School, and proposed repeal of Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School. Due to the anticipated volume of testimony during the public hearing, oral testimony will be limited to two minutes per person. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002 and 28.025.

3. **Adoption of *Long-Range Plan for Public Education* (Board agenda page I-1)**

This item presents for review and adoption the proposed *Long-Range Plan for Public Education*, which sets educational goals through the year 2030. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(1) and 32.001(a)(1)-(4).

**COMMITTEE -DISCUSSION  
SBOE – NO ACTION**

**COMMITTEE – ACTION  
SBOE - ACTION**

**WEDNESDAY  
September 12, 2018**

**9 a.m.**

**COMMITTEE OF THE FULL BOARD - Room 1-104**

*Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.*

**1. Commissioner's Comments  
(Board agenda page I-39)**

**COMMITTEE - DISCUSSION  
SBOE – NO ACTION**

This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation approved by the Texas Legislature.

**2. Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit)  
(Second Reading and Final Adoption)  
(Board agenda page I-5)**

**COMMITTEE - ACTION  
SBOE – ACTION**

This item presents for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit). The proposal would add Texas Essential Knowledge and Skills (TEKS) for a new high school social studies course for implementation in the 2019-2020 school year. No changes are recommended since approved for first reading. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(4) and §28.002.



**COMMITTEE OF THE FULL BOARD (continued)**

**3. Decision on the Percentage Distribution of the Permanent School Fund for Fiscal Years 2020 and 2021**

**(Board agenda page I-17)**

This item provides an opportunity for the board to evaluate and approve the Permanent School Fund percentage distribution rate for fiscal years 2020 and 2021. The board will consider various factors associated with the distribution rate such as expected returns, inflation, and student population growth. Additionally, this item provides the opportunity for the board to discuss anticipated instructional material needs for the 2020-2021 biennium. Statutory authority for this action is Texas Constitution, Article VII, §5.

**COMMITTEE - ACTION  
SBOE - CONSENT**

**4. Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and its Benefits**

**(First Reading and Filing Authorization)**

**(Board agenda page I-21)**

This item presents for first reading and filing authorization proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School, and Subchapter B, Other Economic Courses. The proposed revisions would streamline the social studies standards. Statutory authority for this action is the Texas Education Code (TEC),

**COMMITTEE - ACTION  
SBOE - ACTION**

§ 7.102(c)(4), 28.002, and 28.025.

**COMMITTEE OF THE FULL BOARD (continued)**

5. **Update on the Review of *Proclamation 2019* Instructional Materials** COMMITTEE - DISCUSSION  
**(Board agenda page I-41)** SBOE – NO ACTION

The State Board of Education (SBOE) issued *Proclamation 2019* in April 2017, calling for materials in English language arts and reading, kindergarten-grade 8; Spanish language arts and reading, kindergarten-grade 6; English Learners Language Arts, grades 7 and 8; handwriting, kindergarten-grade 5 (English and Spanish); spelling, grades 1-6 (English and Spanish); and Personal Financial Literacy. Products submitted in response to *Proclamation 2019* were reviewed in the summer of 2018. This item provides an opportunity for staff to update the SBOE on the review of *Proclamation 2019* instructional materials. Statutory authority is the Texas Education Code (TEC), §31.022.

6. **Discussion of Proposed New 19 TAC Chapter 117, Texas Essential Knowledge and Skills for Fine Arts, Subchapter C, High School, Adopted 2013, § 117.327, International Baccalaureate (IB) Film Standard Level (Two Credits), §117.328, International Baccalaureate (IB) Film Higher Level (Two Credits)** COMMITTEE - DISCUSSION  
**(Board agenda page I-45)** SBOE – NO ACTION

This item provides the opportunity for the committee to discuss proposed new 19 TAC Chapter 117, Texas Essential Knowledge and Skills for Fine Arts, Subchapter C, High School, Adopted 2013, § 117.327, International Baccalaureate (IB) Film Standard Level (Two Credits), and §117.328, International Baccalaureate (IB) Film Higher Level (Two Credits). Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

**COMMITTEE OF THE FULL BOARD (continued)**

**7. Discussion of Pending Litigation  
(Board agenda page I-51)**

**COMMITTEE - DISCUSSION  
SBOE – NO ACTION**

The State Board of Education may enter into executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss this item.

Cases to be discussed may include:

*Tribune Company*, No. 08-13141; *The Official Committee of Unsecured Creditors of Tribune Company v. Fitzsimmons, Adv. Pro.* No. 10-54010 (Bankr. D. Del);

*Deutsche Bank v Bank of America*, No. 3:11-CV-01175-F (N. D. Tex., Dallas Div.) and *Deutsche Bank v. Employees Retirement Fund of the City of Dallas*, No. 3:11-CV-1167-F; (N. D. Tex. Dallas Div.) CONSOLIDATED in: *In re: Tribune Company Fraudulent Conveyance Litigation*; No. 11-MD-2296 Consolidated Multidistrict Action (S.D.N.Y.);

*La Feria ISD, Joaquin ISD v. Mike Morath, Commissioner of Education; Texas Education Agency; and Texas State Board of Education, in the 261<sup>st</sup> Judicial District Court of Texas*; Docket No. D-1-GN-17-001385; and

any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

**THURSDAY  
September 13, 2018**

**9 a.m.**

**COMMITTEE ON INSTRUCTION - Room 1-100**

**Members: Sue Melton-Malone, chair; Geraldine Miller, vice chair; Donna Bahorich; Erika Beltran; Georgina C. Pérez. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.**

*Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.*

- 1. Proposed Repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses (Second Reading and Final Adoption)  
**(Board agenda page II-1)****

**COMMITTEE - ACTION  
SBOE - ACTION**

This item presents for second reading and final adoption proposed repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses. The proposal would repeal a rule that is outdated and no longer necessary. No changes to the repeal of §113.70 are recommended since approved for first reading. Statutory authority is Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

**COMMITTEE ON INSTRUCTION (continued)**

2. **Approval of Proposed Updates to the *Dyslexia Handbook, Procedures Concerning Dyslexia and Related Disorders, Revised 2014***  
**(Board agenda page II-9)**

**COMMITTEE - ACTION  
SBOE - ACTION**

This item provides the opportunity for the committee and board to review and approve the recommended updates to the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* to align the handbook with recent legislative changes. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(28) and §38.003, as amended by House Bill (HB) 1886, 85th Texas Legislature, Regular Session, 2017.

3. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders**  
**(First Reading and Filing Authorization)**  
**(Board agenda page II-15)**

**COMMITTEE - ACTION  
SBOE - ACTION**

This item presents for first reading and filing authorization a proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders, to adopt in rule as a figure the updated *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(28) and §38.003.

4. **Proposed Approval of Innovative Courses**  
**(Board agenda page II-23)**

**COMMITTEE - ACTION  
SBOE - ACTION**

This item recommends approval of innovative courses that do not fall within any of the subject areas of the foundation or enrichment curriculum. Statutory authority for this action is the Texas Education Code (TEC), §28.002(f).

**COMMITTEE ON INSTRUCTION (continued)**

**5. Approval of Proposed Timeline to Meet Credit  
By Examination Provider Requirements  
(Board agenda page II-29)**

**COMMITTEE - ACTION  
SBOE – CONSENT**

This item recommends approval of the proposed timeline submitted by Texas Tech University to meet credit by examination provider requirements in accordance with §74.24(c)(5). Recently amended administrative rules for credit by examination permit an examination provider to obtain approval from the State Board of Education (SBOE) to demonstrate comparable results over a specified number of years if the number of students who take an examination in a given year is not sufficient to determine comparable results for all subgroups. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(12) and §28.023.

**6. Consideration of Petition for Adoption of Rule  
Concerning a Requirement for School Uniforms  
(Board agenda page II-37)**

**COMMITTEE – ACTION  
SBOE - ACTION**

A petition to adopt a rule requiring that all Texas students wear school uniforms has been received from Ms. Brittany Clark. This item provides the opportunity for the State Board of Education (SBOE) to consider the petition. The statutory authority for this action is Texas Government Code (TGC), §2001.021 and 19 TAC §30.1.

**7. Discussion of the Texas Lesson Study Professional  
Development Program and Resources  
(Board agenda page II-43)**

**COMMITTEE –DISCUSSION  
SBOE – NO ACTION**

This item provides the opportunity for staff to introduce the Texas Lesson Study (TXLS) professional development program and proposed review process for the teacher-designed lesson study resources available on the Texas Gateway. Statutory authority is Texas Education Code (TEC), §8.0531.

**THURSDAY**  
**September 13, 2018**

**9 a.m.**

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND - Room 1-104**

**Members: David Bradley, chair; Tom Maynard, vice chair; Lawrence A. Allen, Jr.; Patricia Hardy; Ken Mercer. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda. A quorum of the Committee of Investment Advisors to the Permanent School Fund may attend the committee meeting and discuss items on the committee agenda.**

*Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.*

**1. Per Capita Apportionment Rate for the 2018-2019  
School Year  
(Board agenda page III-1)**

**COMMITTEE - ACTION  
SBOE - CONSENT**

The board is responsible for setting a per capita apportionment rate for each year based on an estimate of the amount available for expenditures from the Available School Fund. The board adopted a preliminary 2017-2018 per capita apportionment rate of \$206.566 in September 2017. Agency staff members will propose a recommended revised rate for the 2018-2019 school year at the September meeting of the Committee on School Finance/Permanent School Fund. Statutory authority for this action is the Texas Education Code (TEC), §42.004 and §43.001(b).

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)**

- 2. Review of Permanent School Fund Securities Transactions and the Investment Portfolio** COMMITTEE - DISCUSSION  
SBOE – NO ACTION  
**(Board agenda page III-11)**

Investment staff will report on the transactions executed during the months of May, June and July 2018 in the investment portfolio of the Texas Permanent School Fund.

- 3. Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of May, June and July 2018** COMMITTEE - ACTION  
SBOE - CONSENT  
**(Board agenda page III-3)**

This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund for the months of May, June and July 2018. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

- 4. Second Quarter 2018 Permanent School Fund Performance Report** COMMITTEE - DISCUSSION  
SBOE – NO ACTION  
**(Board agenda page III-13)**

The performance measurement consultant to the Permanent School Fund, BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter 2018 and cumulative investment performance of the various portfolios of the Fund. This item will allow the committee to discuss in depth various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes.



**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)**

**5. Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund**

**(Board agenda page III-5)**

**COMMITTEE – ACTION  
SBOE - CONSENT**

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that the total amount distributed over ten years cannot exceed the total return on all investment assets of the PSF over the same ten-year-period. The board will determine whether transfers may be made from the Permanent School Fund to the Available School Fund in fiscal year 2019. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

**6. Decision on Real Estate Investments**

**(Board agenda page III-9)**

**COMMITTEE - ACTION  
SBOE - CONSENT**

This item provides an opportunity for the committee and board to review and consider possible real estate investments. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

**7. Activities Related to a Student Art Competition to Develop a Permanent School Fund Logo**

**(Board agenda page III-15)**

**COMMITTEE - DISCUSSION  
SBOE – NO ACTION**

This item provides the opportunity for the committee and board to report and discuss activities related to a student art competition to create a Permanent School Fund logo. Statutory authority for this action is the Texas Constitution Article VII, §5(f) and Texas Education Code (TEC), §7.102(c)(3).

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)**

**8. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer  
(Board agenda page III-17)**

**COMMITTEE - DISCUSSION  
SBOE – NO ACTION**

The Permanent School Fund executive administrator will report to the committee on matters relating to the management of the Permanent School Fund and the Charter District Reserve Fund. The report may present information on historical and current status of Fund holdings, current and proposed investment policies and procedures, and historical and current Fund performance and compliance. The administrator may update the board on the bond guarantee program, the status of requests for proposal or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the Permanent School Fund.

**THURSDAY  
September 13, 2018**

**9 a.m.**

**COMMITTEE ON SCHOOL INITIATIVES - Room 1-111**

**Members: Barbara Cargill, chair; Marisa B. Perez-Diaz, vice chair; Ruben Cortez, Jr; Keven Ellis; Marty Rowley. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.**

*Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.*

- 1. Review of 19 TAC Chapter 233, Categories of Classroom Teaching Certificates (Board agenda page IV-1)**

**COMMITTEE - ACTION  
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would implement legislation from the 85<sup>th</sup> Texas Legislature, Regular Session, 2017, to establish new certificates for Early Childhood Prekindergarten-Grade 3 and Trade and Industrial Workforce Training: Grades 6-12; would specify procedures for an interested party to request an additional foreign language certificate; and would identify any additional requirements to obtain certification and/or be eligible to teach specific courses. Additional proposed amendments and technical changes would provide clarification for consistent application of these rules, would remove duplicative language specifying assignments into which certificate holders are eligible to be placed, and would establish consistent information related to the classroom certificates issued by the SBEC. The statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), § 21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.048(a); 21.0442; and 21.0491, as added by House Bill (HB) 3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; and 21.0489, as added by Senate Bill (SB) 1839 and HB 2039, 85<sup>th</sup> Texas Legislature, Regular Session, 2017.

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

2. **Review of Proposed Amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes (Board agenda page IV-27)**

**COMMITTEE - ACTION  
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment to §250.1 would reflect a technical change that would update in rule relevant cross references to the state's Historically Underutilized Business (HUB) program. The proposed amendment to §250.20 would implement legislation from the 84<sup>th</sup> Texas Legislature, 2015, to update the petition form for adoption of rules or rules changes to require the petitioner to indicate that the petitioner meets one of the four definitions of an *interested person*. The statutory authority for 19 TAC Chapter 250 Subchapter A, §250.1 is the Texas Education Code (TEC), §§21.035(b), 21.041(6), and 21.041(a) and Texas Government Code (TGC), §2161.003. The statutory authority for Subchapter B, §250.20, is the TEC, §21.035(b) and §21.041(a) and (b)(1), and TGC, §2001.021, as amended by House Bill 763, 84<sup>th</sup> Texas Legislature, 2015.

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

**3. Review of Proposed Amendments to 19 TAC  
Chapter 247, Educators' Code of Ethics  
(Board Agenda page IV-35)**

**COMMITTEE – ACTION  
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 TAC Chapter 247, Educators' Code of Ethics. The proposed amendment to 19 TAC §247.1 would add the definition of “sexual harassment” and “under the influence of alcohol.” The proposed amendment to 19 TAC §247.2 would make educators who act recklessly in diverting money for personal gain or misrepresenting the educator’s employment history subject to discipline by the SBEC, would clarify language regarding an educator’s illegal use of drugs, and would add a standard regarding educator-on-educator workplace sexual harassment. The proposed amendment to 19 TAC §247.2 would also strike Standard 1.14 (a prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor) with the intent to move that provision to 19 TAC §249.15. The statutory authority for 19 TAC Chapter 247 is the Texas Education Code (TEC), §21.031(a) and §21.041(a) and (b)(1), (7), and (8); and Every Student Succeeds Act (ESSA), 20 United States Code (USC), §7926.

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

4. **Review of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5 Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification**  
**(Board agenda page IV-47)**

**COMMITTEE – ACTION  
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would amend 19 Texas Administrative Code (TAC) Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, and Subchapter B, Enforcement Actions and Guidelines. The proposed amendments to 19 TAC §§249.3, Definitions, 249.5, Purpose; Policy Governing Disciplinary Proceedings, and 249.15, Disciplinary Action by State Board for Educator Certifications, would add language creating a legal presumption based on an educator’s violation of written directives from school administrators regarding the educator’s behavior toward a student. This presumption would be included in the definition of “solicitation of a romantic relationship,” and in the rules that define and address the term “unworthy to instruct or to supervise the youth of this state.” The proposed amendments also would add the existing prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor to the list of reasons the SBEC can take disciplinary action. This provision is intended to comply with both the Every Student Succeeds Act (ESSA), 20 United States Code (USC), §7926, and Texas Education Code (TEC), §21.009(e), and proposed to be stricken from 19 TAC Chapter 247, Educators’ Code of Ethics. The statutory authority for the proposed amendments to 19 TAC §§249.3, 249.5, and 249.15, is the TEC, §§21.009, 21.031(a), 21.035, 21.041, and 21.060; and ESSA, 20 USC, §7926.

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

5. **Review of Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs**  
**(Board Agenda page IV-65)**

**COMMITTEE – ACTION  
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 Texas Academic Code (TAC) Chapter 228, Requirements for Educator Preparation Programs. The proposed amendments would implement the statutory requirements of Senate Bills (SBs) 7 and 1839 and House Bills (HBs) 2039, 3349, and 1963, 85<sup>th</sup> Texas Legislature, Regular Session, 2017. The proposed amendments would also implement changes based on stakeholder input and Texas Education Agency (TEA) staff recommendations. The statutory authority for 19 TAC Chapter 228 is the Texas Education Code (TEC), § 21.031; 21.041(b)(1); 21.044, as amended by SB 7, SB 1839, and SB 1963, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21/0442(c), as added by HB3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.0443; 21.0453; 21.0454; 21.0455; 21.046(b); 21.0485; 21.0487(c); 21.0489(c), as added by SB 1839, and HB 2039, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.049(a); 21.0491, as added by HB 3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.050(b) and (c); 21.051, as amended by SB 1839, 85<sup>th</sup> Texas Legislature, Regular Session; and the Texas Occupation Code (TOC), §55.007.

## **Information Materials**

1. **State Board of Education Operating Rules, Amended January 31, 2017**  
*Public testimony information begins on page V-7.*  
**(Board agenda page V-1)**

2. **Current Status of the Permanent School Fund**  
**(Board agenda page V-25)**

3. **2017-2021 Rule Review Plan for State Board of Education Rules**  
**(Board agenda page V-27)**

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2017 through August 2021. Texas Government Code, §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

4. **State Board of Education Meeting Schedule for 2019**  
**(Board agenda page V-37)**

According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2019.



**OFFICIAL AGENDA**

**STATE BOARD OF EDUCATION  
AUSTIN, TEXAS**

**September 14, 2018  
9 a.m.**

**William B. Travis Building, Room 1-104  
1701 N. Congress Avenue**

**Student Performance**

**Invocation**

**Pledge of Allegiance**

**Roll Call**

**Approval of Minutes**

State Board of Education, June 15, 2018

**1. Resolutions and Presentations**

World War I Centennial Commemoration  
(No Exhibit)

Long-Range Plan for Public Education Steering Committee Resolution  
(No Exhibit)

Heroes for Children Award Presentation and Resolution  
(No Exhibit)

Public Testimony - Individual testimony will be taken to address items other than those on the board agenda. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About\\_TEA/Leadership/State\\_Board\\_of\\_Education/SBOE\\_Meetings/SBOE\\_Operating\\_Rules\\_Amended\\_1-31-17/](http://tea.texas.gov/About_TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_1-31-17/) or in the information section (yellow pages) of the agenda.

**2. Approval of Consent Agenda**

*Any agenda item may be placed on the Consent Agenda by any State Board of Education committee.*

(Agenda Exhibit)..... 33

**COMMITTEE OF THE FULL BOARD**

**3. Adoption of *Long-Range Plan for Public Education***

This item presents for review and adoption the proposed *Long-Range Plan for Public Education*, which sets educational goals through the year 2030. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(1) and 32.001(a)(1)-(4).

(Agenda Exhibit)..... I-1

**4. Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit) (Second Reading and Final Adoption)**

This item presents for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit). The proposal would add Texas Essential Knowledge and Skills (TEKS) for a new high school social studies course for implementation in the 2019-2020 school year. No changes are recommended since approved for first reading. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(4) and §28.002.

(Agenda Exhibit)..... I-5

**5. Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and its Benefits (First Reading and Filing Authorization)**

This item presents for first reading and filing authorization proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School, and Subchapter B, Other Economic Courses. The proposed revisions would streamline the social studies standards. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

(Agenda Exhibit)..... I-21

**COMMITTEE ON INSTRUCTION**

**6. Proposed Repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses (Second Reading and Final Adoption)**

This item presents for second reading and final adoption proposed repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses. The proposal would repeal a rule that is outdated and no longer necessary. No changes to the repeal of §113.70 are recommended since approved for first reading. Statutory authority is Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

(Agenda Exhibit)..... II-1

**7. Approval of Proposed Updates to the *Dyslexia Handbook, Procedures Concerning Dyslexia and Related Disorders, Revised 2014***

This item provides the opportunity for the committee and board to review and approve the recommended updates to the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* to align the handbook with recent legislative changes. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(28) and §38.003, as amended by House Bill (HB) 1886, 85th Texas Legislature, Regular Session, 2017.

(Agenda Exhibit)..... II-9

**8. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders (First Reading and Final Adoption)**

This item presents for first reading and filing authorization a proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders, to adopt in rule as a figure the updated *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(28) and §38.003.

(Agenda Exhibit)..... II-15

**COMMITTEE ON INSTRUCTION (Continued)**

**9. Proposed Approval of Innovative Courses**

This item recommends approval of innovative courses that do not fall within any of the subject areas of the foundation or enrichment curriculum. Statutory authority for this action is the Texas Education Code (TEC), §28.002(f).

(Agenda Exhibit)..... II-23

**10. Consideration of Petition for Adoption of Rule Concerning a Requirement for School Uniforms**

A petition to adopt a rule requiring that all Texas students wear school uniforms has been received from Ms. Brittany Clark. This item provides the opportunity for the State Board of Education (SBOE) to consider the petition. The statutory authority for this action is Texas Government Code (TGC), §2001.021 and 19 TAC §30.1.

(Agenda Exhibit)..... II-37

**COMMITTEE ON SCHOOL INITIATIVES**

**11. Review of 19 TAC Chapter 233, Categories of Classroom Teaching Certificates**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would implement legislation from the 85<sup>th</sup> Texas Legislature, Regular Session, 2017, to establish new certificates for Early Childhood Prekindergarten-Grade 3 and Trade and Industrial Workforce Training: Grades 6-12; would specify procedures for an interested party to request an additional foreign language certificate; and would identify any additional requirements to obtain certification and/or be eligible to teach specific courses. Additional proposed amendments and technical changes would provide clarification for consistent application of these rules, would remove duplicative language specifying assignments into which certificate holders are eligible to be placed, and would establish consistent information related to the classroom certificates issued by the SBEC. The statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), § § 21.003(a); 21.031; 21,041(b)(1)-(4) and (6); 21.044(e) and (f); 21.048(a); 21.0442; and 21.0491, as added by House Bill (HB) 3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; and 21.0489, as added by Senate Bill (SB) 1839 and HB 2039, 85<sup>th</sup> Texas Legislature, Regular Session, 2017.

(Agenda Exhibit)..... IV-1

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

**12. Review of Proposed Amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment to §250.1 would reflect a technical change that would update in rule relevant cross references to the state’s Historically Underutilized Business (HUB) program. The proposed amendment to §250.20 would implement legislation from the 84<sup>th</sup> Texas Legislature, 2015, to update the petition form for adoption of rules or rules changes to require the petitioner to indicate that the petitioner meets one of four definitions of an *interested person*. The statutory authority for 19 TAC Chapter 250 Subchapter A, §250.1 is the Texas Education Code (TEC), §§21.035(b), 21.041(6), and 21.041(a) and Texas Government Code (TGC), §2161.003. The statutory authority for Subchapter B, §250.20, is the TEC, §21.035(b) and §21.041(a) and (b)(1), and TGC, §2001.021, as amended by House Bill 763, 84<sup>th</sup> Texas Legislature, 2015.

(Agenda Exhibit)..... IV-27

**13. Review of Proposed Amendments to 19 TAC Chapter 247, Educators’ Code of Ethics**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 TAC Chapter 247, Educators’ Code of Ethics. The proposed amendment to 19 TAC §247.1 would add the definition of “sexual harassment” and “under the influence of alcohol.” The proposed amendment to 19 TAC §247.2 would make educators who act recklessly in diverting money for personal gain or misrepresenting the educator’s employment history subject to discipline by the SBEC, would clarify language regarding an educator’s illegal use of drugs, and would add a standard regarding educator-on-educator workplace sexual harassment. The proposed amendment to 19 TAC §247.2 would also strike Standard 1.14 (a prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor) with the intent to move that provision to 19 TAC §249.15. The statutory authority for 19 TAC Chapter 247 is the Texas Education Code (TEC), §21.031(a) and §21.041(a) and (b)(1), (7), and (8); and Every Student Succeeds Act (ESSA), 20 United States Code (USC), §7926.

(Agenda Exhibit)..... IV-35

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

**14. Review of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5 Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule action that would amend 19 Texas Administrative Code (TAC) Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, and Subchapter B, Enforcement Actions and Guidelines. The proposed amendments to 19 TAC §§249.3, Definitions, 249.5, Purpose; Policy Governing Disciplinary Proceedings, and 249.15, Disciplinary Action by State Board for Educator Certifications, would add language creating a legal presumption based on an educator’s violation of written directives from school administrators regarding the educator’s behavior toward a student. This presumption would be included in the definition of “solicitation of a romantic relationship,” and in the rules that define and address the term “unworthy to instruct or to supervise the youth of this state.” The proposed amendments also would add the existing prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor to the list of reasons the SBEC can take disciplinary action. This provision is intended to comply with both the Every Student Succeeds Act (ESSA), 20 United States Code (USC), §7926, and Texas Education Code (TEC), §21.009(e), and proposed to be stricken from 19 TAC Chapter 247, Educators’ Code of Ethics. The statutory authority for the proposed amendments to 19 TAC §§249.3, 249.5, and 249.15, is the TEC, §§21.009, 21.031(a), 21.035, 21.041, and 21.060; and ESSA, 20 USC, §7926.

(Agenda Exhibit)..... IV-47

**COMMITTEE ON SCHOOL INITIATIVES (continued)**

**15. Review of Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 Texas Academic Code (TAC) Chapter 228, Requirements for Educator Preparation Programs. The proposed amendments would implement the statutory requirements of Senate Bills (SBs) 7 and 1839 and House Bills (HBs) 2039, 3349, and 1963, 85<sup>th</sup> Texas Legislature, Regular Session, 2017. The proposed amendments would also implement changes based on stakeholder input and Texas Education Agency (TEA) staff recommendations. The statutory authority for 19 TAC Chapter 228 is the Texas Education Code (TEC), §§21.031; 21.041(b)(1); 21.044, as amended by SB 7, SB 1839, and SB 1963, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21/0442(c), as added by HB3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.0443; 21.0453; 21.0454; 21.0455; 21.046(b); 21.0485; 21.0487(c); 21.0489(c), as added by SB 1839, and HB 2039, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.049(a); 21.0491, as added by HB 3349, 85<sup>th</sup> Texas Legislature, Regular Session, 2017; 21.050(b) and (c); 21.051, as amended by SB 1839, 85<sup>th</sup> Texas Legislature, Regular Session; and the Texas Occupation Code (TOC), §55.007.

(Agenda Exhibit)..... IV-65

**STATE BOARD OF EDUCATION**

**16. Ethics Training**

This item will provide State Board of Education (SBOE) members with a discussion of the ethics statutes and rules that apply to SBOE members. Statutory authority is the Texas Education Code (TEC), §43.0031 and 19 TAC §33.5(s).

(Agenda Exhibit)..... 35

**REPORTS OF COMMITTEES REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS**

**Committee chairs may provide an update about discussion items considered during the current meeting by any standing committee or ad hoc committee.**

**REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS**

**Members of the State Board of Education may present information regarding agenda items or other relevant information about public education.**

## **Information Materials**

1. **State Board of Education Operating Rules, Amended January 31, 2017 *Public testimony information begins on page V-7.***  
**(Board agenda page V-1)**
2. **Current Status of the Permanent School Fund**  
**(Board agenda page V-25)**
3. **2017-2021 Rule Review Plan for State Board of Education Rules**  
**(Board agenda page V-27)**

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2017 through August 2021. Texas Government Code, §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

4. **State Board of Education Meeting Schedule for 2019**  
**(Board agenda page V-37)**

According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2019.



**CONSENT AGENDA  
STATE BOARD OF EDUCATION  
September 14, 2018**

- (1) Decision on the Percentage Distribution of the Permanent School Fund for Fiscal Years 2020 and 2021  
(Committee of the Full Board)**

This item provides an opportunity for the board to evaluate and approve the Permanent School Fund percentage distribution rate for fiscal years 2020 and 2021. The board will consider various factors associated with the distribution rate such as expected returns, inflation, and student population growth. Additionally, this item provides the opportunity for the board to discuss anticipated instructional material needs for the 2020-2021 biennium. Statutory authority for this action is Texas Constitution, Article VII, §5.

(Agenda Exhibit)..... I-17

- (2) Approval of Proposed Timeline to Meet Credit By Examination Provider Requirements  
(Committee on Instruction)**

This item recommends approval of the proposed timeline submitted by Texas Tech University to meet credit by examination provider requirements in accordance with §74.24(c)(5). Recently amended administrative rules for credit by examination permit an examination provider to obtain approval from the State Board of Education (SBOE) to demonstrate comparable results over a specified number of years if the number of students who take an examination in a given year is not sufficient to determine comparable results for all subgroups. Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(12) and §28.023.

(Agenda Exhibit) ..... II-29

- (3) Per Capita Apportionment Rate for the 2018-2019 School Year  
(Committee on School Finance/Permanent School Fund)**

The board is responsible for setting a per capita apportionment rate for each school year based on an estimate of the amount available for expenditures from the Available School Fund. Agency staff members will propose a recommended rate for the 2018-2019 school year at the September meeting of the Committee on School Finance/Permanent School Fund. Statutory authority for this action is the Texas Education Code (TEC), §42.004 and §43.001(b).

(Agenda Exhibit) ..... III-1

**(4) Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of May, June and July 2018  
(Committee on School Finance/Permanent School Fund)**

This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund for the months of May, June and July 2018. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

(Agenda Exhibit) ..... III-3

**(5) Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund  
(Committee on School Finance/Permanent School Fund)**

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that the total amount distributed over ten years cannot exceed the total return on all investment assets of the PSF over the same ten-year-period. The board will determine whether transfers may be made from the Permanent School Fund to the Available School Fund in fiscal year 2019. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

(Agenda Exhibit) ..... III-5

**(6) Decision on Real Estate Investments  
(Committee on School Finance/Permanent School Fund)**

This item provides an opportunity for the committee and board to review and consider possible real estate investments. Statutory authority for this action is the Texas Constitution, Article VII, §5(f).

(Agenda Exhibit) ..... III-9

## Ethics Training

September 14, 2018

### STATE BOARD OF EDUCATION: NO ACTION

**SUMMARY:** This item will provide State Board of Education (SBOE) members with a discussion of the ethics statutes and rules that apply to SBOE members.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §43.0031 and 19 TAC §33.5(s).

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Under the Permanent School Fund (PSF) Code of Ethics, the SBOE is required to have yearly ethics training.

**FISCAL IMPACT:** This training will help SBOE members be more aware of the applicable ethics rules and statutes and may ensure that potential ethical problems are avoided.

**PUBLIC AND STUDENT BENEFIT:** This training will help to ensure that all SBOE business is conducted according to high ethical standards.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**PUBLIC COMMENTS:** None.

**Staff Members Responsible:** Von Byer, General Counsel  
Legal Services

Christopher Maska, TEA Ethics Advisor  
Legal Services

**Attachment I:** A Guide to Ethics Laws for State Officers and Employees

**Attachment II:** Can I Take It?

**Attachment III:** Can I Take This Trip?

**Attachment IV:** Revolving Door

This page has been intentionally left blank.

# TEXAS ETHICS COMMISSION

## A GUIDE TO ETHICS LAWS FOR STATE OFFICERS AND EMPLOYEES



**Revised September 15, 2015**

**Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711  
(512) 463-5800      FAX (512) 463-5777      TDD 1-800-735-2989**

**Visit us at <http://www.ethics.state.tx.us> on the Internet.**

**AN EQUAL OPPORTUNITY EMPLOYER**

The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

**A GUIDE TO ETHICS LAWS  
FOR STATE OFFICERS AND EMPLOYEES**

**TABLE OF CONTENTS**

<b>INTRODUCTION.....</b>	<b>1</b>
Laws Interpreted by the Texas Ethics Commission .....	1
Advisory Opinions .....	1
<b>PART I. STANDARDS OF CONDUCT AND CONFLICT OF INTEREST .....</b>	<b>2</b>
The “Should Nots” .....	2
Private Interest in Measure or Decision .....	2
<b>PART II. ACCEPTANCE OF BENEFITS.....</b>	<b>3</b>
Bribery .....	3
Honoraria .....	3
Prohibitions on Gifts .....	3
Exceptions to Gift Prohibitions.....	4
Gifts Prohibited by the Lobby Statute.....	5
Gifts to State Agencies.....	5
Donation of Gifts to Charity .....	6
<b>PART III. ABUSE OF OFFICE .....</b>	<b>6</b>
Misuse of Government Property .....	6
Frequent Flyer Miles .....	6
Political Campaigns .....	6
Misuse of Official Information .....	6
<b>PART IV. OTHER EMPLOYMENT .....</b>	<b>7</b>
Concurrent Employment .....	7
Future Employment.....	7
Revolving Door #1.....	7
Revolving Door #2.....	8
Revolving Door #3.....	8
<b>PART V. PERSONAL FINANCIAL STATEMENTS .....</b>	<b>8</b>
<b>PART VI. LOBBYING BY STATE OFFICERS AND EMPLOYEES .....</b>	<b>9</b>
<b>SUMMARY .....</b>	<b>9</b>
<b>APPENDIX: Penal Code Provisions Regarding Gifts to a Public Servant.....</b>	<b>10</b>
§36.08. Gift to Public Servant by Person Subject to His Jurisdiction .....	10
§36.09. Offering Gift to Public Servant.....	11
§36.10. Non-Applicable.....	11

## INTRODUCTION

As a public servant, you owe a responsibility to the people of Texas in the performance of your official duties. This guide sets out laws that govern your conduct as a public servant. As you read this guide, you should bear in mind that ethical conduct involves more than merely following these laws. As a public servant, you should act fairly and honestly and should avoid creating even the appearance of impropriety.

### **Laws Interpreted by the Texas Ethics Commission**

The Texas Ethics Commission interprets various laws governing the conduct of state officers and employees: the provisions in chapter 572 of the Government Code; the restrictions on benefits, gifts, and honoraria in chapter 36 of the Penal Code and in the lobby law, chapter 305 of the Government Code; and the restrictions on the use of government resources in chapter 39 of the Penal Code.

Some laws governing public servants, such as the nepotism law, are not under the jurisdiction of the Ethics Commission. Also, officers and employees of particular state agencies may be subject to statutes, rules, or personnel guidelines specifically applicable to that agency. Your general counsel or the Office of the Attorney General are the appropriate sources for advice about such laws.

### **Advisory Opinions**

If you are concerned about how any of the laws subject to interpretation by the Ethics Commission apply to you, you may request an advisory opinion. The request must be about the application of one or more of those laws to a specific factual situation, either existing or hypothetical. Gov't Code § 571.091. Unless you waive confidentiality in writing, the Ethics Commission must keep your name confidential.

The legal effect of an Ethics Commission advisory opinion is described in section 571.097 of the Government Code as follows:

It is a defense to prosecution or to imposition of a civil penalty that the person reasonably relied on a written advisory opinion of the commission relating to the provision of the law the person is alleged to have violated or relating to a fact situation that is substantially similar to the fact situation in which the person is involved.

Copies of Ethics Advisory Opinions are available from the Ethics Commission at (512) 463-5800 or at <http://www.ethics.state.tx.us> on the Internet.

## **PART I. STANDARDS OF CONDUCT AND CONFLICT OF INTEREST**

### **The “Should Nots”**

The legislature has adopted the following standards of conduct for state employees:

A state officer or employee should not:

- (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer’s or employee’s official conduct;
- (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
- (3) accept other employment or compensation that could reasonably be expected to impair the officer’s or employee’s independence of judgment in the performance of the officer’s or employee’s official duties;
- (4) make personal investments that could reasonably be expected to create a substantial conflict between the officer’s or employee’s private interest and the public interest; or
- (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer’s or employee’s official powers or performed the officer’s or employee’s official duties in favor of another.

Gov’t Code § 572.051. A state agency may not use appropriated funds to compensate a state employee who violates those standards. Gov’t Code § 2113.014. Also, in some cases failure to follow the standards of conduct will violate one of the criminal statutes discussed in this guide.

### **Private Interest in Measure or Decision**

If a board member has a private or personal interest in a measure, proposal, or decision pending before the board, the board member must disclose that fact to the rest of the board in an open meeting and must refrain from voting or otherwise participating in the matter. Gov’t Code § 572.058. The law specifies that a person does not have a “private or personal interest” in a matter if the person is engaged in a profession, trade, or occupation, and the person’s interest in the matter is the same as others similarly engaged.



**Note:** This guide addresses only the laws that the Ethics Commission interprets. Other laws may contain additional “conflict of interest” provisions. In particular, state agency counsels should be aware of the common-law rule restricting a contract between agencies and agency board members. *See* Attorney General Opinion JM-671 (1987).

## **PART II. ACCEPTANCE OF BENEFITS**

Chapter 36 of the Penal Code prohibits public servants from accepting certain gifts or benefits. Violations of the laws in this chapter carry criminal penalties, and complaints alleging such violations are handled by local prosecutors, not by the Texas Ethics Commission.

### **Bribery**

As a public servant, you commit the offense of bribery if you solicit, offer, or accept a “benefit” in exchange for your decision, opinion, recommendation, vote, or other exercise of official discretion. Penal Code § 36.02. Common sense should tell you if something is a bribe. If it is, don’t take it.

### **Honoraria**

You may not solicit, agree to accept, or accept an honorarium in consideration for services you would not have been asked to provide but for your official position. Penal Code § 36.07. Thus, for example, you may not take a speaker’s fee for speaking if your position with the state is one of the reasons you were asked to speak. The honorarium law does not, however, prohibit acceptance of food, transportation, and lodging in connection with a speech that is more than merely perfunctory. If a state officer or the executive head of an agency accepts food, transportation, or lodging under these circumstances, the officer must report it on Part XIII of the annual personal financial statement. (A travel regulation provides that a state employee may not accept money for a travel expense reimbursement from a person that the employee’s employing state agency intends to audit, examine, or investigate or is auditing, examining, or investigating. Gov’t Code § 660.016.)

### **Prohibitions on Gifts**

Most public servants are subject to one or more prohibitions on the acceptance of “benefits” from persons subject to their jurisdiction. Penal Code § 36.08. For example, a public servant in an agency performing regulatory functions or conducting inspections or investigations may not accept a benefit from a person the public servant “knows to be subject to regulation, inspection, or investigation by the public servant or his agency.” *Id.* § 36.08(a). Similarly, a public servant who “exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions” of the agency may not accept a benefit from a person the public servant knows is interested in or likely to become interested in such a transaction. *Id.* § 36.08(d). (The Appendix contains the full text of section 36.08.) *These prohibitions apply regardless of whether the donor is asking for something in return.*

The statutory definition of “benefit” is “anything reasonably regarded as pecuniary gain or pecuniary advantage.” Penal Code § 36.01(3). In advisory opinions, the Ethics Commission has stated that the following gifts are benefits: a \$50 clock, a hotel room, a hunting trip, football tickets, a \$160 rifle, and a \$60 restaurant meal. Ethics Advisory Opinion Nos. 97, 94, 90, 69, 60 (1992).

### **Exceptions to Gift Prohibitions**

There are exceptions to the prohibitions set out in Penal Code section 36.08. These exceptions are exceptions to criminal liability under that section. You should also make sure that the laws and rules specifically applicable to your agency permit you to accept a benefit permitted under the Penal Code. Even if the acceptance of a gift is legally permissible, you should consider whether the gift raises the appearance of impropriety.

The following exceptions are most likely to be relevant to state officers or employees. (The Appendix contains the full text of section 36.10, which sets out the exceptions to section 36.08.)

- You may accept non-cash items of less than \$50 in value. Penal Code § 36.10(a)(6). If a *lobbyist* provides you with food, beverages, entertainment, lodging, or transportation, however, the lobbyist must be present at the event.
- You may accept benefits in the form of food, lodging, transportation, or entertainment in any amount if you accept them as a “guest” and report them if there is an applicable reporting requirement. Penal Code § 36.10(b). In order for you to accept something as a “guest,” the donor must be present.

*Lobbyists may provide you with transportation and lodging only in connection with a fact-finding trip related to your official duties or in connection with an event, such as a conference, at which you will be providing “more than perfunctory” services in your official capacity.*

State officers and agency heads: You will be required to report on your personal financial statement the acceptance of gifts worth more than \$250, except for gifts from a member of your immediate family or from a lobbyist required to report the gift. You must also report on your personal financial statement your acceptance of meals, transportation, or lodging provided in connection with a speech or other services you provided in your official capacity. (*See above discussion on “Honoraria.”*)

- You may accept a benefit from a person such as a friend, relative, or business associate with whom you have a relationship independent of your official status *if the benefit is given on account of that relationship rather than your official status*. Penal Code § 36.10(a)(2).
- You may accept a payment for which you give legitimate consideration *in a capacity other than as a public servant*. Penal Code § 36.10(a)(1). The use of the term “legitimate consideration” means that the payment you receive must reflect the actual value of the services or goods you provide in exchange for the payment. Ethics Advisory Opinion No. 41 n.1 (1992).

- You may accept certain gifts, awards, and mementos from persons required to register as lobbyists. “Gift” in this context does not include food, entertainment, transportation, or lodging, which are discussed above. Penal Code § 36.10(a)(5). (See discussion of “Gifts Prohibited by the Lobby Statute” below.)

### **Gifts Prohibited by the Lobby Statute**

The lobby law, chapter 305 of the Government Code, contains restrictions on gifts from a person required to register under that chapter. For the most part, the lobby statute is stricter than the Penal Code. For instance, you may not accept transportation and lodging in connection with a pleasure trip from a lobbyist. There is, however, one exception to the general rule that the lobby law is stricter than the Penal Code: Under section 36.10(a)(5) of the Penal Code, there is an exception from the Penal Code prohibition on the acceptance of benefits for a gift, award, or memento that is required to be reported by a lobbyist. Because of this exception, there are circumstances in which it is permissible for you to accept a gift from a lobbyist that you could not accept from a non-lobbyist. If you are thinking about relying on this exception, you should ask the Ethics Commission for advice before you do so.

### **Gifts to State Agencies**

The Ethics Commission has issued several opinions in response to questions about the acceptance of gifts by a state agency. Ethics Advisory Opinion Nos. 118 (1993), 63, 62, 51, 31 (1992). Chapter 305 of the Government Code, which regulates lobbying, and chapter 36 of the Penal Code, which regulates gifts to public officers and employees, do not apply to gifts given to a state agency. Ethics Advisory Opinion Nos. 62, 31 (1992). The statutes applicable to a specific state agency determine whether the agency has authority to accept gifts. *Id.* Also, even if an agency has authority to accept gifts, it may do so only in accordance with the provisions of Government Code chapter 575.

Although questions about the specific authority of a state agency to accept gifts are outside the Ethics Commission’s advisory opinion authority, previous ethics advisory opinions have set out some general guidelines about the acceptance of gifts by a state agency. First, the commission has noted that even if a state agency has authority to accept gifts generally, the agency may accept gifts on behalf of the agency only if the gifts can be used in carrying out the agency’s powers and duties. A gift to a state agency becomes state property, and an officer or employee of the agency cannot be permitted to use it for private purposes. Consequently, acceptance of gifts by a state agency is not a permissible way of acquiring gifts for the personal enjoyment of individual state officers and employees.

Gifts to state agencies, even if legally permissible, may raise questions about impropriety. If the donor is subject to agency regulation or oversight, or engages in a business that can be affected by agency action, then it may be that the donor hopes or expects to gain favor with the agency. Even if that is not the case, it may appear to be so, especially to someone whose interests are different from those of the donor and who may feel at a disadvantage because of the donor’s generosity.

## Donation of Gifts to Charity

What should you do if someone sends you an unsolicited gift that you may not accept? Often public servants would prefer to donate such gifts to charity or to a governmental body, rather than returning them to the donor. A provision of the Penal Code allows such donations in specified circumstances:

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under [section 36.08] may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Penal Code § 36.08(i).

## PART III. ABUSE OF OFFICE

Chapter 39 of the Penal Code contains several provisions prohibiting a public servant from using his or her official position in various ways for non-governmental purposes.

### Misuse of Government Property

As a public servant, you commit an offense if, with intent to obtain a benefit or harm another, you *misapply any thing of value belonging to the government* that has come into your custody or possession by virtue of your public office or employment. Penal Code § 39.02(a)(2). Simply stated, this means that you are to use government property for governmental purposes, not for personal or private purposes.

***Frequent Flyer Miles:*** Penal Code section 39.02(d) specifically provides that travel discount awards such as “frequent flyer” miles, hotel or rental car discounts, or food coupons are not things of value belonging to the government for purposes of the criminal law prohibiting misapplication of a thing of value belonging to the government. This means that personal or private use of travel awards accrued on state business is not a crime. The law does not, however, prevent a particular agency from adopting a policy requiring that such travel awards be used for agency purposes.

***Political Campaigns:*** Do not use state time or state equipment to work on an individual’s political campaign. See Ethics Advisory Opinion No. 172 (1993). Also, chapter 556 of the Government Code prohibits a state agency from using appropriated funds in connection with a political campaign. Further, it prohibits a state officer or employee from using official authority to interfere with or attempt to influence the result of an election. Gov’t Code § 556.004. The Ethics Commission does not have authority to interpret chapter 556 of the Government Code.

### Misuse of Official Information

As a public servant, you may have access to information that has not been made public. Chapter 39 of the Penal Code restricts your use of such information in the following ways:

- You may not use the information to acquire or help another person to acquire a pecuniary interest in any property, transaction, or enterprise affected by the information. Penal Code § 39.06(a)(1).
- You may not speculate or aid another to speculate on the basis of the information. Penal Code § 39.06(a)(2).
- You may not disclose or use the information with the intent to obtain a benefit or to harm another. Penal Code § 39.06(b).

## PART IV. OTHER EMPLOYMENT

### Concurrent Employment

Some of the laws under the jurisdiction of the Ethics Commission are relevant to questions about other employment by a state officer or employee. For example, under the bribery law, you may not solicit or accept a “benefit” in exchange for your decision, opinion, recommendation, vote, or other exercise of discretion as a public servant. Penal Code § 36.02. A salary is a benefit. *See generally* Ethics Advisory Opinion No. 155 (1993). Therefore, the crime of bribery occurs if a state officer accepts other employment in exchange for official action or inaction. In addition, under the honorarium law a state officer may not accept an honorarium for performing services that he or she would not have been asked to provide but for his or her official status. Other laws outside the Ethics Commission’s jurisdiction may also restrict your employment. For information about such laws, consult your general counsel or the Office of the Attorney General.

### Future Employment

If you are about to leave your position with the state, you should be aware of laws that might restrict your future employment. Chapter 572 of the Government Code contains three “revolving door” provisions. Each provision applies to different groups of former officers and employees of state agencies.

**Note:** If other law restricts you from representing a person before an agency after you leave your position, that law prevails over the second and third Government Code provisions (in section 572.054) discussed below.

#### Revolving Door #1

The first revolving door provision will apply to you if you are a former state officer or employee of a state agency. For two years after you cease to be a state officer or employee of an agency, you may not accept employment from a person if you participated on behalf of the state agency in a procurement or contract negotiation involving that person.

**Note:** The first revolving door provision only applies to a state officer or employee whose service or employment with a state agency ceases on or after September 1, 2015.

## Revolving Door #2

The second revolving door provision will apply to you if you are a former board member or executive director of a regulatory agency. For two years after you cease to be a member of the board, you may not make any communication to or appearance before an officer or employee of the board on behalf of any person with the intent to influence agency action in connection with any matter on which that person seeks official action. The restriction applies even if the agency initiates the contact and even if you are communicating on your own behalf (subject to your due process rights). It does not, however, prevent you from merely providing information to the agency, as long as you are not doing so with the intent to influence agency action on behalf of a person.

## Revolving Door #3

The third revolving door provision applies to all former board members and executive directors of regulatory agencies. It also applies to former employees who, at the time of leaving the agency, were compensated at or above a certain salary level. The law applies to a former employee whose compensation at the time of leaving state employment was at or above the level prescribed by the general appropriations act for step 1, salary group A17, of the position classification salary schedule. (The 2015 General Appropriations Act prescribed the minimum annual salary for salary group A17 to be \$36,976 for fiscal years 2016 and 2017.)

A former board member or employee covered by the third provision may *never* represent a person or receive compensation for services rendered on behalf of any person regarding a “particular matter” in which he or she “participated” while serving with the agency. A “particular matter” is a *specific* matter before the agency, such as an investigation, application, contract, rulemaking proceeding, administrative proceeding, request for a ruling, etc. This revolving door provision prohibits you from representing a person, or getting paid to help a person, regarding a *specific* matter in which you were either personally involved or that was a matter within your official responsibility while a state officer or employee. It does not prohibit you from working on the *type of matters* you worked on at the agency. *This restriction lasts forever.*

**Note:** For purposes of the Government Code revolving door statutes, a “person” is an individual or business entity. Gov’t Code § 572.002(7). The statutes do not restrict former state officers or employees from representing or providing services on behalf of nonprofit or governmental entities. Ethics Advisory Opinion No. 232 (1994).

Violation of either of the second or third revolving door provisions is a Class A misdemeanor. The Texas Ethics Commission may assess a civil penalty for a violation of any of the three revolving door laws.

## PART V. PERSONAL FINANCIAL STATEMENTS

Board members and executive directors of most state agencies are required to file a personal financial statement with the commission on or before April 30 each year if they served at any time

beginning on January 1 and continuing through April 30 of that year. Gov't Code § 572.026(a). If your term as a board member is ending or if you plan to resign from a board, you should be aware of the "holdover" provision of the Texas Constitution. Under this provision, a state officer "holds over" in office until replaced. A person who no longer attends meetings may nonetheless "holdover" as a board member. Thus, if you resign or your term expires before January 1 of a given year, you will still be required to file a financial statement for that year if your successor was not appointed before January 1.

However, if you are an appointed officer, as defined by section 572.002 of the Government Code, you are not required to file a personal financial statement if the following criteria are met before January 1 of the year the statement is due: (1) your term expired, you resigned, your agency was abolished, or your agency functions were transferred to another agency; and (2) you ceased to participate in the state agency's functions. If your term expired or if you resigned, you are required to provide written notice of your intent to not participate in the agency's functions to the Office of the Governor and to the Texas Ethics Commission.

Anyone who asks for extra time to file by April 30 is entitled to a one-time, 60-day extension. Call the Ethics Commission legal staff at (512) 463-5800 if you have questions when completing the form.

**Note:** New state law requires a personal financial statement filed with the Ethics Commission to be filed electronically. Please visit the Ethics Commission website at [www.ethics.state.tx.us](http://www.ethics.state.tx.us) for information regarding the filing application and instructions.

**Note:** The commission imposes a civil penalty of \$500 for late filings. The commission has the authority to raise this penalty. There are criminal penalties for failing to file at all.

## **PART VI. LOBBYING BY STATE OFFICERS AND EMPLOYEES**

The provisions of Government Code chapter 556 prohibit the use of appropriated funds to influence legislation. Those provisions are not under the Ethics Commission's jurisdiction. The lobby law, chapter 305 of the Government Code, is not applicable in this context. Note, however, that a *gift* from a state agency to a legislator may be prohibited under the Penal Code.

### **SUMMARY**

This guide is intended to make you familiar with the laws interpreted by the Texas Ethics Commission that govern your conduct as a state officer. For further guidance, you should consult your agency's ethics advisor or general counsel. Also, feel free to call the Ethics Commission at (512) 463-5800 for advice or visit our Internet site at <http://www.ethics.state.tx.us>.

## APPENDIX

### *Penal Code Provisions Regarding Gifts to a Public Servant*

#### **§ 36.08. Gift to Public Servant by Person Subject to His Jurisdiction**

- (a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.
- (b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his agency.
- (c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.
- (d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.
- (e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.
- (f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.
- (g) A public servant who is a hearing examiner employed by an agency performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the agency in a contested case, who is doing business with the agency, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) does not apply to a benefit under this subsection.
- (h) An offense under this section is a Class A misdemeanor.



- (i) A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

**§ 36.09. Offering Gift to Public Servant**

- (a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.
- (b) An offense under this section is a Class A misdemeanor.

**§ 36.10. Non-Applicable**

- (a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:
  - (1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;
  - (2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
  - (3) a benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
    - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
    - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
  - (4) a political contribution as defined by Title 15, Election Code;
  - (5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;
  - (6) an item with a value less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
  - (7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

- (8) transportation, lodging, and meals described by Section 36.07(b); or
- (9) complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered:
  - (A) to a public servant who is a first responder; and
  - (B) through a program or clinic that is:
    - (i) operated by a local bar association or the State Bar of Texas; and
    - (ii) approved by the head of the agency employing the public servant, if the public servant is employed by an agency.
- (b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.
- (c) Section 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.
- (d) Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code. Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.
- (e) In this section, “first responder” means:
  - (1) a peace officer whose duties include responding rapidly to an emergency;
  - (2) fire protection personnel, as that term is defined by Section 419.021, Government Code;
  - (3) a volunteer firefighter who performs firefighting duties on behalf of a political subdivision and who is not serving as a member of the Texas Legislature or holding a statewide elected office;
  - (4) an ambulance driver; or
  - (5) an individual certified as emergency medical services personnel by the Department of State Health Services.

# Can I Take It?

- ✓ **FEES FOR SERVICES:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case you may accept the offer without restriction. Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.
- ✓ **POLITICAL CONTRIBUTIONS:** You may accept a political contribution as a candidate or officeholder.
- ✓ **GOVERNMENT PROPERTY:** You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- ✓ **FOOD, ENTERTAINMENT, TRANSPORTATION, & LODGING:** Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a “guest” and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. As to reporting requirements, the Governor, the Lieutenant Governor and members of the legislature are required to file annual personal financial statements on which they must report certain gifts worth more than \$250. For most state *employees* there is no applicable reporting requirement.

## DONATIONS TO CHARITY

**If you receive an unsolicited benefit that you are prohibited from accepting, you may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.**

## Texas Ethics Commission

P. O. Box 12070  
Austin, Texas 78711-2070

(512) 463-5800  
Fax (512) 463-5777

Visit us at <http://www.ethics.state.tx.us> on the Internet.



*A Guide for Officers and Employees in the Executive Branch of State Government.*

*Note: Employees of the Governor or Lieutenant Governor should refer to the “Can I Take It?” brochure specifically applicable to those offices.*

In compliance with the Americans With Disabilities Act, the publications of the Texas Ethics Commission are available by request in alternative formats. To request an accessible format, please contact our ADA Compliance Officer by telephone at 512-463-5800 or through RELAY Texas at 800-735-2989; or by mail in care of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711.

The Texas Ethics Commission is an Equal Opportunity Employer and does not discriminate in providing services or employment.

Copies of this publication have been distributed in accordance with the State Depository Law and are available for public use through the Texas State Publications Depository Program at the Texas State Library and other state depository libraries.

*Revised October 25, 2016*

# Can I Take It?

## RULE NO. 1

### YOU MAY NEVER TAKE ANYTHING AS CONSIDERATION FOR AN OFFICIAL ACT

The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, and any other exercise of official discretion.

## RULE NO. 2

### YOU MAY NOT ACCEPT AN HONORARIUM FOR SERVICES YOU WOULD NOT HAVE BEEN ASKED TO PROVIDE BUT FOR YOUR OFFICIAL STATUS

This means, for example, that you may not accept a gift or payment for giving a speech if your official position was a reason for your being asked to give the speech. You may, however, accept meals, transportation, and lodging in connection with a speech as long as your speech is more than merely perfunctory. Also, you may accept a gift that is not a "benefit" such as a plaque or something of minimal value like a coffee cup, key chain, or "gimme" cap.

**THE OTHER RULES:** If acceptance of a gift or payment is permissible under Rule Nos. 1 and 2, the next step is to determine whether or not the person making the offer is a registered lobbyist.

## A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST:

### 1. You may not accept:

- ✗ Loans, cash, or negotiable instruments other than political contributions.
- ✗ Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.)

### 2. You may accept:

- ✓ Political contributions as a candidate or officeholder.
- ✓ Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- ✓ Entertainment worth up to \$500 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- ✓ Gifts, other than awards and mementos, that together do not exceed \$500 in value during a calendar year.
- ✓ Awards and mementos worth not more than \$500. This is not an annual cap, but a cap on the value of each individual award or memento.
- ✓ Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.
- ✓ Tickets or other expenditures for attendance at a political fundraiser or charitable event if the lobbyist is present at the event.

Note: You can find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at 512-463-5800 or 800-325-8506 or by going to [www.ethics.state.tx.us/dfs/search\\_LOBBY.html](http://www.ethics.state.tx.us/dfs/search_LOBBY.html) on the Internet.

## PLEASE NOTE

Your name will appear on a lobbyist's activities report:

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed \$114, which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed \$50; or
- each time an expenditure is made for you to attend political fundraisers or charity

## B. IF THE PERSON MAKING THE OFFER IS NOT A REGISTERED LOBBYIST:

You are subject to a general prohibition on taking any benefit from anybody. (A "benefit" is anything reasonably regarded as pecuniary gain or advantage.) There are, however, many exceptions to this general rule. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into *any one* of the following categories.**

- ✓ ITEMS WORTH LESS THAN \$50: You may accept an item with a value of less than \$50. This exception does not apply to cash, checks, or negotiable instruments.
- ✓ INDEPENDENT RELATIONSHIP: There is an exception from the general prohibition on the acceptance of benefits for a gift based on
  - kinship
  - a personal relationship independent of your official status
  - a professional relationship independent of your official status
  - a business relationship independent of your official status.

(over)

## HONORARIUM LAW

As a public servant, you may not accept an honorarium in consideration for services that you would not have been requested to provide but for your official position or duties. You may, however, accept food, transportation, and lodging in connection with services rendered at a conference or seminar.

## CAMPAIGN AND OFFICEHOLDER CONTRIBUTIONS

A candidate or elected officeholder must report all campaign or officeholder contributions, this includes contributions in the form of transportation or lodging.

**No corporate contributions.** A candidate may not accept a campaign contribution, nor may an officeholder accept an officeholder contribution, from a corporation or labor union.

## FINANCIAL STATEMENT

Some government officials are required to file an annual personal financial statement. A filer must report any gifts, including trips, that exceed \$250 in value, except gifts reportable as a political contribution, or a lobby expenditure, or a gift received from an individual related within the second degree by consanguinity or affinity. Also, a filer must report transportation, meals, or lodging provided by a third party in connection with a conference or similar event, unless a lobbyist reports the expenditures.

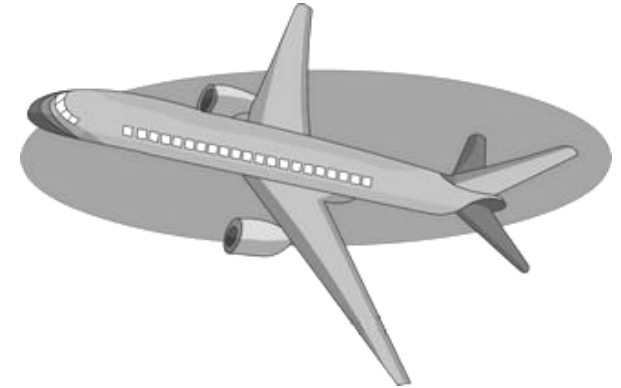
**Texas Ethics Commission**  
P. O. Box 12070  
Austin, Texas 78711-2070

(512) 463-5800  
Fax (512) 463-5777

Visit us at <http://www.ethics.state.tx.us> on the Internet.

ATTACHMENT III

# Can I Take This Trip?



A Texas Ethics Commission guide  
to the acceptance of trips by  
government officers and employees.

In compliance with the Americans With Disabilities Act, the publications of the Texas Ethics Commission are available by request in alternative formats. To request an accessible format, please contact our ADA Compliance Officer by telephone at 512-463-5800 or through RELAY Texas at 800-735-2989; or by mail in care of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711.

The Texas Ethics Commission is an Equal Opportunity Employer and does not discriminate in providing services or employment.

Copies of this publication have been distributed in accordance with the State Depository Law and are available for public use through the Texas State Publications Depository Program at the Texas State Library and other state depository libraries.

*Revised February 24, 1997*

# Can I Take This Trip?

Officers and employees of governmental bodies often ask the Ethics Commission whether it is permissible to take a trip paid for by a third party. To answer such questions, it is first necessary to determine whether the third party is providing the trip to the governmental body or to the individual. If the trip is being provided to an individual government officer or employee, rather than to the governmental body itself, the individual must consider the restrictions and reporting requirements in *all* of the following laws:

- ◆ the lobby law in chapter 305, Government Code
- ◆ the gift laws in chapter 36, Penal Code
- ◆ the honorarium law in chapter 36, Penal Code
- ◆ the campaign finance law in title 15, Election Code
- ◆ the law requiring certain government officials to file an annual personal financial statement in chapter 572, Government Code.

It is important to review the restrictions in all of those laws because what is permissible under one law may not be permissible under another.

## GIFTS TO THE GOVERNMENT

Under the appropriate circumstances, a governmental body may accept an offer by a third party to pay travel expenses for a government officer or employee to conduct government business.

## ATTACHMENT III

Whether a governmental body may accept a gift depends on the laws specifically applicable to the governmental body, not on the laws under the jurisdiction of the Texas Ethics Commission. Individual employees may not make decisions about accepting gifts on behalf of a governmental body; only the governing board may make such decisions.

An individual government officer or employee who intends to accept a trip for himself or herself should first review the restrictions and reporting requirements in the laws discussed below.

## LOBBY LAW

Under the lobby law, an officer or employee in the legislative or executive branch of *state government* is subject to a general prohibition on the acceptance of transportation and lodging from a registered lobbyist. There are exceptions to this rule: one for transportation and lodging in connection with a fact-finding trip, one for transportation and lodging in connection with a conference or similar event, and one for incidental transportation.

**Fact-finding trips.** There is an exception to the prohibition on lobbyist-paid trips for necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, but not including attendance at merely ceremonial events or pleasure trips. A lobbyist who provides transportation or lodging in connection with a fact-finding trip must be present at the event.

**Conferences or similar events.** There is also an exception for necessary expenditures for transportation and lodging provided in connection with a conference or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory. A lobbyist who provides transportation or lodging in connection with a conference or similar event must be present at the event.

**Incidental transportation.** The prohibition on lobbyist-paid transportation does not apply to transportation of incidental value, such as a short ride in a car or taxi.

*Note: A lobbyist is required to report lobby expenditures, including expenditures for transportation and lodging.*

## GIFT LAWS

Under chapter 36 of the Penal Code, most public servants, at both the state and local level, are subject to a prohibition on the acceptance of a benefit from someone subject to their jurisdiction. (The Governor and the Governor's employees, the Lieutenant Governor and the Lieutenant Governor's employees, and members of the legislature and legislative employees are subject to a prohibition on the acceptance of a benefit from anyone.) There are, however, exceptions to those prohibitions, including an exception for something worth less than \$50 and an exception for something from a close friend or family member. There is also a specific exception for benefits in the form of transportation and lodging accepted as a "guest" and reported in accordance with any applicable reporting requirement. In order for something to be accepted as a guest, the donor must be present.

# Revolving Door

## A GUIDE TO THE REVOLVING DOOR PROVISIONS

*THIS GUIDE IS FOR former board members, officers, and employees of certain agencies in the executive branch of state government. Chapter 572 of the Government Code contains three revolving door provisions. Each provision applies to different groups of former members, officers, and employees.*

*The revolving door provisions do not apply to former officers or employees of the legislative or judicial branches of state government.*

**Caveat:** *Other law “that restricts the representation of a person before a particular state agency by a former state officer or employee of that agency” prevails over the second and third provisions in section 572.054. For example, a former employee of the Public Utility Commission is not subject to the second or third revolving door provisions because the Public Utilities Regulatory Act contains a specific revolving door provision that applies to former employees of the Public Utility Commission.*

### The First Revolving Door Rule

#### Two-year Prohibition Applicable to Former State Officers and Employees

The first revolving door rule applies to all former state officers and employees of a state agency. If a state officer or employee of a state agency participated on behalf of the agency in a procurement or contract negotiation involving any person, then he or she *may not* accept employment from that person for two years after the date he or she leaves the agency. This

revolving door rule applies only to a state officer or employee whose service or employment ceases on or after September 1, 2015.

### The Second Revolving Door Rule

#### Two-year Prohibition Applicable to Former Board Members and Executive Directors

The second revolving door rule applies to all former board members and former executive heads of regulatory agencies. For two years after a board member or executive head leaves a regulatory agency, he or she *may not* appear before or communicate with officers or employees of the agency with the intent to influence the board on behalf of any person in connection with any matter on which the person seeks official action.

The law is not an absolute prohibition on communications to an agency by a former board member or former executive head of the agency. *The restriction applies only to communications and appearances intended to influence agency action.* If, for example, a current board member calls a former board member to get information about past board activities, the former board member is free to provide information—as long as the former board member does not try to influence the actions of the current board.

This restriction applies regardless of who initiated the contact and even if a former board member or executive head is communicating on their own behalf with the intent to influence agency action, subject to any constitutional due process right to be heard by the agency.

### The Third Revolving Door Rule

#### Continual Prohibition Applicable to Former Board Members and Upper-level Employees

The third revolving door rule deals with work on specific “matters” and applies to all former officers and certain former employees of regulatory agencies.

**Former Officers.** The provision applies to a former “officer” of a regulatory agency. Board members of state agencies are officers. An individual elected or appointed as the head of an agency that does not have a board is an officer. For example, the Agriculture Commissioner and the Insurance Commissioner are state officers.

**Former Employees Paid At or Above Certain Level.** The provision applies to a former employee of a regulatory agency whose ending pay was at or above the amount prescribed for step 1, salary group A17, of the state position classification salary schedule. (The 2015 General Appropriations Act prescribed the minimum annual salary for salary group A17 as \$36,976 for fiscal years 2016 and 2017.) A former employee who received that amount or more at the time of leaving state employment is subject to the third revolving door rule, regardless of whether the former employee held a classified position or a position exempt from the classification schedule.

An officer or employee subject to the third revolving door prohibition *may never* represent a person or receive compensation for services rendered on behalf of any person regarding a “particular matter” in which he or

she “participated” while serving with the agency, either through personal involvement or because the matter was within his or her official responsibility. In this context, “participated” means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

The most common question raised about the third revolving door rule is whether proposed future employment would involve work on a “particular matter” that a person participated in as a state officer or employee. A “particular matter” is defined narrowly to mean something quite specific, such as an investigation, application, contract, rulemaking or other administrative proceeding.

This means a person subject to the third revolving door prohibition may work on matters similar to matters he or she worked on as a state employee, but not on exactly the same matters. For example, a former employee of a regulatory agency who worked on Permit Application X at the agency could not leave the agency and work on Permit Application X on behalf of the applicant. The former employee could, however, work on Permit Application Z, even if Permit Application Z involved issues similar to the issues raised in connection with Permit Application X.

---

### **Representation of Nonprofit Organizations or Governmental Bodies**

All of the revolving door laws apply to activity on behalf of a “person.” Under the revolving door laws, a “person” is an individual or business entity. It does not include a nonprofit

organization or governmental body.

---

### **Penalties**

A violation of the second or third revolving door provisions is a Class A misdemeanor. The Texas Ethics Commission may assess a civil penalty for a violation of any of the three revolving door laws.

## **Texas Ethics Commission**

P.O. Box 12070  
Austin, Texas 78711  
(512) 463-5800  
FAX (512) 463-5777

Visit us at <http://www.ethics.state.tx.us> on the Internet.



If you have questions, please contact the Ethics Commission at (512) 463-5800.

In compliance with the Americans With Disabilities Act, the publications of the Texas Ethics Commission are available by request in alternative formats. To request an accessible format, please contact our ADA Compliance Officer by telephone at (512) 463-5800, or through RELAY Texas at (800) 735-2989; or by mail in care of the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711-2070.

The Texas Ethics Commission is an Equal Opportunity Employer and does not discriminate in providing services or employment.

Copies of this publication have been distributed in compliance with the State Depository Law, and are available for public use through the Texas State Publications Depository Program at the Texas State Library and other state depository libraries.

*Revised August 26, 2015*

# **REVOLVING DOOR**



## *LEAVING A STATE AGENCY?*

*A Texas Ethics Commission Guide to the  
Revolving Door Provisions in Chapter 572 of  
the Texas Government Code*



## **Adoption of *Long-Range Plan for Public Education***

**September 14, 2018**

### **COMMITTEE OF THE FULL BOARD: ACTION STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for review and adoption the proposed *Long-Range Plan for Public Education*, which sets educational goals through the year 2030.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§7.102(c)(1) and 32.001(a)(1)-(4).

TEC, §7.102(c)(1), requires the State Board of Education (SBOE) to develop and update a long-range plan for public education.

TEC, §32.001(a)(1)-(4) requires the board to develop a long-range plan for technology.

**PREVIOUS BOARD ACTION:** The board in September 2016 approved a work plan crafted by The Boston Consulting Group (BCG), the board's consultant, that outlines the process to be followed in creating a *Long-Range Plan for Public Education*. The board in November 2016 approved a process for selecting members of the Long-Range Plan Steering Committee. The members of the steering committee were selected in June and July 2017. The 18-member steering committee, which includes five SBOE members, met from September 2017 through May 2018.

The committee crafted vision statements and recommendations based on research, discussions, results from ten in-person and two video-based community meetings held around the state, and survey findings. Almost 11,500 Texans responded to the online survey. The SBOE, which received updates on the committee's work on the long-range plan at each board meeting, adopted the vision statements and recommendations at the June 2018 meeting. That information has been used to craft the *Long-Range Plan for Public Education* to be considered by the board at this meeting.

A 15-member Long-Range Plan for Technology Advisory Committee met in March 2018 to consider updates to the *Long-Range Plan for Technology, 2006-2020*. The updated *Long-Range Plan for Technology* is included as an addendum to the *Long-Range Plan for Public Education*.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The proposed *Long-Range Plan for Public Education*, entitled *Building a Stronger Texas*, focuses on three topics: educator preparation, recruitment, and retention; student engagement and empowerment; and family engagement and empowerment, with the overarching theme of equity and access covering all issues.

The Long-Range Plan Steering Committee considered other key strategic reports such as the Texas Higher Education Coordinating Board's *60x30* report and the Texas Education Agency's *TEA Strategic Plan 2019-2023* as it prepared recommendations.

**FISCAL IMPACT:** The Texas Education Agency, The Texas Comprehensive Center (TXCC) at American Institutes for Research (AIR), and the Meadows Foundation are providing in-kind or financial assistance for Phase II of the project.

**PUBLIC AND STUDENT BENEFIT:** Students, educators, and the public will benefit from thoughtful, well-researched long-term goals for the state's public schools.

**PROCEDURAL AND REPORTING IMPLICATIONS:** This project will result in a new long-range plan report.

**PUBLIC COMMENTS:** Summaries of comments received at the community meetings are posted on the board's long-range plan page on the Texas Education Agency's website. Results of the survey are posted there as well.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve the *Long-Range Plan for Public Education*.

**Staff Members Responsible:** Debbie Ratcliffe, Executive Director  
Division of State Board of Education Support

**Attachment:** Statutory Citations

**Separate Exhibit:** *Building a Stronger Texas, Long-Range Plan for Public Education*

**ATTACHMENT**

**Statutory Citations Relating to the Adoption of *Long-Range Plan for Public Education***

**Texas Education Code, §7.102(c)(1), State Board of Education Powers and Duties:**

(c)(1) The board shall develop and update a long-range plan for public education.

**Texas Education Code, §32.001(a)(1)-(4), Development of Long-Range Plan**

(a) The State Board of Education shall develop a long-range plan for:

- (1) acquiring and using technology in the public school system;
- (2) fostering professional development related to the use of technology for educators and others associated with child development;
- (3) fostering computer literacy among public school students so that by the year 2000 each high school graduate in this state has computer-related skills that meet standards adopted by the board; and
- (4) identifying and, through regional education service centers, distributing information on emerging technology for use in the public schools.

This page has been intentionally left blank.

**Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit)  
(Second Reading and Final Adoption)**

**September 14, 2018**

**COMMITTEE OF THE FULL BOARD: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit). The proposal would add Texas Essential Knowledge and Skills (TEKS) for a new high school social studies course for implementation in the 2019-2020 school year. No changes are recommended since approved for first reading.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §7.102(c)(4) and §28.002.

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002, identifies the subjects of the required curriculum and requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

**EFFECTIVE DATE:** The proposed effective date of the proposed new rule is August 26, 2019.

**PREVIOUS BOARD ACTION:** In January 2014, the SBOE discussed future development of new courses that may satisfy requirements of the Foundation High School Program. At the April 2014 SBOE meeting, the board prioritized the development of a list of new high school courses.

In June 2017, the SBOE conducted a work session on the review and revision of the TEKS and the instructional materials adoption cycle. At that time, the board once again discussed the development of new TEKS-based courses. At the June 2017 SBOE meeting, the board approved an updated list indicating the priority in which new courses were to be developed. The SBOE also requested that the new course development list be revisited again in the coming year. A Mexican American studies course was placed third on the priority list after the development of the required instruction on interaction with peace officers (as required by Senate Bill 30, 85th Texas Legislature, Regular Session, 2017) and the development of new cybersecurity courses (as required by House Bill (HB) 3593, 85th Texas Legislature, Regular Session, 2017). At the January-February 2018 meeting, the SBOE discussed the development of TEKS for a Mexican American studies course. The SBOE again discussed the addition of a Mexican American studies course at its April 2018 meeting. At the June 2018 SBOE meeting, the board approved proposed new 19 TAC §113.50 for first reading and filing authorization.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The 83rd Texas Legislature, 2013, passed HB 5, amending the TEC, §28.025, to change the high school graduation programs from the minimum, recommended, and advanced high school programs to one foundation high school program with endorsements to increase flexibility in graduation requirements for students. In August 2013, the

SBOE held a work session to discuss changes to the graduation requirements in order to align with the requirements of HB 5, including discussion of courses required by HB 5. At the January 2014 meeting, the SBOE approved the final adoption of new 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements. At the April 2014 meeting, the SBOE prioritized the development of new courses to align with requirements of HB 5. The list of new courses to be developed included a Mexican American studies course.

In spring 2015, a new Mexican American Studies innovative course was approved by the commissioner of education for use beginning with the 2015-2016 school year. School districts and open-enrollment charter schools may offer any state-approved innovative course for elective credit with the approval of the local board of trustees.

There are currently state-approved TEKS for general social studies elective courses that allow educators to select specific historical, cultural, or research topics in social studies to address in greater depth. In social studies, these courses include Special Topics in Social Studies, Social Studies Research Methods, and Social Studies Advanced Studies. The SBOE called for instructional materials in Special Topics in Social Studies in *Proclamation 2017*, which was issued in April 2015 and amended in April 2016. The board did not adopt social studies materials submitted in response to that call. In November 2016, the board issued *Proclamation 2018* calling for instructional materials covering ethnic studies to be used in the Special Topics in Social Studies course. One product was adopted as a result of that proclamation.

The SBOE held discussions regarding the development of TEKS for a Mexican American studies course at its January-February and April 2018 meetings. At the April 2018 meeting, the SBOE instructed staff to prepare rule text for a new course based on the currently approved Mexican American Studies innovative course submitted by Houston Independent School District and to present the item for first reading and filing authorization at the June 2018 meeting. The board approved proposed new 19 TAC §113.50 for first reading and filing authorization at the June 2018 SBOE meeting.

Attachment II reflects the text of proposed new 19 TAC §113.50 for consideration by the SBOE for second reading and final adoption. The new course would be effective beginning with the 2019-2020 school year. No changes are recommended since approved for first reading.

**FISCAL IMPACT:** The Texas Education Agency (TEA) has determined that there are no additional costs to persons or entities required to comply with the proposed new rule. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy for the first five years that the proposed rule is in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed new rule does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The proposed new rule would add a new TEKS-based course option for students and increase flexibility in meeting graduation requirements.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed new rule would have no procedural and reporting requirements.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed new rule would have no locally maintained paperwork requirements.

**PUBLIC COMMENTS:** Following the June 2018 SBOE meeting, notice of proposed new 19 TAC §113.50 was filed with the Texas Register, initiating the public comment period. No comments had been received at the time this item was prepared. A summary of public comments received regarding the proposal will be provided to the SBOE prior to and during the September 2018 meeting.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** Proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, are presented for discussion as a separate item in this agenda.

A public hearing on proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, is presented as a separate item in this agenda.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit), with an effective date of August 26, 2019.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit)

This page has been intentionally left blank.



**ATTACHMENT I**

**Statutory Citations Relating to Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.50, Ethnic Studies: Mexican American Studies (One Credit)**

**Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (4) The board shall establish curriculum and graduation requirements.

**TEC, §28.002, Required Curriculum (excerpts):**

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
  - (1) a foundation curriculum that includes:
    - (A) English language arts;
    - (B) mathematics;
    - (C) science; and
    - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
  - (2) an enrichment curriculum that includes:
    - (A) to the extent possible, languages other than English;
    - (B) health, with emphasis on the importance of proper nutrition and exercise;
    - (C) physical education;
    - (D) fine arts;
    - (E) career and technology education;
    - (F) technology applications;
    - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
    - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

This page has been intentionally left blank.

**ATTACHMENT II**  
**Text of Proposed New 19 TAC**

**Chapter 113. Texas Essential Knowledge and Skills for Social Studies**

**Subchapter C. High School**

**§113.50. Ethnic Studies: Mexican American Studies (One Credit).**

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 10-12.
- (b) Introduction.
- (1) In Ethnic Studies: Mexican American Studies, an elective course, students learn about the history and cultural contributions of Mexican Americans. Students explore history and culture from an interdisciplinary perspective. The course emphasizes events in the 20th and 21st centuries, but students will also engage with events prior to the 20th century.
- (2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, landmark cases of the U.S. Supreme Court, novels, speeches, letters, diaries, poetry, songs, and artwork is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.
- (3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together.
- (4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.
- (5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).
- (6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.
- (7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.
- (A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

- (B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."
- (8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.
- (9) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (c) Knowledge and skills.
- (1) History. The student understands historical points of reference in Mexican American history. The student is expected to apply absolute and relative chronology through the sequencing of significant individuals, events, and time periods.
- (2) History. The student understands developments related to pre-colonial settlements and Spanish colonization of Mesoamerica and North America. The student is expected to:
- (A) explain the significance of the following events as turning points relevant to Mexican American history: Aztec arrival in Mexico's central valley, establishment of the Aztec Empire, Hernán Cortéz's first encounter with the Aztecs, Spanish conquest of the Aztecs, creation of the New Laws, and Jesuit expulsion from the Americas; and
- (B) examine the contributions of significant individuals from the Spanish colonial era, including Moctezuma, Hernán Cortéz, La Malinche, Bartolomé de las Casas, and Sor Juana Inés de la Cruz.
- (3) History. The student understands developments related to Mexican independence and Mexico's relationship with the United States from 1800-1930. The student is expected to:
- (A) explain the significance of the following events as turning points relevant to Mexican American history: the Grito de Dolores, Mexico's acquisition of independence, Texas's declaration of independence from Mexico, Mexican-American War, Treaty of Guadalupe Hidalgo, Mexican Revolution, creation of the U.S. Border Patrol, and Mexican repatriation of the 1930s; and
- (B) examine the contributions of significant individuals from this period such as Father Miguel Hidalgo, José María Morelos, Agustín de Iturbide, Emiliano Zapata, Francisco (Pancho) Villa, Francisco Madero, Porfirio Díaz, and Álvaro Obregón.
- (4) History. The student understands the causes and impact of the Mexican American civil rights movement from the 1940s to 1975. The student is expected to:
- (A) explain the significance of the following events as turning points relevant to Mexican American history: U.S. entry into World War II, Bracero Program, Longoria Affair, Operation Wetback, Hernández v. Texas, Brown v. Board of Education, Civil Rights Act of 1964, Voting Rights Act of 1965, Farmworkers strike and boycott, and establishment of La Raza Unida Party; and
- (B) identify the contributions of significant individuals from the civil rights era such as César Chávez, Dolores Huerta, Reies López Tijerina, José Ángel Gutiérrez, Rubén Salazar, Emma Tenayuca, Rodolfo "Corky" Gonzáles, Marcario García, Héctor P. García, Roy Benavidez, and Martha P. Cotera.
- (5) History. The student understands the development of voting rights and ideas related to citizenship for Mexican Americans from 1975 to the present. The student is expected to:

- (A) explain the significance of the following events as turning points relevant to Mexican American history: the Immigration Reform and Control Act, Illegal Immigration Reform and Immigration Responsibility Act; and H.R. 4437 passed by the U.S. House of Representatives in 2006; and
  - (B) identify the contributions of significant individuals such as Raul Yzaguirre, Willie Velásquez, Gloria Anzaldúa, Henry Cisneros, Cherrie L. Moraga, and Bill Richardson.
- (6) Geography. The student understands the impact of geographic factors on major events related to Mexican Americans. The student is expected to:
- (A) locate places and regions of cultural and historical significance in Mexican American history;
  - (B) identify physical and human geographic factors related to the settlement of American Indian societies;
  - (C) explain how issues of land use related to Mexican Independence, Texas Independence, and the Mexican Revolution;
  - (D) analyze physical and human geographic factors related to Mexican migration from the 1910s to the 1930s;
  - (E) identify physical and human geographic factors related to the migration of Mexican laborers as part of the 1940s Bracero Program; and
  - (F) analyze the physical and human geographic factors related to contemporary Mexican migration to and Mexican American migration within the United States.
- (7) Economics. The student understands domestic issues related to Mexican American population growth, labor force participation, and the struggle to satisfy wants and needs given scarce resources. The student is expected to:
- (A) analyze the economic impact of Mexican repatriation of the 1930s;
  - (B) evaluate the contributions of the Bracero Program to the U.S. war effort and the development of the agricultural economy in the American Southwest;
  - (C) explain the struggle to create a farmworkers union and the union's efforts to fight for better wages;
  - (D) analyze the economic contributions of the Mexican American labor force;
  - (E) analyze the purchasing power of the Mexican American population as it relates to U.S. household consumption and gross domestic product (GDP); and
  - (F) discuss current issues related to the Mexican American labor force.
- (8) Government. The student understands the significance of political decisions and the struggle for Mexican American political power throughout U.S. history. The student is expected to:
- (A) describe how Mexican Americans have participated in supporting and changing government;
  - (B) analyze the impact of Delgado v. Bastrop Independent School District (ISD) and Hernández v. Texas on Mexican Americans and the end of the biracial paradigm;
  - (C) analyze the Mexican American struggle for civil rights as manifested in the Chicano movement;
  - (D) evaluate the successes and failures of the Mexican American civil rights movement and the farmworkers movement;
  - (E) analyze the significance of U.S. Supreme Court decisions in Miranda v. Arizona, San Antonio ISD v. Rodríguez, and Plyler v. Doe; and

- (F) discuss the role of various organizations such as the American G.I. Forum, the League of United Latin American Citizens (LULAC), the Mexican American Legal Defense and Educational Fund (MALDEF), the National Association of Latino Elected and Appointed Officials (NALEO), and the National Council of La Raza (NCLR) that have participated in the Mexican American struggle for political power.
- (9) Citizenship. The student understands the importance of the respectful expression of different points of view in a constitutional republic. The student is expected to:
- (A) describe the rights and responsibilities of Mexican Americans as Americans in civic participation within the United States;
- (B) discuss ways Americans interpret formal citizenship and cultural citizenship, including membership in one nation and membership in diverse cultural groups;
- (C) discuss ways individuals contribute to the national identity as members of diverse cultural groups; and
- (D) analyze the connotations and histories of identity nomenclature relevant to Mexican Americans such as Mexican, Spanish, Hispanic, Chicana/o, illegal, undocumented, Mexican American, and American Mexican.
- (10) Culture. The student understands the relationship between Mexican American artistic expression and the times during which the art was created. The student is expected to:
- (A) describe how the characteristics and issues of Mexican American history have been reflected in various genres of art, music, film, and literature;
- (B) analyze the significance of selected works of Mexican American literature such as "I am Joaquín" (1967) by Rodolfo "Corky" Gonzáles and "Pensamiento Serpentino" (1971) by Luis Valdez;
- (C) describe the role of artistic expression in mobilizing Mexican Americans and others toward civic participation and action such as the role of "Teatro Campesino" during the farmworkers movement;
- (D) identify the contributions of women such as Sandra Cisneros and Norma Alarcón; and
- (E) identify the impact of Mexican American popular culture on the United States and the world over time.
- (11) Science, technology, and society. The student understands the impact of Mexican American individuals and groups on the development of science and technology in American society and on a global scale. The student is expected to:
- (A) explain the major ideas in astronomy, mathematics, and architectural engineering that developed in the Maya and Aztec civilizations; and
- (B) identify contributions to science and technology in the United States and the world made by Mexican Americans such as Albert Baez, Martha E. Bernal, Ellen Ochoa, and Linda Garcia Cubero.
- (12) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including electronic technology. The student is expected to:
- (A) use social studies terminology correctly;
- (B) analyze diverse points of view related to contemporary Mexican American issues;
- (C) create a written and/or oral presentation on a contemporary issue or topic relevant to Mexican Americans using critical methods of inquiry; and

(D) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions.

This page has been intentionally left blank.



**Decision on the Percentage Distribution of the Permanent School Fund for Fiscal Years  
2020 and 2021**

**September 14, 2018**

**COMMITTEE OF THE FULL BOARD: ACTION  
STATE BOARD OF EDUCATION: CONSENT**

**SUMMARY:** This item provides an opportunity for the board to evaluate and approve the Permanent School Fund percentage distribution rates for fiscal years 2020 and 2021. The board will consider various factors associated with the distribution rate such as expected returns, inflation, and student population growth. Additionally, this item provides the opportunity for the board to discuss anticipated instructional material needs for the 2020-2021 biennium.

**STATUTORY AUTHORITY:** Texas Constitution, Article VII, § 5.

**PREVIOUS BOARD ACTION:** At the June 2018 meeting, the board approved the percentage distribution rate to the Available School Fund from the Permanent School Fund for fiscal years 2020 and 2021 to be between 2.38% and 4.01%.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The amendment to Article VII of the Constitution changed the Permanent School Fund distribution from an income-based policy to a total return policy. This distribution rate is to be determined by a vote of two-thirds of the total membership of the State Board of Education taken before the regular session of the legislature convenes. If the State Board of Education does not adopt a rate, then the legislature will adopt a rate by general law or appropriation. The current rate is 3.7% of the average market value for the trailing 16 state fiscal quarters ending November 30, 2016.

According to the General Appropriations Act (SB 1): **Permanent School Fund Distribution Rate.** At least 45 days prior to the adoption of the distribution rate from the Permanent School Fund to the Available School Fund by the State Board of Education, the Texas Education Agency shall report to the Legislative Budget board and the Governor on the following:

- a. The distribution rate or rates under consideration;
- b. The assumptions and methodology used in determining the rate or rates under consideration;
- c. The annual amount the distribution rate or rates under consideration are estimated to provide, and the difference between them and the annual distribution amounts for the preceding three biennia; and
- d. The optimal distribution amount for the preceding biennium, based on an analysis of intergenerational equity, and the difference between it and the actual distribution amount.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PUBLIC AND STUDENT BENEFIT:** The distribution of the Permanent School Fund will flow to the school districts and reduce the tax burden to the public and the state of Texas.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**ALTERNATIVES:** No alternative actions are proposed regarding this item.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

**Attachment:** [The Texas Constitution, Article VII, § 5 - Permanent School Fund; Available School Fund; Use of Funds; Distribution of Available School Fund \(PDF\)](#)

## ATTACHMENT

# The Texas Constitution

## Article 7 - EDUCATION

### Section 5 - PERMANENT SCHOOL FUND; AVAILABLE SCHOOL FUND; USE OF FUNDS; DISTRIBUTION OF AVAILABLE SCHOOL FUND

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or

(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the

permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

(f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(g) Notwithstanding Subsection (a) of this section, the total amount distributed from the permanent school fund to the available school fund for the state fiscal years beginning September 1, 2003, and September 1, 2004, must be an amount equal to 4.5 percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the 78th Legislature.

(h) Subsection (g) of this section and this subsection expire December 1, 2006.

(Amended Aug. 11, 1891, and Nov. 3, 1964; Subsec. (a) amended and (b) and (c) added Nov. 8, 1983; Subsec. (d) added Nov. 8, 1988; Subsec. (b) amended Nov. 7, 1989; Subsec. (a) amended, a new (b) added, a portion of (a) redesignated as (c), former (b) and (c) amended, former (b)-(d) redesignated as (d)-(f), and (g) and (h) added Sept. 13, 2003.)

**Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits**  
**(First Reading and Filing Authorization)**

**September 14, 2018**

**COMMITTEE OF THE FULL BOARD: ACTION**  
**STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for first reading and filing authorization proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School, and Subchapter B, Other Economics Courses. The proposed revisions would streamline the social studies standards.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002, identifies the subjects of the required curriculum and requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.025, requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

**EFFECTIVE DATE:** The proposed effective date of the proposed revisions and repeals is August 26, 2019.

**PREVIOUS BOARD ACTION:** The SBOE adopted the Texas Essential Knowledge and Skills (TEKS) for social studies effective September 1, 1998. Amendments to the social studies TEKS were last adopted effective August 23, 2010. At the June 2017 meeting, the SBOE approved the proposed TEKS and instructional materials review and adoption schedule and the revised TEKS review process to be used beginning with the streamlining of the social studies TEKS. A discussion item regarding proposed revisions to 19 TAC Chapter 113, Subchapters A-D, and Chapter 118, Subchapters A and B, was presented to the Committee of the Full Board at the June 2018 meeting.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

At the June 2017 work session, the Committee of the Full Board indicated its intention to complete a streamlining of the social studies TEKS, with the latitude to make minor revisions to the standards if the

revisions would not impact currently adopted instructional materials. The SBOE began the streamlining of the social studies TEKS in 2018. Applications to serve on TEKS streamlining work groups for social studies were posted on the Texas Education Agency (TEA) website in July 2017. Also in July 2017, TEA distributed a survey to collect information from educators regarding the streamlining of the social studies TEKS.

Initial applications for social studies TEKS streamlining work groups were provided to SBOE members for approval in September, October, November, and December 2017 and in January, March, April, and June 2018. TEA will continue collecting applications throughout the TEKS streamlining process and will provide to the SBOE at regular intervals any new applications received.

At the January-February 2018 SBOE meeting, the board asked staff to provide to the work groups a crosswalk that has been developed between the current social studies TEKS and civics questions on the U.S. naturalization test. The board directed the work groups to avoid recommending deletion of information represented in the crosswalk.

In February 2018, Work Group A, the first social studies TEKS streamlining work group, convened in Austin to review survey results and feedback on the scope of the TEKS collected from focus groups convened by education service centers (ESCs). Work Group B was convened in March 2018 to review historical figures in the social studies TEKS. Work Group C was convened in April 2018 to make recommendations for streamlining the history and geography strands. In late May and early June 2018, Work Group D was convened to make recommendations for streamlining the geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills strands. In August 2018, Work Group E was convened to make final recommendations for all strands and to ensure vertical alignment across all grade levels and courses.

In 2011, Senate Bill 6, 82nd Texas Legislature, First Called Session, amended the required curriculum to include economics, with emphasis on the free enterprise system and its benefits, as part of the subjects that constitute social studies rather than as a separate subject area. As a result of this change, it is recommended that the TEKS for economics be moved to 19 TAC Chapter 113 at the time the social studies TEKS are streamlined. The text of proposed new §113.31 reflects the addition of Economics into Chapter 113 and revisions recommended by work groups to the Economics with Emphasis on the Free Enterprise System and Its Benefits high school course. Additionally, proposed new 19 TAC Chapter 113, Subchapter D, §§113.71, 113.72, 113.73, 113.74, 113.75, 113.76, and 113.77, reflect the move of other economics courses from Chapter 118, Subchapter B.

The text of proposed revisions to 19 TAC Chapter 113, Subchapters A-D, and the repeal of 19 TAC Chapter 118, Subchapters A and B, for consideration by the SBOE for first reading and filing authorization will be provided as a separate exhibit at the September 2018 meeting.

**FISCAL IMPACT:** TEA has determined that there are no additional costs to persons required to comply with the proposed revisions.

The proposed revisions would have fiscal implications for state government. For fiscal year 2018, the estimated cost to the TEA to reimburse committee members for travel to review and streamline the social studies TEKS is \$105,000. There would also be implications for the TEA if the state creates professional development to help teachers and administrators understand the streamlined TEKS. Any professional development that is created would be based on whether the TEA receives an appropriation for professional development in the next biennium.

The proposed revisions may have fiscal implications for school districts and charter schools to implement the streamlined TEKS. The costs may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

The TEA has determined that there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed revisions do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The proposed revisions and repeals would better align the TEKS and streamline the standards to ensure they can be reasonably taught within the amount of time typically allotted for the subject or course.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed revisions and repeals would have no new procedural and reporting requirements.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed revisions and repeals would have no new locally maintained paperwork requirements.

**PUBLIC COMMENTS:** The public comment period will begin when the proposal, approved for first reading and filing authorization by the SBOE, is published in the *Texas Register*.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** A public hearing on proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, is presented as a separate item in this agenda.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve for first reading and filing authorization proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School, and Subchapter B, Other Economics Courses.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services  
Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment:** Statutory Citations

**Separate Exhibit:**

Text of Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School, and Subchapter B, Other Economics Courses  
(to be provided at the September 2018 SBOE meeting)



**ATTACHMENT**

**Statutory Citations Relating to Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits**

**Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (4) The board shall establish curriculum and graduation requirements.

**TEC, §28.002, Required Curriculum (excerpts):**

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
- (1) a foundation curriculum that includes:
    - (A) English language arts;
    - (B) mathematics;
    - (C) science; and
    - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
  - (2) an enrichment curriculum that includes:
    - (A) to the extent possible, languages other than English;
    - (B) health, with emphasis on the importance of proper nutrition and exercise;
    - (C) physical education;
    - (D) fine arts;
    - (E) career and technology education;
    - (F) technology applications;
    - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
    - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

**TEC, §28.025, High School Diploma and Certificate; Academic Achievement Record (excerpts):**

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
  - (1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course authorized under Subsection (b-2);
  - (2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
  - (3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
  - (4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;
  - (5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);
  - (6) five elective credits;
  - (7) one credit in fine arts under Section 28.002(a)(2)(D); and
  - (8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C).
- (b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.
- (b-7) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) of this section, Section 39.025, or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this

subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

(b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:

- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee;
- (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or
- (3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.

(b-13) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to substitute credit in another appropriate course for the second credit in the same language in a language other than English otherwise required by Subsection (b-1)(5) if the student, in completing the first credit required under Subsection (b-1)(5), demonstrates that the student is unlikely to be able to complete the second credit. The board rules must establish:

- (1) the standards and, as applicable, the appropriate school personnel for making a determination under this subsection; and
- (2) appropriate substitute courses for purposes of this subsection.

(b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:

- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee; or
- (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.

This page has been intentionally left blank.

**Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education Under *Proclamation 2019***

**September 11, 2018**

**COMMITTEE OF THE FULL BOARD: DISCUSSION**  
**STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** A public hearing before the State Board of Education (SBOE) is scheduled for September 11, 2018, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding instructional materials submitted for adoption under *Proclamation 2019*. This proclamation called for instructional materials in English language arts and reading; kindergarten–grade 8; Spanish language arts and reading, kindergarten – grade 6; English Learners Language Arts, grades 7 and 8; handwriting, kindergarten –grade 5 (English and Spanish); spelling, grades 1–6 (English and Spanish); and Personal Financial Literacy. Products submitted in response to *Proclamation 2019* were reviewed in the summer of 2018. Due to the anticipated volume of testimony during the public hearing, oral testimony will be limited to two minutes per person.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §7.110 and §31.022.

TEC, §7.110, requires the SBOE to create and implement policies that allow the public an opportunity to appear before and speak to the board.

TEC, §31.022, requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum.

**BOARD RESPONSE:** This item is presented for review and comment.

**PREVIOUS BOARD ACTION:** *Proclamation 2019* was issued by the SBOE in April 2017. Amendments to *Proclamation 2019* were approved at the April 2018 SBOE meeting.

**FUTURE ACTION EXPECTED:** The SBOE is expected to take action on the adoption of *Proclamation 2019* materials in November 2018.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The Texas Administrative Code, 19 TAC Chapter 66, Subchapter B, allows both Texas and non-Texas residents to testify at public hearings on instructional materials, with priority given to Texas residents. Representatives of publishing companies are allowed to give oral responses to testimony at hearings before the SBOE.

**FISCAL IMPACT:** None.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Benefits include alignment of instructional materials to recently revised Texas Essential Knowledge and Skills.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** Public comments that are received by August 31, 2018, will be provided to the board as a separate exhibit at the board meeting.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** An update on the review of *Proclamation 2019* instructional materials is included as a separate item in this agenda.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Kelly Callaway, Senior Director  
Instructional Materials

**Attachment:** Statutory Citations

## ATTACHMENT

### Statutory Citations Relating to Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education Under *Proclamation 2019*

**Texas Education Code, §7.110, Public Testimony:** The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

#### **Texas Education Code, §31.022, Instructional Materials Review and Adoption:**

- (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:
  - (1) is not required to review and adopt instructional materials for all grade levels in a single year; and
  - (2) shall give priority to instructional materials in the following subjects:
    - (A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and
    - (D) enrichment curriculum subjects.
- (b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.
- (b-1) Expired.
- (c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.
- (d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., ch. 1210]** A notice published under Subsection

(d) must state that a publisher of an adopted textbook for a grade level other than prekindergarten must submit an electronic sample of the textbook as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., 1st C.S., ch.6]** A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.
- (f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.



**Public Hearing on Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits**

**September 11, 2018**

**COMMITTEE OF THE FULL BOARD: DISCUSSION  
STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, September 11, 2018, in the William B. Travis Building, Room 1-104. Testimony will be presented regarding proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, and Subchapter C, High School, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Subchapter A, High School. Due to the anticipated volume of testimony during the public hearing, oral testimony will be limited to two minutes per person.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

TEC, §7.102(c)(4), requires the SBOE to establish curriculum and graduation requirements.

TEC, §28.002, identifies the subjects of the required curriculum and requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.025, requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

**BOARD RESPONSE:** This item is presented for review and comment.

**PREVIOUS BOARD ACTION:** The SBOE adopted the Texas Essential Knowledge and Skills (TEKS) for social studies effective September 1, 1998. Amendments to the social studies TEKS were last adopted effective August 23, 2010. At the June 2017 meeting, the SBOE approved the proposed TEKS and instructional materials review and adoption schedule and the revised TEKS review process to be used beginning with the streamlining of the social studies TEKS. A discussion item regarding proposed revisions to 19 TAC Chapter 113, Subchapters A-D, and Chapter 118, Subchapters A and B, was presented to the Committee of the Full Board at the June 2018 meeting.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** This scheduled public hearing is part of the SBOE-approved process for streamlining the TEKS. Details about the current process for the proposed revisions to the social studies and economics TEKS can be found in the separate item in this agenda proposing revisions to 19 TAC Chapter 113, Subchapters A-D, and the repeal of 19 TAC Chapter 118, Subchapters A and B.

**FISCAL IMPACT:** None.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Benefits include better alignment of the TEKS and streamlining to ensure the standards can be reasonably taught within the amount of time typically allotted for the subject or course.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** None.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** Proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, are presented for first reading and filing authorization as a separate item in this agenda.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment:** Statutory Citations

**ATTACHMENT**

**Statutory Citations Relating to Public Hearing on Proposed Revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and Proposed Repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits**

**Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (4) The board shall establish curriculum and graduation requirements.

**TEC, §28.002, Required Curriculum (excerpts):**

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
  - (1) a foundation curriculum that includes:
    - (A) English language arts;
    - (B) mathematics;
    - (C) science; and
    - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
  - (2) an enrichment curriculum that includes:
    - (A) to the extent possible, languages other than English;
    - (B) health, with emphasis on the importance of proper nutrition and exercise;
    - (C) physical education;
    - (D) fine arts;
    - (E) career and technology education;
    - (F) technology applications;
    - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
    - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

**TEC, §28.025, High School Diploma and Certificate; Academic Achievement Record (excerpts):**

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
  - (1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course authorized under Subsection (b-2);
  - (2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
  - (3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
  - (4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;
  - (5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);
  - (6) five elective credits;
  - (7) one credit in fine arts under Section 28.002(a)(2)(D); and
  - (8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C).
- (b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.
- (b-7) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) of this section, Section 39.025, or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this

subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

- (b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:
- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee;
  - (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or
  - (3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.
- (b-13) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to substitute credit in another appropriate course for the second credit in the same language in a language other than English otherwise required by Subsection (b-1)(5) if the student, in completing the first credit required under Subsection (b-1)(5), demonstrates that the student is unlikely to be able to complete the second credit. The board rules must establish:
- (1) the standards and, as applicable, the appropriate school personnel for making a determination under this subsection; and
  - (2) appropriate substitute courses for purposes of this subsection.
- (b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:
- (1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee; or
  - (2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.

This page has been intentionally left blank.

## Commissioner's Comments

September 12, 2018

**COMMITTEE OF THE FULL BOARD: DISCUSSION**  
**STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation approved by the Texas Legislature.

**BOARD RESPONSE:** Review and comment.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** On an as needed basis, the board will be briefed on significant public education issues and events.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Debbie Ratcliffe, Executive Director  
Division of State Board of Education Support

This page has been intentionally left blank.



## Update on the Review of *Proclamation 2019* Instructional Materials

September 12, 2018

### COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

**SUMMARY:** The State Board of Education (SBOE) issued *Proclamation 2019* in April 2017, calling for materials in English language arts and reading, kindergarten–grade 8; Spanish language arts and reading, kindergarten–grade 6; English Learners Language Arts, grades 7 and 8; handwriting, kindergarten–grade 5 (English and Spanish); spelling, grades 1–6 (English and Spanish); and Personal Financial Literacy. Products submitted in response to *Proclamation 2019* were reviewed in the summer of 2018. This item provides an opportunity for staff to update the SBOE on the review of *Proclamation 2019* instructional materials.

**STATUTORY AUTHORITY:** Statutory authority for the approval of instructional materials is the Texas Education Code (TEC), §31.022, which requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum.

**BOARD RESPONSE:** This item is presented for review and comment.

**PREVIOUS BOARD ACTION:** *Proclamation 2019* was issued by the SBOE in April 2017. Amendments to *Proclamation 2019* were approved at the April 2018 SBOE meeting.

**FUTURE ACTION EXPECTED:** The SBOE is expected to take action on the adoption of *Proclamation 2019* materials in November 2018.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The SBOE issued *Proclamation 2019* at its April 2017 meeting and amended it at its April 2018 meeting. The review of *Proclamation 2019* instructional materials concluded in August 2018.

**FISCAL IMPACT:** None.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Benefits include alignment of instructional materials to recently revised Texas Essential Knowledge and Skills.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** A public hearing regarding instructional materials submitted for adoption by the SBOE under *Proclamation 2019* is included as a separate item in this agenda.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Kelly Callaway, Senior Director  
Instructional Materials

**Attachment:** Statutory Citations

## ATTACHMENT

### Statutory Citations Relating to Update on the Review of *Proclamation 2019* Instructional Materials

#### Texas Education Code, §31.022, Instructional Materials Review and Adoption:

- (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:
  - (1) is not required to review and adopt instructional materials for all grade levels in a single year; and
  - (2) shall give priority to instructional materials in the following subjects:
    - (A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and
    - (D) enrichment curriculum subjects.
- (b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.
- (b-1) Expired.
- (c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.
- (d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., ch. 1210]** A notice published under Subsection (d) must state that a publisher of an adopted textbook for a grade level other than prekindergarten must submit an electronic sample of the textbook as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., 1st C.S., ch.6]** A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other

than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

- (e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.
- (f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.

**Discussion of Proposed New 19 TAC Chapter 117, Texas Essential Knowledge and Skills for Fine Arts, Subchapter C, High School, Adopted 2013, §117.327, International Baccalaureate (IB) Film Standard Level (Two Credits), and §117.328, International Baccalaureate (IB) Film Higher Level (Two Credits)**

**September 12, 2018**

**COMMITTEE OF THE FULL BOARD: DISCUSSION  
STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** This item provides the opportunity for the committee to discuss proposed new 19 TAC Chapter 117, Texas Essential Knowledge and Skills for Fine Arts, Subchapter C, High School, Adopted 2013, §117.327, International Baccalaureate (IB) Film Standard Level (Two Credits), and §117.328, International Baccalaureate (IB) Film Higher Level (Two Credits).

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002, identifies the subjects of the required curriculum and requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.025, requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

**BOARD RESPONSE:** This item is presented for review and comment.

**PREVIOUS BOARD ACTION:** The SBOE adopted the Texas Essential Knowledge and Skills (TEKS) for fine arts effective September 1, 1998. Amendments to the fine arts TEKS were last adopted effective July 28, 2013.

At the November 2017 meeting, the SBOE approved for first reading and filing authorization proposed revisions to IB courses in 19 TAC Chapters 110, 111, 112, and 114 to align board rules with current course offerings by the IB organization and update the amount of credit available for IB courses. The SBOE approved proposed revisions to IB courses in 19 TAC Chapters 110, 111, 112, and 114 for second reading and final adoption at the January-February 2018 meeting. Also at the January-February 2018 meeting, the SBOE approved for first reading and filing authorization proposed revisions to Advanced Placement (AP) and IB courses in 19 TAC Chapters 112, 113, 118, and 126 to align the rules with additional course offerings by the IB organization and update the amount of credit available for IB and AP courses. The SBOE approved proposed revisions to AP and IB courses in 19 TAC Chapters 112, 113, 118, and 126 for second reading and final adoption at the April 2018 meeting.

**FUTURE ACTION EXPECTED:** Upon request by the SBOE, proposed new §117.327 and §117.328 will be presented for first reading and filing authorization at a future SBOE meeting.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** In order for students to earn state credit toward specific graduation requirements, a course must be approved by the SBOE and included in administrative rule. At the September 2017 SBOE meeting, the committee discussed IB courses that are not currently included in SBOE rule and considerations regarding the appropriate amount of state credit that should be awarded for IB courses. At that time, the board requested that agency staff prepare rule text to address these issues and requested that staff balance the chapters that would be updated over two different meetings. At the January-February 2018 meeting, the SBOE approved proposed revisions to English language arts and reading, mathematics, science, and languages other than English IB courses for second reading and final adoption. The SBOE's approval included the addition of eight IB courses to SBOE rules and updates that increased the amount of credit available for 17 IB courses currently in rule. The revisions became effective August 27, 2018.

At the April 2018 meeting, the SBOE approved for second reading and final adoption proposed revisions to align the TEKS in science, social studies, economics, and technology applications with additional IB course offerings and update the amount of credit available for both IB and AP courses in these subject areas. The SBOE's approval included the addition of nine IB courses to SBOE rules and updates to the amount of credit available for seven AP and IB courses currently in rule. The revisions became effective August 27, 2018.

This item allows the SBOE to consider the addition of IB film courses to the fine arts.

**FISCAL IMPACT:** The Texas Education Agency does not anticipate any additional costs to persons or entities required to comply with the proposed new sections; however, fiscal implications will be assessed after the committee gives direction regarding the proposal to bring forward for first reading and filing authorization.

**PUBLIC AND STUDENT BENEFIT:** Benefits include the availability of additional TEKS-based IB courses to allow students more flexibility in meeting state requirements for graduation.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Procedural and reporting implications will be assessed after the committee gives direction regarding the proposal to bring forward for first reading and filing authorization.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** Locally maintained paperwork requirements will be assessed after the committee gives direction regarding the proposal to bring forward for first reading and filing authorization.

**PUBLIC COMMENTS:** The public comment period will begin when the proposal, approved for first reading and filing authorization, is published in the *Texas Register*.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment:** Statutory Citations

This page has been intentionally left blank.



## ATTACHMENT

### **Statutory Citations Relating to Discussion of Proposed New 19 TAC Chapter 117, Texas Essential Knowledge and Skills for Fine Arts, Subchapter C, High School, Adopted 2013, §117.327, International Baccalaureate (IB) Film Standard Level (Two Credits), and §117.328, International Baccalaureate (IB) Film Higher Level (Two Credits)**

#### **Texas Education Code, §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (4) The board shall establish curriculum and graduation requirements.

#### **Texas Education Code, §28.002, Required Curriculum (excerpts):**

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
- (1) a foundation curriculum that includes:
    - (A) English language arts;
    - (B) mathematics;
    - (C) science; and
    - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
  - (2) an enrichment curriculum that includes:
    - (A) to the extent possible, languages other than English;
    - (B) health, with emphasis on the importance of proper nutrition and exercise;
    - (C) physical education;
    - (D) fine arts;
    - (E) career and technology education;
    - (F) technology applications;
    - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
    - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

**Texas Education Code, §28.025, High School Diploma and Certificate; Academic Achievement Record (excerpts):**

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
  - (1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course authorized under Subsection (b-2);
  - (2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
  - (3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
  - (4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;
  - (5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);
  - (6) five elective credits;
  - (7) one credit in fine arts under Section 28.002(a)(2)(D); and
  - (8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C).

## Discussion of Pending Litigation

September 12, 2018

### COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

**SUMMARY:** The State Board of Education may enter executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss this item.

Cases to be discussed may include:

*Tribune Company*, No. 08-13141; *The Official Committee of Unsecured Creditors of Tribune Company v. Fitzsimmons*, Adv. Pro. No. 10-54010 (Bankr. D. Del);

*Deutsche Bank v Bank of America*, No. 3:11-CV-01175-F (N. D. Tex., Dallas Div.) and *Deutsche Bank v. Employees Retirement Fund of the City of Dallas*, No. 3:11-CV-1167-F; ( N. D. Tex. Dallas Div. ) *CONSOLIDATED in: In re: Tribune Company Fraudulent Conveyance Litigation*; No. 11-MD-2296 *Consolidated Multidistrict Action* (S.D.N.Y.);

*La Feria ISD, Joaquin ISD v. Mike Morath, Commissioner of Education; Texas Education Agency; and Texas State Board of Education, in the 261<sup>st</sup> Judicial District Court of Texas*; Docket No. D-1-GN-17-001385; and

any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

**BOARD RESPONSE:** Board may advise and comment.

**PREVIOUS BOARD ACTION:** The committee is apprised of pending litigation when the need arises.

**FUTURE ACTION EXPECTED:** Continued briefing on procedural developments.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** None.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Von Byer, General Counsel  
Legal Services

This page has been intentionally left blank.

**Proposed Repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses  
(Second Reading and Final Adoption)**

**September 14, 2018**

**COMMITTEE ON INSTRUCTION: ACTION**  
**STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for second reading and final adoption proposed repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses. The proposal would repeal a rule that is outdated and no longer necessary. No changes to the repeal of §113.70 are recommended since approved for first reading.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§7.102(c)(4), 28.002, and 28.025.

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002, identifies the subjects of the required curriculum and requires the SBOE to by rule identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

TEC, §28.025, requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002, and to allow a student to comply with the curriculum requirements by successfully completing a dual credit course.

**EFFECTIVE DATE:** The proposed effective date of the proposed repeal is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final approval by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2019-2020 school year. The earlier effective date will expedite the removal of an outdated rule to avoid confusion.

**PREVIOUS BOARD ACTION:** The SBOE originally adopted 19 TAC Chapter 113, Subchapter D, effective September 1, 1998. The board adopted 19 TAC §113.70 effective September 1, 2001. At the June 2018 meeting, the SBOE approved the proposed repeal of §113.70 for first reading and filing authorization. At the June 2018 meeting, the SBOE also approved for first reading and filing authorization the proposed repeal of §113.69, Other Courses for which Students May Receive Social Studies Credit. However, the repeal of §113.69 had previously been included in the proposed revisions to Chapter 113, Subchapter D, that were approved for second reading and final adoption at the April 2018 SBOE meeting with an effective date of August 27, 2018. Therefore, this item does not include the repeal of §113.69 for second reading and final adoption.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Section 113.70 requires that a student be awarded one-half credit for each semester of successful completion of a college course in which the student is concurrently enrolled while in high school. However, credit is awarded based on

demonstrated proficiency of the TEKS for a course. As written, this rule is not accurate and should be repealed.

At the June 2018 meeting, the SBOE approved for first reading and filing authorization the proposed repeal of §113.70.

At the June 2018 meeting, the SBOE also approved for first reading and filing authorization the proposed repeal of §113.69, Other Courses for which Students May Receive Social Studies Credit. However, the repeal of §113.69 had previously been included in the proposed revisions to Chapter 113, Subchapter D, that were approved for second reading and final adoption at the April 2018 SBOE meeting with an effective date of August 27, 2018. The duplicate repeal of §113.69 approved for first reading in June 2018 was required to be withdrawn from the Texas Register so that the initial repeal approved for second reading in April 2018 could take effect on August 27, 2018. TEA staff filed the withdrawal effective August 14, 2018. Therefore, this item does not include the repeal of §113.69 for second reading and final adoption.

Attachment II reflects the text of the proposed repeal of §113.70. No changes to the repeal of §113.70 are recommended since approved for first reading.

**FISCAL IMPACT:** The Texas Education Agency (TEA) has determined that there are no additional costs to persons or entities required to comply with the proposed repeals. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy for the first five years that the proposed repeals are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed repeals do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The proposed repeals would remove outdated and unnecessary rules to prevent confusion for administrators and counselors.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed repeals would have no new procedural and reporting requirements.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed repeals would have no new locally maintained paperwork requirements.

**PUBLIC COMMENTS:** Following the June 2018 SBOE meeting, notice of the proposed repeal of 19 TAC §113.70 was filed with the Texas Register, initiating the public comment period. No comments had been received at the time this item was prepared. A summary of public comments received regarding the repeals will be provided to the SBOE prior to and during the September 2018 meeting.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** A public hearing on proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, is presented as a separate item in this agenda.

Proposed revisions to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, and proposed repeal of 19 TAC Chapter 118, Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, are presented for first reading and filing authorization as a separate item in this agenda.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses; and

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. *(Per TEC, §7.102(f), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)*

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses

This page has been intentionally left blank.



## ATTACHMENT I

### **Statutory Citations Relating to Proposed Repeal of 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter D, Other Social Studies Courses, §113.70, Concurrent Enrollment in College Courses**

**Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (4) The board shall establish curriculum and graduation requirements.

**TEC, §28.002, Required Curriculum (excerpts):**

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
- (1) a foundation curriculum that includes:
    - (A) English language arts;
    - (B) mathematics;
    - (C) science; and
    - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
  - (2) an enrichment curriculum that includes:
    - (A) to the extent possible, languages other than English;
    - (B) health, with emphasis on the importance of proper nutrition and exercise;
    - (C) physical education;
    - (D) fine arts;
    - (E) career and technology education;
    - (F) technology applications;
    - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
    - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

**TEC, §28.025, High School Diploma and Certificate; Academic Achievement Record (excerpts):**

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
  
- (b-18) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements under Subsection (b-1) by successfully completing a dual credit course.

ATTACHMENT II  
Text of Proposed Repeal of 19 TAC

**Chapter 113. Texas Essential Knowledge and Skills for Social Studies**

**Subchapter D. Other Social Studies Courses**

**~~§113.70. Concurrent Enrollment in College Courses.~~**

~~[(a) — General requirements. Students shall be awarded one-half credit for each semester of successful completion of a college course in which the student is concurrently enrolled while in high school.]~~

~~[(b) — Content requirements. In order for students to receive state graduation credit for concurrent enrollment courses, content requirements must meet or exceed the essential knowledge and skills in a given course.]~~

This page has been intentionally left blank.

**Approval of Proposed Updates to the  
*Dyslexia Handbook, Procedures Concerning Dyslexia and Related Disorders, Revised 2014***

**September 14, 2018**

**COMMITTEE ON INSTRUCTION: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the opportunity for the committee and board to review and approve the recommended updates to the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* to align the handbook with recent legislative changes.

**STATUTORY AUTHORITY:** Statutory authority is the Texas Education Code (TEC), §7.102(c)(28) and §38.003, as amended by House Bill (HB) 1886, 85th Texas Legislature, Regular Session, 2017.

TEC, §7.102(c)(28) requires the State Board of Education (SBOE) to approve a program for testing students for dyslexia and related disorders.

TEC, §38.003, as amended by HB 1886, 85th Texas Legislature, Regular Session, 2017, requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.

**PREVIOUS BOARD ACTION:** The SBOE first approved the handbook *Dyslexia and Related Disorders: An Overview of State and Federal Requirements* in January 1986. The SBOE approved new guidelines referred to as the *Revised Procedures Concerning Dyslexia and Related Disorders* in 1992 and revised the guidelines in 1998. In 2001, the SBOE approved *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*, an updated version of the state handbook. In November 2006, the SBOE approved revisions to the handbook in order to reflect the addition of TEC, §7.028(b); revision to 19 Texas Administrative Code (TAC) §74.28(h) and to include information related to the bundled accommodations and reauthorization of the 2004 federal Individuals with Disabilities Education Improvement Act. In September 2010, the SBOE approved updates to the *Dyslexia Handbook* to update references to state and federal statute, align terminology with more current language, and to expand information regarding domains to assess. In July 2014, the SBOE once again approved updates and revisions to the *Dyslexia Handbook* to align with legislation from the 82nd and 83rd sessions of the Texas Legislature. The Committee on Instruction discussed updates to the *Dyslexia Handbook* at the April 2018 and June 2018 meetings.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The SBOE first approved the handbook *Dyslexia and Related Disorders: An Overview of State and Federal Requirements* in January 1986 in support of dyslexia legislation passed by the Texas Legislature. The handbook contains the SBOE-approved procedures concerning dyslexia and related disorders and provides guidelines for school districts to follow as they identify and provide services for students with dyslexia. Additionally, the handbook provides school districts and parents/guardians with information regarding the state's dyslexia statutes and their relation to federal laws.

The SBOE approved new guidelines referred to as the *Revised Procedures Concerning Dyslexia and*

*Related Disorders* in 1992 and revised the guidelines in 1998. In 2001, the SBOE approved *The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, an updated version of the state handbook. In November 2006, the SBOE approved revisions to the handbook in order to reflect the addition of TEC, §7.028(b); and revisions to TAC §74.28(h). The revised version, known as *The Dyslexia Handbook – Revised 2007: Procedures Concerning Dyslexia and Related Disorders*, also included information related to the bundled accommodations and reauthorization of the 2004 federal Individuals with Disabilities Education Improvement Act (IDEA).

In September 2010, the SBOE approved updates to the *Dyslexia Handbook* to update references to state and federal statute, align terminology with more current language, and to expand information regarding domains to assess. In 2014, the SBOE again approved updates to the *Dyslexia Handbook* to update information to align with legislation from the 82nd and 83rd Texas Legislatures.

The 85th Texas Legislature, Regular Session, 2017, passed HB 1886 amending TEC §38.003 to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation requires that the program include screening at the end of the school year for all kindergarten and first-grade students. Additionally, HB 1886 requires TEA to annually develop a list of training opportunities that comply with the knowledge and practice standards of an international organization on dyslexia. The training must also enable an educator to understand and recognize dyslexia and implement systematic, explicit, and evidence-based instruction to meet the educational needs of a student with dyslexia. At the September 2017 meeting, the SBOE heard testimony from the public related to its rules on dyslexia and related disorders as part of the board's adoption of the rule review for 19 TAC, Chapter 74. The SBOE discussed proposed changes to §74.28 at its January-February 2018 meeting. At that time, the Committee on Instruction requested that staff convene a committee to develop recommended updates to the *Dyslexia Handbook*. Additionally, the committee requested that staff prepare proposed amendments to administrative rules based on information provided during public testimony.

TEA convened two committees to develop recommendations to update the *Dyslexia Handbook*, one committee to review updates related to screening students and a second committee to review updates related to student identification. The two committees convened in March, May, July, and August 2018 to complete recommendations for updates to the *Dyslexia Handbook*.

Updates to the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* will be presented as a separate exhibit at the September 2018 SBOE meeting.

**FISCAL IMPACT:** There will be costs for the agency associated with the process of updating the handbook including staff and committee travel, meeting accommodations, and production and dissemination of documents. It is anticipated that the cost for completing this work in fiscal year 2018 is approximately \$12,000.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Districts and schools will have accurate and appropriate resources and information for providing services to students with dyslexia and related disorders and for complying with state and federal laws regarding these students.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** Following the June 2018 SBOE meeting, the draft of *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* was posted to the TEA website for public feedback. Numerous comments were received and shared with the SBOE-appointed committees to assist them in producing the final version of recommendations for updates to the *Dyslexia Handbook*.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** Proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders, is presented for first reading and filing authorization as a separate item in this agenda.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve proposed updates to *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment:** Statutory Citations

**Separate Exhibit:** Proposed updates to *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*

This page has been intentionally left blank.



**ATTACHMENT**

**Statutory Citation Relating to Discussion of Proposed Updates to the  
*Dyslexia Handbook, Procedures Concerning Dyslexia and Related Disorders, Revised 2014***

**Texas Education Code (TEC), §7.102. State Board of Education Powers and Duties (excerpt):**

- (c) (28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section 38.003.

**TEC, §38.003. Screening and Treatment for Dyslexia and Related Disorders, as amended by House Bill 1886, 85th Texas Legislature, Regular Session, 2017:**

- (a) Students enrolling in public schools in this state shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.
- (b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.
- (b-1) Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.
- (c) The State Board of Education shall adopt any rules and standards necessary to administer this section.
- (d) In this section:
  - (1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.
  - (2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

This page has been intentionally left blank.

**Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders**  
**(First Reading and Filing Authorization)**

**September 14, 2018**

**COMMITTEE ON INSTRUCTION: ACTION**  
**STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for first reading and filing authorization a proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders, to adopt in rule as a figure the updated *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* (*Dyslexia Handbook*).

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §7.102(c)(28) and §38.003.

TEC, §7.102(c)(28), requires the State Board of Education (SBOE) to approve a program for testing students for dyslexia and related disorders.

TEC, §38.003, requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendment is 20 days after filing with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2019-2020 school year. The earlier effective date will allow for the rule to become effective so that districts can benefit from additional guidance for serving students with dyslexia and related disorders as soon as possible.

**PREVIOUS BOARD ACTION:** The SBOE adopted 19 TAC §74.28 effective September 1, 1996, and last amended it effective August 27, 2018, to align the rule with legislative changes made by House Bill 1886, 85th Texas Legislature, Regular Session, 2017.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Section 74.28 provides guidance to school districts and open-enrollment charter schools for identifying students with dyslexia or related disorders and providing appropriate services to those students.

The 85th Texas Legislature, Regular Session, 2017, passed HB 1886 amending TEC, §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation required that the program include screening at the end of the school year for all kindergarten and first-grade students. An amendment to §74.28 to align the rule with HB 1886 was approved for second reading and final adoption at the June 2018 SBOE meeting with an effective date of August 27, 2018.

TEA convened two committees to develop recommendations to update the *Dyslexia Handbook*, one committee to review updates related to screening students and a second committee to review updates related to student identification. The two committees were convened in March, May, June, July, and August 2018 to make recommendations for updates to the *Dyslexia Handbook*.

Attachment II presents the text of the proposed amendment to 19 TAC §74.28, which would include the *Dyslexia Handbook* as Figure: 19 TAC §74.28(c), for consideration by the SBOE for first reading and filing authorization.

Although the SBOE has discussed including the *Dyslexia Handbook* as a figure in §74.28, the proposed amendment was not formally presented as a discussion item. The SBOE, however, may wish to consider this item for first reading and filing authorization as authorized under its operating procedures in order to allow for the rule to become effective so that districts can benefit from additional guidance for serving students with dyslexia and related disorders as soon as possible. Therefore, this item is presented for first reading and filing authorization consideration at this meeting.

**FISCAL IMPACT:** The Texas Education Agency (TEA) has determined that there are no additional costs to the TEA to comply with the proposed amendment. In addition, there are no additional costs to local government beyond what the authorizing statute requires. School districts and charter schools may incur costs for dyslexia screening required by statute. Because there are multiple assessments that can be used to screen for dyslexia, it is difficult to estimate the exact cost of the required screening for any given district.

In addition, there is no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy for the first five years that the proposed amendment is in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed amendment does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The proposed amendment would give districts and schools accurate and appropriate resources and information for providing services to students with dyslexia and related disorders and for complying with state and federal laws regarding these students.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendment would have no new procedural and reporting requirements.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendment would have no new locally maintained paperwork requirements.

**PUBLIC COMMENTS:** The public comment period will begin when the proposal, approved for first reading and filing authorization, is published in the *Texas Register*.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

Proposed updates to the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* is presented for approval as a separate item in this agenda.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Suspend the board operating procedures in accordance with §5.2(a) to allow consideration at first reading and filing authorization; and

Approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders

This page has been intentionally left blank.

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.28, Students with Dyslexia and Related Disorders**

#### **Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):**

- (c) (28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section 38.003.

#### **TEC, §38.003, Screening and Treatment for Dyslexia and Related Disorders:**

- (a) Students enrolling in public schools in this state shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.
- (b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.
- (b-1) Unless otherwise provided by law, a student determined to have dyslexia during screening or testing under Subsection (a) or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.
- (c) The State Board of Education shall adopt any rules and standards necessary to administer this section.
- (d) In this section:
  - (1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.
  - (2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

This page has been intentionally left blank.



**ATTACHMENT II**  
**Text of Proposed Amendment to 19 TAC**

**Chapter 74. Curriculum Requirements**

**Subchapter C. Other Provisions**

**§74.28. Students with Dyslexia and Related Disorders.**

- (a) In order to support and maintain full educational opportunity for students with dyslexia and related disorders and consistent with federal and state law, school districts and open-enrollment charter schools shall provide each student with dyslexia or a related disorder access to each program under which the student qualifies for services.
- (b) The board of trustees of a school district or the governing body of an open-enrollment charter school must ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to the student are implemented in the district.
- (c) A school district's or open-enrollment charter school's procedures must be implemented according to the State Board of Education (SBOE) approved strategies for screening, individualized evaluation, and techniques for treating dyslexia and related disorders. The strategies and techniques are described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders [§] " provided in this subsection. The handbook is a set of guidelines for school districts and open-enrollment charter schools that may be modified by the SBOE only with broad-based dialogue that includes input from educators and professionals in the field of reading and dyslexia and related disorders from across the state.

Figure: 19 TAC §74.28(c)

- (d) Screening as described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.
- (e) A school district or open-enrollment charter school shall purchase a reading program or develop its own evidence-based reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." Teachers who screen and treat these students must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders. " The professional development activities specified by each open-enrollment charter school and district and/or campus planning and decision making committee shall include these instructional strategies.
- (f) At least five school days before any evaluation or identification procedure is used selectively with an individual student, the school district or open-enrollment charter school must provide written notification to the student's parent or guardian or another person standing in parental relation to the student of the proposed identification or evaluation. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:
  - (1) a reasonable description of the evaluation procedure to be used with the individual student;
  - (2) information related to any instructional intervention or strategy used to assist the student prior to evaluation;
  - (3) an estimated time frame within which the evaluation will be completed; and
  - (4) specific contact information for the campus point of contact, relevant Parent Training and Information Projects, and any other appropriate parent resources.
- (g) Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the Individuals with Disabilities Education Act (IDEA), the school district or open-enrollment charter school must notify the student's parent or guardian or another person standing in parental relation to

the student of its proposal to conduct an evaluation consistent with 34 Code of Federal Regulations (CFR), §300.503, provide all information required under subsection (f) of this section, and provide:

- (1) a copy of the procedural safeguards notice required by 34 CFR, §300.504;
  - (2) an opportunity to give written consent for the evaluation; and
  - (3) a copy of information required under Texas Education Code (TEC), §26.0081.
- (h) Parents/guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as required by TEC, §26.0081(d), and options under federal law, including IDEA and the Rehabilitation Act, §504.
- (i) Each school or open-enrollment charter school must provide each identified student access at his or her campus to instructional programs required in subsection (e) of this section and to the services of a teacher trained in dyslexia and related disorders. The school district or open-enrollment charter school may, with the approval of each student's parents or guardians, offer additional services at a centralized location. Such centralized services shall not preclude each student from receiving services at his or her campus.
- (j) Because early intervention is critical, a process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available in each district and open-enrollment charter school as outlined in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders." School districts and open-enrollment charter schools may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.
- (k) Each school district and open-enrollment charter school shall provide a parent education program for parents/guardians of students with dyslexia and related disorders. This program must include:
- (1) awareness and characteristics of dyslexia and related disorders;
  - (2) information on testing and diagnosis of dyslexia and related disorders;
  - (3) information on effective strategies for teaching students with dyslexia and related disorders;
  - (4) information on qualifications of those delivering services to students with dyslexia and related disorders;
  - (5) awareness of information on accommodations and modifications, especially those allowed for standardized testing;
  - (6) information on eligibility, evaluation requests, and services available under IDEA and the Rehabilitation Act, §504, and information on the response to intervention process; and
  - (7) contact information for the relevant regional and/or school district or open-enrollment charter school specialists.
- (l) School districts and open-enrollment charter schools shall provide to parents of children suspected to have dyslexia or a related disorder a copy or a link to the electronic version of the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders."
- (m) School districts and open-enrollment charter schools will be subject to monitoring for compliance with federal law and regulations in connection with this section.

## Proposed Approval of Innovative Courses

**September 14, 2018**

**COMMITTEE ON INSTRUCTION: ACTION**  
**STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item recommends approval of innovative courses that do not fall within any of the subject areas of the foundation or enrichment curriculum.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §28.002(f), authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education (SBOE) to be flexible in approving a course for credit for high school graduation.

**PREVIOUS BOARD ACTION:** The SBOE adopted 19 TAC §74.27, Innovative Courses and Programs, to be effective September 1, 1996, with amendments to be effective September 1, 1998. In November 2007, the SBOE adopted additional amendments to 19 TAC §74.27, to be effective December 25, 2007.

From May 1998 through July 2003, the SBOE approved a total of 45 new innovative courses that do not fall within any of the subject areas of the foundation or enrichment curriculum through the annual approval process. In May 2004, July 2007, July 2009, January 2011, January 2012, January 2013, and July 2014 the SBOE approved the renewal of innovative courses in addition to approving new courses. In April 2005, April 2006, May 2008, May 2010, and April 2014 the SBOE approved renewal of innovative courses. In July 2010, the SBOE approved one new course. In April 2015, the SBOE approved for a period of five years three expiring course series submitted for renewal. In April 2016, the SBOE approved one new course for a period of three years and one new course for a one-year period. The SBOE approved, for a period of five years each, the renewal of three expiring innovative courses in November 2016. At the January/February 2017 meeting, the SBOE approved for renewal two expiring innovative courses for a period of five years, and at the April 2017 SBOE meeting, the SBOE approved for renewal three additional courses for a period of five years each. At the June 2017 SBOE meeting, the SBOE approved two new courses for a period of five years each. At the April 2017 meeting, the SBOE approved one new course for a period of five years.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** After the board adopted new rules concerning graduation requirements, the experimental courses previously approved were phased out as of August 31, 1998. As a result of the adoption of the Texas Essential Knowledge and Skills (TEKS), districts now submit new requests for innovative course approval for courses that do not have TEKS.

The process outlined in 19 TAC §74.27 provides authority for the commissioner of education to approve discipline-based courses, but reserves for SBOE review and approval those courses that do not fall within any of the subject areas of the foundation or enrichment curriculum.

A brief description of the courses submitted for SBOE review and consideration will be provided to SBOE members at the September 2018 meeting.

**FISCAL IMPACT:** None.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Students would have access to courses that meet local district needs.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed new innovative courses would have no procedural and reporting requirements.

**PUBLIC COMMENTS:** None.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve the innovative courses that do not fall within any of the subject areas of the foundation or enrichment curriculum as shown in the separate exhibit.

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment I:** Statutory Citation

**Attachment II:** Text of 19 TAC §74.27, Innovative Courses and Programs

**Separate Exhibit:** Innovative Courses Recommended for Approval  
(to be provided at the September 2018 SBOE meeting)

## ATTACHMENT I

### Statutory Citation Relating to Proposed Approval of Innovative Courses

**Texas Education Code, §28.002 (excerpt):**

- (f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall be flexible in approving a course for credit for high school graduation under this subsection.

This page has been intentionally left blank.

## ATTACHMENT II

### Text of 19 TAC

#### Chapter 74. Curriculum Requirements

##### Subchapter C. Other Provisions

###### **§74.27. Innovative Courses and Programs.**

A school district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.

- (1) The State Board of Education (SBOE) may approve any course that does not fall within any of the subject areas listed in the foundation and enrichment curricula when the applying school district or organization demonstrates that the proposed course is academically rigorous and addresses documented student needs.
- (2) The commissioner of education may approve a discipline-based course in the foundation or enrichment curriculum when the applying school district or organization demonstrates that the proposed course is academically challenging and addresses documented student needs.
- (3) To request approval from the SBOE or the commissioner of education, the applying school district or organization must submit a request for approval at least six months before planned implementation that includes:
  - (A) a description of the course and its essential knowledge and skills;
  - (B) the rationale and justification for the request in terms of student need;
  - (C) a description of activities, major resources, and materials to be used;
  - (D) the methods of evaluating student outcomes;
  - (E) the qualifications of the teacher; and
  - (F) the amount of credit requested.
- (4) With the approval of the local board of trustees, a school district may offer, without modifications, any state-approved innovative course.

This page has been intentionally left blank.



## **Approval of Proposed Timeline to Meet Credit by Examination Provider Requirements**

**September 14, 2018**

### **COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: CONSENT**

**SUMMARY:** This item recommends approval of the proposed timeline submitted by Texas Tech University to meet credit by examination provider requirements in accordance with §74.24 (c)(5). Recently amended administrative rules for credit by examination permit an examination provider to obtain approval from the State Board of Education (SBOE) to demonstrate comparable results over a specified number of years if the number of students who take an examination in a given year is not sufficient to determine comparable results for all subgroups.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §7.102(c)(12) and §28.023.

TEC, §7.102(c)(12), authorizes the State Board of Education (SBOE) to establish guidelines for credit by examination.

TEC, §28.023, establishes that districts must develop or select for review examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects based on guidelines established by the SBOE.

**PREVIOUS BOARD ACTION:** The SBOE adopted 19 TAC §74.24 effective September 1, 1996. Section 74.24 was last amended effective November 24, 2015. The board adopted amendments 19 TAC §74.24, effective August 27, 2018, to amend the provisions related to test development and validation.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Section 74.24 addresses assessment for acceleration in Kindergarten through Grade 5 and assessment for course credit in Grades 6-12. The rule also outlines general provisions for the administration of credit by examination.

Companion bills HB 2694 and Senate Bill (SB) 1365, passed by the 83rd Texas Legislature, Regular Session, 2013, amended the TEC, §28.023, and the requirements for credit and acceleration by examination. Changes to the statute increased the number of testing opportunities a school district must provide each school year. The amended statute also required each school district to approve, to the extent available, at least four examinations for acceleration or for credit for each academic subject. Each examination must satisfy guidelines to be established by the SBOE, and the approved examinations must include College Board Advanced Placement (AP) examinations and College-Level Examination Program (CLEP) examinations. The legislation also reduced the minimum score requirement from 90 percent to 80 percent for a student to accelerate or be awarded credit.

HB 789, passed by the 85th Texas Legislature, Regular Session, 2017, amended TEC, §28.023, and the requirements for credit and acceleration by examination. Changes to statute apply only to Highland Park Independent School District students. The changes require the local board of trustees to establish the minimum score before the beginning of each school year for examinations to be administered during the school year and require that minimum score to apply for at least the entire academic year. The changes limit a minimum score to no greater than the 90th percentile. Texas Education Agency (TEA) determined that no changes to the rule were necessary as a result of HB 789.

Section 74.24 clarifies the development and validation criteria required for examinations for credit for Grades 6-8 and high school and establishes separate criteria for examinations for credit for courses that have a required state end-of-course (EOC) examination. This section requires districts or providers of examinations for credit to make public certain information regarding the development of the examinations and certify that the examinations meet the requirements in rule. Additionally, the rule requires that examinations for credit for courses that do not have a comparable EOC examination meet test development and validation requirements no later than the 2019-2020 school year in order to ensure continued availability of examinations to school districts. Section 74.24(c)(5) permits a provider to obtain approval from the SBOE to demonstrate comparable results over a specified number of years if the number of students who take an examination in a given year is not sufficient to determine comparable results. Approval may authorize use of the assessment, if the assessment meets all other criteria, during the period authorized by the SBOE to achieve comparable results. Texas Tech University has requested that the SBOE approve a timeline for demonstration of comparable results as authorized by §74.24(c)(5).

**FISCAL IMPACT:** None.

**GOVERNMENT GROWTH IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Approval of the proposed timeline will allow for students to have additional options and test administration opportunities for examinations for credit by examination.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** None

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve the proposed timeline submitted by Texas Tech University to meet credit by examination provider requirements in accordance with §74.24 (c)(5).

**Staff Members Responsible:** Monica Martinez, Associate Commissioner  
Standards and Support Services

Shelly Ramos, Senior Director  
Curriculum Standards and Student Support

**Attachment I:** Statutory Citations

**Attachment II:** Text of 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.24, Credit by Examination

**Separate Exhibit:** Proposed Timeline to Meet Credit by Examination Provider Requirements

## ATTACHMENT I

### Statutory Citations Relating to Approval of Proposed Timeline to Meet Credit by Examination Provider Requirements

#### Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):

(c)(12) The board shall establish guidelines for credit by examination under Section 28.023.

#### TEC, §28.023, Credit by Examination:

- (a) Using guidelines established by the State Board of Education, a school district shall develop or select for review by the district board of trustees examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects. The guidelines must provide for the examinations to thoroughly test comprehension of the information presented in the applicable grade level or subject. The board of trustees shall approve for each subject, to the extent available, at least four examinations that satisfy State Board of Education guidelines. The examinations approved by the board of trustees must include:
  - (1) advanced placement examinations developed by the College Board; and
  - (2) examinations administered through the College-Level Examination Program.
- (b) A school district shall give a student in a primary grade level credit for a grade level and advance the student one grade level on the basis of an examination for acceleration approved by the board of trustees under Subsection (a) if:
  - (1) the student scores in the 80th percentile or above on each section of the examination;
  - (2) a district representative recommends that the student be advanced; and
  - (3) the student's parent or guardian gives written approval of the advancement.
- (c) A school district shall give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under Subsection (a) if the student scores in the 80th percentile or above on the examination or if the student achieves a score as provided by Subsection (c-1). If a student is given credit in a subject on the basis of an examination, the district shall enter the examination score on the student's transcript and the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) for that subject.
- (c-1) A school district shall give a student in grade level six or above credit for a subject if the student scores:
  - (1) a three or higher on an advanced placement examination approved by the board of trustees under Subsection (a) and developed by the College Board; or
  - (2) a scaled score of 50 or higher on an examination approved by the board of trustees under Subsection (a) and administered through the College-Level Examination Program.
- (d) Each district shall administer each examination approved by the board of trustees under Subsection (a) not fewer than four times each year, at times to be determined by the State Board of Education.
- (e) Subsection (d) does not apply to an examination that has an administration date that is established by an entity other than the school district.
- (f) A student may not attempt more than two times to receive credit for a particular subject on the basis of an examination for credit in that subject.

- (g) If a student fails to achieve the designated score described by Subsection (c) or (c-1) on an applicable examination described by Subsection (c) or (c-1) for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the school district's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.
- (h) This subsection applies only to a school district surrounded by a school district described by Section 11.065(a). Notwithstanding any other provision of this section, a school district's board of trustees may establish a minimum required score for each section of an examination for acceleration or an examination for credit approved by the board under Subsection (a) that is higher than the minimum required scores under Subsections (b) and (c), respectively. A minimum required score established by a board of trustees under this subsection:
  - (1) may be no greater than a score in the 90th percentile;
  - (2) must be established before the beginning of a school year for examinations to be administered in the school year; and
  - (3) must apply for at least the entire school year.

**ATTACHMENT II**  
**Text of 19 TAC**

**Chapter 74. Curriculum Requirements**

**Subchapter C. Other Provisions**

**§74.24. Credit by Examination.**

- (a) General provisions.
  - (1) A school district must provide at least one window to test between January 1 and March 31, one window to test between April 1 and June 30, one window to test between July 1 and September 30, and one window to test between October 1 and December 31 annually when each examination for acceleration for each primary school grade level and for credit for secondary school academic subjects required under Texas Education Code, §28.023, shall be administered in Grades 1-12 unless the examination has an administration date that is established by an entity other than the school district. A student may take a specific examination only once during each window. The testing window must be designed to meet the needs of all students. The dates must be publicized in the community.
  - (2) A school district shall provide opportunities for a student who is homeless or in substitute care who transfers to the district after the start of the school year to be administered credit by examination at any point during the school year.
  - (3) A school district shall not charge for an examination for acceleration for each primary school grade level or for credit for secondary school academic subjects. If a parent requests an alternative examination, the district may administer and recognize results of a test purchased by the parent or student from Texas Tech University or The University of Texas at Austin.
    - (A) For each grade level or course, Texas Tech University and The University of Texas at Austin shall ensure that the assessments they provide for the purposes of this section are aligned to and address all assessable Texas Essential Knowledge and Skills (TEKS) at the appropriate level of rigor.
    - (B) Texas Tech University and The University of Texas at Austin shall arrange for a third party to conduct an audit, on a rotating basis, of at least 20% of the assessments they provide for the purposes of this section. The audit shall be conducted annually.
    - (C) The results of each audit shall be provided to the Texas Education Agency in the form of a report to be delivered no later than May 31 of each year.
  - (4) A school district must have the approval of the school district board of trustees for the development and use of its own tests or to purchase examinations that thoroughly test the essential knowledge and skills in the applicable grade level or subject area.
  - (5) A school district may allow a student to accelerate at a time other than one required in paragraph (1) of this subsection by developing a cost-free option approved by the school district board of trustees that allows students to demonstrate academic achievement or proficiency in a subject or grade level.
- (b) Assessment for acceleration in kindergarten through Grade 5.
  - (1) A school district must develop procedures for kindergarten acceleration that are approved by the school district board of trustees. The board of trustees shall approve an audit process to be completed for assessments for acceleration.
  - (2) A student in any of Grades 1-5 must be accelerated one grade if he or she meets the following requirements:

- (A) the student scores 80% on a criterion-referenced test for the grade level he or she wants to skip in each of the following areas: language arts, mathematics, science, and social studies;
  - (B) a school district representative recommends that the student be accelerated; and
  - (C) the student's parent or guardian gives written approval for the acceleration.
- (c) Assessment for course credit in Grades 6-12.
- (1) A school district board of trustees shall approve for each high school course, to the extent available, at least four examinations. The board of trustees shall approve an audit process to be completed for examinations under subparagraph (B)(iii) of this paragraph.
    - (A) The examinations shall include the following, which are not subject to the requirements in paragraphs (2)-(7) of this subsection:
      - (i) College Board advanced placement examinations; and
      - (ii) examinations administered through the College-Level Examination Program.
    - (B) The examinations may include examinations developed by:
      - (i) Texas Tech University;
      - (ii) The University of Texas at Austin;
      - (iii) the school district; and
      - (iv) another entity if the assessment meets all of the requirements in paragraph (2) of this subsection.
  - (2) In order for a school district to administer an examination for credit, prior to the first administration, the school district or the provider of the assessment must certify that the examination:
    - (A) is aligned to all assessable TEKS for the course;
    - (B) has not been published and is not publicly available;
    - (C) will only be administered in a secure environment under standardized conditions by a school district or institution of higher education; and
    - (D) has been evaluated to ensure:
      - (i) test scores can be interpreted as indicators of what the test is intended to measure; and
      - (ii) consistency of test results across testing conditions.
  - (3) A school district or the provider of the assessment must make public an annual report, including:
    - (A) the test development process;
    - (B) a statement certifying that the examination meets the criteria in paragraph (2)(D) of this subsection;
    - (C) the number of students who took each examination;
    - (D) the number of students who scored 70% or above on each examination;
    - (E) the number of students who scored 80% or above on each examination; and
    - (F) the average score for all students who took the examination for each examination.
  - (4) In order for a school district to administer an examination for credit for a course that has a state end-of-course assessment instrument, the school district or the provider of the assessment must certify, prior to the first administration, that the examination:

- (A) meets the requirements of paragraph (2) of this subsection;
  - (B) has been externally validated and determined to:
    - (i) align to and appropriately address all assessable TEKS for the course;
    - (ii) assess the appropriate level of rigor for each student expectation; and
    - (iii) yield comparable distribution of results across tested subgroups.
- (5) If the number of students who take an examination in a given year is not sufficient to determine comparable results among subgroups, the provider may obtain approval from the State Board of Education to demonstrate comparable results over a specified number of years. Approval may authorize use of the assessment, if the assessment meets all other criteria, during the period authorized by the SBOE to achieve comparable results.
- (6) For an examination that is validated in accordance with paragraph (4) of this subsection, a school district or the provider of the assessment must make public:
- (A) the annual report required by paragraph (3) of this subsection;
  - (B) all relevant test development specifications; and
  - (C) a statement certifying that the examination meets the criteria in paragraph (4)(B) of this subsection.
  - (D) results for all tested subgroups disaggregated by students who receive prior instruction and students with no prior instruction and including descriptive data for small subgroups.
- (7) Examinations for courses that do not have a state end-of-course assessment shall meet all requirements in paragraph (2) of this subsection no later than the 2019-2020 school year.
- (8) A student in any of Grades 6-12 must be given credit for an academic subject in which he or she has had no prior instruction if the student scores:
- (A) a three or higher on a College Board advanced placement examination that has been approved by the school district board of trustees for the applicable course;
  - (B) a scaled score of 50 or higher on an examination administered through the College-Level Examination Program and approved by the school district board of trustees for the applicable course; or
  - (C) 80% on any other criterion-referenced test approved by the school district board of trustees for the applicable course.
- (9) A student may not attempt to earn credit by examination for a specific high school course more than two times.
- (10) If a student fails to earn credit by examination for a specific high school course before the beginning of the school year in which the student would ordinarily be required to enroll in that course in accordance with the school district's prescribed course sequence, the student must satisfactorily complete the course to receive credit.
- (11) If a student is given credit in accordance with paragraph (8) of this subsection in a subject on the basis of an examination on which the student scored 80% or higher, the school district must enter the examination score on the student's transcript, and the student is not required to take an applicable end-of-course assessment instrument for the course.
- (12) In accordance with local school district policy, a student in any of Grades 6-12 may be given credit for an academic subject in which he or she had some prior instruction if the student scores 70% on a criterion-referenced test approved by the school district board of trustees for the applicable course.

This page has been intentionally left blank.



## Consideration of Petition for Adoption of Rule Concerning a Requirement for School Uniforms

September 14, 2018

### COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: ACTION

**SUMMARY:** A petition to adopt a rule requiring that all Texas students wear school uniforms has been received from Ms. Brittany Clark. This item provides the opportunity for the State Board of Education (SBOE) to consider the petition.

**STATUTORY AUTHORITY:** Texas Government Code (TGC), §2001.021, and 19 TAC §30.1.

TGC, §2001.021, permits an interested person to request that a state agency adopt a rule change. It also requires a state agency to either deny the petition in writing or initiate rulemaking proceedings.

19 TAC §30.1 allows any interested person to petition the SBOE for the adoption, amendment, or repeal of an SBOE rule and establishes the procedures for the review of a petition for a rule change.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Ms. Brittany Clark submitted to the SBOE a petition requesting that all Texas students be required to wear school uniforms to help deter students from carrying weapons into classrooms. She recommended the uniforms include tucked-in shirts and clear backpacks. She also recommended that students not be permitted to wear coats unless the temperature is below 40 degrees but that they be allowed to wear a pull over within the school's uniform guidelines. Ms. Clark stated that implementing a uniform policy is a necessary step in protecting teachers and students. The petition, which provides the petitioner's rationale and justification, is presented in Attachment II of this item.

Texas Education Code (TEC), §11.162, School Uniforms, authorizes the board of trustees of an independent school district to adopt rules that require students in the school district to wear uniforms if the board determines the requirement would improve the learning environment at the school and requires the rules to designate a source of funding to provide uniforms for students who are educationally disadvantaged. The statute also allows a parent or guardian of a student assigned to a school at which uniforms are required to choose for the student to be exempted from the requirement or to transfer to a school at which students are not required to wear uniforms and at which space is available if the parent or guardian provides a written statement that, as determined by the board of trustees, states a bona fide religious or philosophical objection to the requirement.

While TEC, §11.162, allows local school districts to adopt rules requiring school uniforms, no statutory authority exists for the SBOE to adopt such rules. Because the SBOE does not have jurisdiction or authority to propose or adopt the petitioned rule, Texas Education Agency staff recommends that the SBOE deny the petition.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Deny the petition for adoption of a rule requiring all Texas students to wear school uniforms because the State Board of Education does not have jurisdiction or authority to propose or adopt the petitioned rule.

**Staff Member Responsible:** Candace Stoltz, Director  
Emergency Management

**Attachment I:** Statutory Citations

**Attachment II:** Petition for Adoption of Rule Concerning a Requirement for School Uniforms

## ATTACHMENT I

### Statutory Citations Relating to Consideration of Petition for Adoption of Rule Concerning a Requirement for School Uniforms

#### **Texas Government Code, §2001.021, Petition for Adoption of Rules:**

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
  - (1) deny the petition in writing, stating its reasons for the denial; or
  - (2) initiate a rulemaking proceeding under this subchapter.
- (d) For the purposes of this section, an interested person must be:
  - (1) a resident of this state;
  - (2) a business entity located in this state;
  - (3) a governmental subdivision located in this state; or
  - (4) a public or private organization located in this state that is not a state agency.

#### **19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes:**

- (a) Any interested person as defined in Texas Government Code, §2001.021(d), may petition for the adoption, amendment, or repeal of a rule of the State Board of Education (SBOE) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the commissioner of education. In consultation with the persons in the Texas Education Agency who are responsible for the area with which the rule is concerned, the commissioner shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §30.1(a)

- (b) In accordance with the Texas Government Code, §2001.021, the agency must respond to the petitioner within 60 days of receipt of the petition.
  - (1) Where possible, the commissioner's recommendation concerning the petition shall be placed on the SBOE agenda, and the SBOE shall act on the petition within the 60-day time limit.
  - (2) Where the time required to review the petition or the scheduling of SBOE meetings will not permit the SBOE to act on the petition within the required 60 days, the commissioner or a designee shall respond to the petitioner within the required 60 days, notifying the

petitioner of the date of the SBOE meeting at which the recommendation will be presented to the SBOE for action.

- (c) The SBOE will review the petition and the recommendation of the commissioner and will either direct the commissioner to begin the rulemaking process or deny the petition, giving reasons for the denial. The commissioner or designee will notify the petitioner of the SBOE's action related to the petition.
- (d) The SBOE may deny a petition on the following grounds:
  - (1) the SBOE does not have jurisdiction or authority to propose or adopt the petitioned rule;
  - (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBOE, or other law;
  - (3) the SBOE determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding;
  - (4) the petitioner is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing a petition:
    - (A) within one year of having the petition denied; or
    - (B) to amend a rule proposed or adopted by the SBOE that has not yet become effective; or
  - (5) any other reason the SBOE determines is grounds for denial.
- (e) If the SBOE initiates rulemaking procedures in response to a petition, the rule text which the SBOE proposes may differ from the rule text proposed by the petitioner.

**STATE BOARD OF EDUCATION**  
**Petition for Adoption of a Rule**

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

Commissioner of Education  
Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494

Name: **Brittany Clark**

Affiliation/Organization (if applicable):

Address: **2906 Barclay Lake Lane, Spring, Texas 77388**

Telephone: **281-620-6470**

Date: **May 21, 2018**

Texas Government Code, §2001.021, specifies that an interested person must meet one of the following criteria. Please check all of the following that apply to you.

- resident of Texas
- business entity located in Texas
- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

**Implement a rule mandating all Texas schools are required to wear uniforms.**

Statutory authority for the proposed rule action:

**Texas Education Agency**

Why is this rule action necessary or desirable?

The recent increase of mass shootings is a deep concern for parents, students and teachers. Uniforms will help deter students from carrying weapons into the classrooms. Students should wear uniforms with shirts tucked in, and clear backpacks. Students would not be allowed to wear a coat unless the temperature is below 40 degrees. They may wear a pull over (within the school's uniform guidelines). I strongly feel this is a necessary step in protecting our teachers and students.

(If more space is required, attach additional sheets.)

  
\_\_\_\_\_  
Petitioner's Signature

This page has been intentionally left blank.

## **Discussion of the Texas Lesson Study Professional Development Program and Resources**

**SEPTEMBER 13, 2018**

**COMMITTEE ON INSTRUCTION: DISCUSSION**  
**STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** This item provides the opportunity for staff to introduce the Texas Lesson Study (TXLS) professional development program and proposed review process for the teacher-designed lesson study resources available on the Texas Gateway.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §8.0531, requires that instructional lessons developed as part of a curriculum management system by a regional education service center, acting alone or in collaboration with one or more other regional education service centers, be subject to the same review and adoption process as outlined in TEC, §31.022.

**BOARD RESPONSE:** This item is presented for review and comment.

**FUTURE ACTION EXPECTED:** At the November 2018 board meeting, board members will consider taking action to ratify the Lesson Study resources. Action items related to review of Lesson Study resources will appear periodically on subsequent SBOE agendas.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Commissioner of Education Mike Morath included the TXLS professional development program in the TEA Strategic Plan 2017–2021. TXLS is inquiry-based, job-embedded professional development where teachers work collaboratively to develop, teach, and assess research-based lessons. Through this process, teachers document their learning and lesson design on a Lesson Proposal and video the taught research-based lesson. The Lesson Proposal and video may become published on TEA’s online teacher and student resource center, the Texas Gateway.

In 2016–2017, TEA collaborated with six education service centers (ESCs), Regions 5, 6, 13, 14, 15, and 16, to pilot the program in 16 districts, on 30 campuses, with 208 teachers. In 2017–2018, the program became available in 16 ESC regions and had 60 participating districts, 111 campuses, and 702 teachers.

For the 2018–2019 year, districts across the state will be able to access the TXLS professional development program by (a) completing an online course, (b) attending a trainer-of-trainers, and/or (c) working directly with an ESC TXLS trained facilitator.

**FISCAL IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** Benefits include positively impacting teacher effectiveness and increasing self-efficacy resulting in growth for student outcomes and increasing the public perception of the teaching profession.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Members Responsible:** Martin Winchester, Deputy Commissioner  
Educator Systems and Support

Blair Claussen, Project Manager  
Educator Support

**Attachment:** Statutory Citation

**Separate Exhibits:**

- I. Lesson Study Gateway Resource List
- II. [Report on Program Effectiveness: Fall 2016](#)
- III. [Report on Program Effectiveness: Spring 2017](#)



## ATTACHMENT

### **Statutory Citation Relating to Discussion of the Texas Lesson Study Professional Development Program and Resources**

#### **Texas Education Code (TEC), §8.0531, Instructional Materials Developed by a Collaboration of Regional Education Service Centers**

Notwithstanding any other provision of this subchapter or Section 8.001(c), instructional lessons developed as part of a curriculum management system by a regional education service center, acting alone or in collaboration with one or more other regional education service centers, shall be subject to the same review and adoption process as outlined in Section 31.022.

This page has been intentionally left blank.

## **Per Capita Apportionment Rate for the 2018-2019 School Year**

**September 14, 2018**

### **COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT**

**SUMMARY:** The board is responsible for setting a per capita apportionment rate for each school year based on an estimate of the amount available for expenditures from the Available School Fund. Agency staff members will propose a recommended rate for the 2018-2019 school year at the September meeting of the Committee on School Finance/ Permanent School Fund.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §42.004 and §43.001(b).

**PREVIOUS BOARD ACTION:** None

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** House Bill 1, the General Appropriations Bill enacted by the 86th Texas Legislature, 2018, contains an estimate of the amount that will be available for expenditures from the Available School Fund for the 2018-2019 school year. The per capita apportionment will include distributions from the Permanent School Fund and funds from state occupation taxes and from the Motor Fuels Tax. The recommended preliminary per capita apportionment rate is based on an estimate of the funds available for expenditure. The rate is revised later in the school year based on actual funds available for expenditure.

**FISCAL IMPACT:** The per capita apportionment rate finances part of the cost of the Foundation School Program. State aid comes from the Available School Fund and the Foundation School Fund. The per capita apportionment rate determines how much of each district's total state aid is paid from the Available School Fund. The part that is not financed by the Available School Fund must be paid from the Foundation School Fund.

**PUBLIC AND STUDENT BENEFIT:** State aid for the Foundation School Program is partially funded by the Available School Fund per capita apportionment. If this source of funds were not available, the shortfall would have to be made up from the General Revenue Fund.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**PUBLIC COMMENTS:** None.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Members Responsible:** Leo Lopez, Associate Commissioner  
School Finance / Chief School Finance Office

Al McKenzie, Director of State Funding

**Separate Exhibit:** Proposed Per Capita Apportionment Rate for the 2018-2019 School Year

**Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund  
for the Months of May, June and July 2018**

**September 14, 2018**

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION  
STATE BOARD OF EDUCATION: CONSENT**

**SUMMARY:** This item provides an opportunity for the committee and board to consider approval of the purchases and sales of investments executed in the portfolio of the Permanent School Fund for the months of May, June and July 2018.

**STATUTORY AUTHORITY:** Texas Constitution, Article VII, §5(f).

**PREVIOUS BOARD ACTION:** At the June 2018 meeting, the board approved purchases in the amount of \$685,678,377 and sales in the amount of \$820,449,474 conducted in the investment portfolio of the Permanent School Fund for the months of March and April 2018.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The purchases and sales of the investment portfolio are reviewed by the staff to ensure compliance with the Investment Guidelines, Policies, and Objectives of the Permanent School Fund. The specific amounts of the purchases and sales for the reporting period will be recommended to the board for ratification upon approval by the Committee on School Finance/Permanent School Fund.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PUBLIC AND STUDENT BENEFIT:** The distribution of the Permanent School Fund will flow to the school districts and reduce the tax burden to the public and the state of Texas.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** The State Board of Education has adopted Investment Guidelines, Policies, and Objectives, which establish the criteria for the purchase of the investments to the portfolio.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

This page has been intentionally left blank.

**Determination as to Whether Transfers May be Made from the Permanent School Fund to the Available School Fund**

**September 14, 2018**

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION  
STATE BOARD OF EDUCATION: CONSENT**

**SUMMARY:** This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that the total amount distributed over ten years cannot exceed the total return on all investment assets of the PSF over the same ten-year period. The board will determine whether transfers may be made from the Permanent School Fund to the Available School Fund in fiscal year 2019.

**STATUTORY AUTHORITY:** Texas Constitution, Article VII, §5.

**PREVIOUS BOARD ACTION:** At the September 2017 meeting, the board determined that a distribution for fiscal year 2018 is permitted under Texas Constitution Article VII, §5(a)(2).

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** On November 4, 2008, the chair of the State Board of Education (SBOE) sought an opinion from the Attorney General regarding the implementation of Texas Constitution, Article VII, §5(a)(2) in limiting transfers from the Permanent School Fund (PSF) to the Available School Fund (ASF). A supplementary request was made on January 14, 2009. On April 13, 2009, the Attorney General responded to the requests, noting that Article VII, §5(a)(1) and §5(a)(2) require distinct calculations using different methodologies and covering different time periods.

The Attorney General stated that the SBOE is the entity authorized to apply the limits of Article VII, §5(a)(2) in the first instance to the amount distributed from the PSF to the ASF.

Article VII, §5(a)(2) requires an annual determination by the SBOE of whether a transfer can be made from the PSF to the ASF based on the preceding nine state fiscal years and the current fiscal year.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PUBLIC AND STUDENT BENEFIT:** The distribution of the Permanent School Fund will flow to the school districts and reduce the tax burden to the public and the state of Texas.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

**Attachment:** The Texas Constitution, Article 7, Section 5 - Permanent School Fund; Available School Fund; Use of Funds; Distribution of Available School Fund



## ATTACHMENT

# The Texas Constitution

## Article 7 - EDUCATION

### Section 5 - PERMANENT SCHOOL FUND; AVAILABLE SCHOOL FUND; USE OF FUNDS; DISTRIBUTION OF AVAILABLE SCHOOL FUND

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or

(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the

permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

(f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(g) Notwithstanding Subsection (a) of this section, the total amount distributed from the permanent school fund to the available school fund for the state fiscal years beginning September 1, 2003, and September 1, 2004, must be an amount equal to 4.5 percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the 78th Legislature.

(h) Subsection (g) of this section and this subsection expire December 1, 2006.

(Amended Aug. 11, 1891, and Nov. 3, 1964; Subsec. (a) amended and (b) and (c) added Nov. 8, 1983; Subsec. (d) added Nov. 8, 1988; Subsec. (b) amended Nov. 7, 1989; Subsec. (a) amended, a new (b) added, a portion of (a) redesignated as (c), former (b) and (c) amended, former (b)-(d) redesignated as (d)-(f), and (g) and (h) added Sept. 13, 2003.)

## Decision on Real Estate Investments

September 14, 2018

### COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

**SUMMARY:** This item provides an opportunity for the committee and board to review and consider possible real estate investments.

**STATUTORY AUTHORITY:** Texas Constitution, Article VII, §5(f).

**PREVIOUS BOARD ACTION:** At the June 2018 meeting, the board voted to:

- execute agreement(s) with Angelo, Gordon & Co., L.P., necessary to make an investment commitment of up to \$75 million in AG Realty Fund X, L.P., subject to continued due diligence and negotiation of fund terms, and authorization for contract execution by the Commissioner of Education;
- execute agreement(s) with Harrison Street Real Estate Capital LLC, necessary to make an investment commitment of up to €51 million in Harrison Street European Property Partners II, L.P., subject to continued due diligence and negotiation of fund terms, and authorization for contract execution by the Commissioner of Education; and,
- execute agreement(s) with PAG Enhanced Credit Management Limited, necessary to make an additional commitment of up to \$21 million in PAG Enhanced Credit Fund L.P., subject to continued due diligence and negotiation of fund terms, and authorization for contract execution by the Commissioner of Education.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** At the May 2008 meeting, the board selected Courtland Partners as the Permanent School Fund's real estate counsel to provide the expertise and advice related to the investment strategy of the real estate portfolio for the Permanent School Fund. Following the RFP process in July 2013, the board approved a contract to continue with Courtland Partners as the Permanent School Fund's real estate counsel. At the July 2016 meeting, the board approved an increase in the allocation to 10%.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PUBLIC AND STUDENT BENEFIT:** The distribution of the Permanent School Fund will flow to the school districts and reduce the tax burden to the public and the state of Texas.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

**Review of Permanent School Fund Securities Transactions  
and the Investment Portfolio**

**September 13, 2018**

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION  
STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** Investment staff will report on the transactions executed during the months of May, June and July 2018 in the investment portfolio of the Texas Permanent School Fund.

**BOARD RESPONSE:** Based on the data presented, the committee may provide guidance to the investment staff as appropriate.

**PREVIOUS BOARD ACTION:** The committee reviews the asset allocation, diversification, and the general status of the Fund at each meeting.

**FUTURE ACTION EXPECTED:** This is a recurring report at every committee meeting.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Specific actions that the committee must accomplish are found in 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

This page has been intentionally left blank.

## Second Quarter 2018 Permanent School Fund Performance Report

September 13, 2018

### COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

**SUMMARY:** The performance measurement consultant to the Permanent School Fund, BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter 2018 and cumulative investment performance of the various portfolios of the Fund. This item will allow the committee to discuss in depth various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes.

**BOARD RESPONSE:** Based on the information presented, the committee may provide guidance to the investment staff as appropriate.

**PREVIOUS BOARD ACTION:** None.

**FUTURE ACTION EXPECTED:** None.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** An in-depth performance review at the committee level is intended to allow committee members to review not only total return information for each managed portfolio, but to gain a more thorough understanding of the risk characteristics, portfolio attributes, and portfolio structures of each portfolio that all contribute to return.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

This page has been intentionally left blank.



## **Activities Related to a Student Art Competition to Develop a Permanent School Fund Logo**

**September 13, 2018**

### **COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** This item provides the opportunity for the committee and board to report and discuss activities related to a student art competition to create a Permanent School Fund logo.

**STATUTORY AUTHORITY:** Texas Constitution, Article VII, §5(f) and Texas Education Code (TEC), §7.102(c)(3).

Texas Constitution, Article VII, §5(f) gives the State Board of Education the authority to manage the assets of the Permanent School Fund.

Texas Education Code (TEC), §7.102(c)(3) allows the board to accept donations and to use the contributions in a manner determined by the board.

**PREVIOUS BOARD ACTION:** At the June 2018 meeting, the board approved the procedures and rules for the PSF Logo Art Contest to include a \$3,000 first place award and a \$1,000 runner-up award.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The Permanent School Fund was created in 1854 with a \$2 million appropriation by the Texas Legislature. Today, the Fund is the country's largest educational endowment. The board oversees about \$34 billion in assets. However, the Fund has never had its own logo or brand identity. It has always used the Texas Education Agency logo or the state seal in branded material.

**FISCAL IMPACT:** Donations will be accepted to cover the cost of the awards.

**PUBLIC AND STUDENT BENEFIT:** The student winner of the art contest will receive a cash award.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None

**PUBLIC COMMENTS:** None

**OTHER COMMENTS AND RELATED ISSUES:** None

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

This page has been intentionally left blank.

**Report of the Permanent School Fund Executive Administrator  
and Chief Investment Officer**

**September 13, 2018**

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION  
STATE BOARD OF EDUCATION: NO ACTION**

**SUMMARY:** The Permanent School Fund executive administrator will report to the committee on matters relating to the management of the Permanent School Fund and the Charter District Reserve Fund. The report may present information on historical and current status of Fund holdings, current and proposed investment policies and procedures, and historical and current Fund performance and compliance. The administrator may update the board on the bond guarantee program, the status of requests for proposal or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the Permanent School Fund.

**BOARD RESPONSE:** During this item, the committee may provide guidance to the investment staff.

**PREVIOUS BOARD ACTION:** This is a recurring report at every committee meeting.

**FUTURE ACTION EXPECTED:** None.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** None.

**FISCAL IMPACT:** The distribution of the Permanent School Fund is projected to be \$2.5 billion during the 2018-2019 biennium.

**PROCEDURAL AND REPORTING IMPLICATIONS:** Not applicable.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Holland Timmins, Executive Administrator  
and Chief Investment Officer of the  
Texas Permanent School Fund

This page has been intentionally left blank.

**Review of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates**

**September 14, 2018**

**COMMITTEE ON SCHOOL INITIATIVES: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the State Board of Education (SBOE) an opportunity to review a State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would implement legislation from the 85th Texas Legislature, Regular Session, 2017, to establish new certificates for Early Childhood: Prekindergarten-Grade 3 and Trade and Industrial Workforce Training: Grades 6-12; would specify procedures for an interested party to request an additional foreign language certificate; and would identify any additional requirements to obtain certification and/or be eligible to teach specific courses. Additional proposed amendments and technical changes would provide clarification for consistent application of these rules, would remove duplicative language specifying assignments into which certificate holders are eligible to be placed, and would establish consistent information related to the classroom certificates issued by the SBEC.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), §§21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.048(a); 21.0442 and 21.0491, as added by House Bill (HB) 3349, 85th Texas Legislature, Regular Session, 2017; and 21.0489, as added by Senate Bill (SB) 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017.

TEC, §21.003(a), states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B.

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

TEC, §21.041(b)(1), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

TEC, §21.041(b)(2), requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

TEC, §21.041(b)(3), requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid.

TEC, §21.041(b)(4), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(b)(6), requires the SBEC to propose rules that provide for special or restricted certification of educators, including certification of instructors of American Sign Language.

TEC, §21.044(e), provides the requirements that SBEC rules must specify for a person to obtain a certificate to teach a health science technology education course.

TEC, §21.044(f), provides that SBEC rules for obtaining a certificate to teach a health science technology education course shall not specify that a person must have a bachelor's degree or establish any other credential or teaching experience requirements that exceed the requirements under TEC, §21.044(e).

TEC, §21.0442, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to create an abbreviated educator preparation program for trade and industrial workforce training.

TEC, §21.048(a), requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC. TEC, §21.048(a), also specifies that the commissioner of education shall determine the satisfactory level of performance required for each certification examination and require a satisfactory level of examination performance in each core subject covered by the generalist certification examination.

TEC, §21.0489, as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to create a Prekindergarten-Grade 3 certificate.

TEC, §21.0491, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to create a probationary and standard trade and industrial workforce training certificate.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendments to 19 TAC Chapter 233 would be October 21, 2018.

**PREVIOUS BOARD ACTION:** None.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The TEC, §21.041(b)(2), authorizes the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates. The SBEC rules in 19 TAC Chapter 233 establish the general categories of classroom teaching certificates, identify specific grade levels and subject areas of classroom certificates, and where appropriate, state the general area(s) of assignments that may be taught by the holder of each certificate.

The proposed amendments would remove assignment-specific text from most sections of the chapter as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments. Information relevant to either legislative mandates, training requirements, or other qualifications necessary for issuance of a specific certificate prior to placement into the assignment would be maintained. The following is a description of the proposed amendments included in Attachment II.

§233.1. General Authority.

Language would be amended in subsection (e) to reference §230.21, Educator Assessment, to clarify and establish a single, specific list of examinations that must be successfully completed prior to issuance of an initial standard classroom teaching certificate. Language in subsection (f) would be deleted as it is duplicative of the test requirements referenced in subsection (e).

A proposed new subsection (f) would allow staff to extend rule deadlines when rules in this chapter cannot be complied with because of a disaster that results in the governor declaring a state of disaster. This amendment would allow Texas Education Agency (TEA) staff to extend deadlines in this chapter for up to 90 days to accommodate persons in the disaster areas identified by the governor's declaration.

Language in subsection (h) would be amended to add the text, "where applicable," to clarify that only certain certificates have general assignment descriptions that make them subject to legislative mandates, federal requirements, or other training or guidelines specific to issuance of the certificate.

§233.2. Core Subjects; Generalist.

Language would be amended in the heading to add "Early Childhood" and delete "Generalist" since those certificates will no longer be issued at the completion of this rulemaking process. This proposed amendment does not change the eligibility status for classroom assignments for individuals issued a Generalist certificate through the provisions of this chapter. Proposed new subsection (a) would add the Early Childhood: Prekindergarten-Grade 3 certificate to implement SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017.

The Core Subjects: Early Childhood-Grade 6 and Core Subjects: Grades 4-8 certificate references previously listed in subsections (a) and (b) would be relettered to subsections (b) and (c).

Current subsections (c) and (d) would be deleted since the certificates for Generalist: Early Childhood-Grade 6 and Generalist: Grades 4-8 were issued for the last time in fall 2017.

§233.3. English Language Arts and Reading; Social Studies.

Language in subsections (a)-(h) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments. Current subsection (g) would be deleted since the Journalism: Grades 8-12 certificate was issued for the last time in 2016. Remaining subsections would be relettered accordingly.

§233.4. Mathematics; Science.

Language in subsections (b)-(j) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments. Current subsections (h) and (j) would be deleted since the certificates for Physics/Mathematics: Grades 8-12 and Mathematics/Physical Science/Engineering: Grades 8-12 were issued for the last time in 2016. Remaining subsections would be relettered accordingly.

§233.5. Technology Applications and Computer Science.

Language in subsections (a)-(c) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.6. Bilingual Education.

Current subsections (a) and (b) would be deleted since the certificates for Bilingual Generalist: Early Childhood-Grade 6 and Bilingual Generalist: Grades 4-8 were issued for the last time in fall 2017. Remaining subsections would be relettered accordingly. Language in current subsection (c), relettered subsection (a), that specifies what the certificate holder can teach would be deleted as it is duplicative language that already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.7. English as a Second Language.

Current subsections (a) and (b) would be deleted since the certificates for English as a Second Language Generalist: Early Childhood-Grade 6 and English as a Second Language Generalist: Grades 4-8 were issued for the last time in fall 2017. In addition, language in this section that specifies what the certificate holder can teach would be deleted as it is duplicative language that already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.8. Special Education.

Language in subsection (a) specific to qualifications for assignment as a special education teacher and language in subsections (a)-(d) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.9. Gifted and Talented.

Language that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.10. Fine Arts.

Language in subsections (a), (b), and (e) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.11. Health.

Language that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.



§233.12. Physical Education.

Language that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

§233.13. Career and Technical Education (Certificates not requiring experience and preparation in a skill area).

Language in subsections (a)-(f) that specifies what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

Current subsections (e) and (g) would be deleted since the certificates for Agricultural Science and Technology: Grades 6-12 and Business Education: Grades 6-12 were issued for the last time in fall 2017.

Current subsection (i) that references the certificate for Science, Technology, Engineering, and Mathematics (STEM): Grades 6-12 certificate would be deleted as there are currently no approved educator preparation programs (EPPs) to prepare candidates, no adopted educator standards to guide the foundation of educator preparation or test development, and no examination available to assess an individual's preparedness and readiness for issuance of a certificate in this subject area. There are other classroom certificates already available for issuance under provisions of this chapter that qualify an individual to be placed in an assignment to teach STEM courses as specified in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

Remaining subsections would be relettered accordingly.

§233.14. Career and Technical Education (Certificates requiring experience and preparation in a skill area).

Current subsections (b) and (d) would be deleted since the certificates for Marketing Education: Grades 8-12 and Health Science Technology Education: Grades 8-12 were issued for the last time in fall 2017, and language referencing these certificates in current subsection (h), relettered as subsection (f), would also be deleted. Current subsection (f) would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

Remaining subsections would be relettered accordingly.

If proposed changes to 19 TAC Chapter 233 are adopted by the SBEC, subject to State Board of Education review, TEA staff anticipates future rulemaking specific to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, to align with applicable changes made in this chapter. This action would be necessary to maintain clear communication with the public regarding the current list of classroom certificates issued as it relates to teaching assignments specified in 19 TAC Chapter 231.

Proposed new subsection (e) would add the Trade and Industrial Workforce Training: Grades 6-12 certificate, mandated in HB 3349, 85th Texas Legislature, Regular Session, 2017. The proposed new subsection would align with legislation as it relates to the minimal educational requirement, the recency and duration of experience, and licensure for a specific trade. The proposed new subsection would also support agency-wide and statewide efforts to open pathways into career and technical areas for candidates

with knowledge, skills, experience, and licensure to be successful in this area of certification. Eligibility and coursework requirements for individuals interested in pursuing this area of certification currently are addressed in 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, and 19 TAC Chapter 228, Requirements for Educator Preparation Programs.

A technical edit was made at adoption to correct a cross reference in §233.14(b)(2).

§233.15. Languages Other Than English.

Proposed new subsection (a) would provide introductory text specific to certificates for languages other than English (LOTE) issued by the SBEC. Current subsections (a)-(p) that identify each foreign language certificate area relating to subsection (a) would be renumbered as paragraphs (1)-(16), and language specifying what the certificate holder can teach would be deleted as this information is duplicative and already resides in 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

TEA staff recognizes that as districts attempt to be responsive to the needs and interests of their multicultural communities, as well as continue to prepare their students for the increasing globalization of our economy, there is a need to add additional language choices for students. For example, at the October 2017 SBEC meeting, the SBEC received public testimony related to the languages of Tamil and Esperanto.

To address these district needs, there are existing provisions in 19 TAC §231.97, Innovative Course, and 19 TAC §231.99, Local Credit Course, that allow school districts flexibility to assign individuals to teach a foreign language course for which a certification does not exist; however, the course offering will not count for the foreign language graduation requirement. An assignment for an innovative course is allowed with a valid certificate that matches the grade level of the assignment determined by TEA. An assignment where local credit is given is allowed with a valid certificate that matches the grade level of the assignment or appropriate qualifications as determined by the school district. Districts that are interested in offering a foreign language course for which there is no educator certification and that do want it to count for the foreign language graduation requirement, can identify a language proficiency examination in that foreign language and provide for credit by examination.

Because districts are required to ensure that instructors are appropriately certified to teach any Texas Essential Knowledge and Skills-based course, some school districts have eliminated LOTE courses because SBEC does not issue a certificate for some languages. Beyond existing options for districts to offer LOTE courses for which there are no SBEC certificates, proposed new subsection (b) would establish procedures to allow an interested person to submit a request for an additional LOTE certificate utilizing the provisions in 19 TAC §250.20, Petition for Adoption of Rules or Rule Changes, to petition the SBEC for rulemaking. Proposed new subsection (b)(1) would require the petitioner to clarify the desired certificate and confirm the number of students designated to receive instruction in the language other than English; proposed new subsection (b)(2) would require the petitioner to clarify the number of individuals interested in adding certification in the new language; and proposed new subsection (b)(3) would require the petitioner to describe the rationale and student benefit for the additional LOTE certificate. These requirements will allow TEA staff to determine the extent of the need for the additional foreign language and will inform staff's recommendation to the SBEC. Also, having in rule the specific process necessary for the SBEC to consider a request for a new LOTE certification would provide clarification and guidance to interested school districts and individuals.

§233.17. Junior Reserve Officer Training Corps.

Language would be amended in paragraph (4) to replace the specific test name reference, Pedagogy and Professional Responsibilities, with more general wording that confirms the appropriate examination must still be passed for issuance of the certificate. This change mirrors other technical edits in this chapter to verify that information about required examinations for issuance of licensure is retained and updated in the figure adopted in rule in 19 TAC §230.21(e), Educator Assessment.

SBOE Review of Proposed SBEC Rules

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposed amendments. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code (TGC), §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under TGC, §2001.022. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to TGC, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit anticipated as a result of the proposed amendments to 19 TAC Chapter 233 would be the continued issuance of classroom teaching certificates to eligible individuals. The proposed amendments do not impose a cost on persons required to comply with the rules.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendments would have no additional procedural and reporting implications.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendments would have no locally maintained paperwork requirements.

**PUBLIC COMMENTS:** In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Take no action on the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Ryan Franklin, Associate Commissioner  
Educator Leadership and Quality

Marilyn Cook, Director  
Educator Certification and Testing

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates

## ATTACHMENT I

### Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates

#### **Texas Education Code, §21.003, Certification Required (excerpt):**

- (a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

#### **Texas Education Code, §21.031, Purpose:**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.
- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

#### **Texas Education Code, §21.041, Rules; Fees (excerpt):**

- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
  - (2) specify the classes of educator certificates to be issued, including emergency certificates;
  - (3) specify the period for which each class of educator certificate is valid;
  - (4) specify the requirements for the issuance and renewal of an educator certificate;
  - (6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;

#### **Texas Education Code, §21.044, Educator Preparation (excerpts):**

- (e) In proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, the board shall specify that a person must have:
  - (1) an associate degree or more advanced degree from an accredited institution of higher education;
  - (2) current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and
  - (3) at least two years of wage earning experience utilizing the licensure requirement.
- (f) The board may not propose rules for a certificate to teach a health science technology education course that specify that a person must have a bachelor's degree or that establish any other credential or teaching experience requirements that exceed the requirements under Subsection (e).

**Texas Education Code, §21.0442, Educator Preparation Program for Probationary and Standard Trade and Industrial Workforce Training Certificates, as added by House Bill (HB) 3349, 85th Texas Legislature, Regular Session, 2017:**

- (a) The board shall propose rules under this subchapter to create an abbreviated educator preparation program for a person seeking certification in trade and industrial workforce training.
- (b) A person is eligible for admission to an educator preparation program created under this section only if the person:
  - (1) has been issued a high school diploma or a postsecondary credential, certificate, or degree;
  - (2) has seven years of full-time wage-earning experience within the preceding 10 years in an approved occupation for which instruction is offered;
  - (3) holds with respect to that occupation a current license, certificate, or registration, as applicable, issued by a nationally recognized accrediting agency based on a recognized test or measurement; and
  - (4) within the period described by Subdivision (2), has not been the subject of a complaint filed with a licensing entity or other agency that regulates the occupation of the person, other than a complaint that was determined baseless or unfounded by that entity or agency.
- (c) In proposing rules for an educator preparation program under this section, the board shall ensure that the program requires at least 80 hours of classroom instruction in:
  - (1) a specific pedagogy;
  - (2) creating lesson plans;
  - (3) creating student assessment instruments;
  - (4) classroom management; and
  - (5) relevant federal and state education laws.

**Texas Education Code, §21.048, Certification Examinations (excerpt):**

- (a) The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination.

**Texas Education Code, §21.0489, Early Childhood Certification, as added by Senate Bill 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017 (excerpt):**

- (c) To be eligible for a certificate established under this section, a person must:
  - (1) either:
    - (A) satisfactorily complete the course work for that certificate in an educator preparation program, including a knowledge-based and skills-based course of instruction on early childhood education that includes:
      - (i) teaching methods for:
        - (a) using small group instructional formats that focus on building social, emotional, and academic skills;

- (b) navigating multiple content areas; and
- (c) managing a classroom environment in which small groups of students are working on different tasks; and
- (ii) strategies for teaching fundamental academic skills, including reading, writing, and numeracy; or
- (B) hold an early childhood through grade six certificate issued under this subchapter and satisfactorily complete a course of instruction described by Paragraph (A);
- (2) perform satisfactorily on an early childhood certificate examination prescribed by the board; and
- (3) satisfy any other requirements prescribed by the board.

**Texas Education Code, §21.0491, Probationary and Standard Trade and Industrial Workforce Training Certificates, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017:**

- (a) To provide a continuing additional source of teachers to provide workforce training, the board shall establish a probationary trade and industrial workforce training certificate and a standard trade and industrial workforce training certificate that may be obtained through an abbreviated educator preparation program under Section 21.0442.
- (b) To be eligible for a probationary certificate under this section, a person must:
  - (1) satisfactorily complete the course work for that certificate in an educator preparation program under Section 21.0442; and
  - (2) satisfy any other requirements prescribed by the board.
- (c) To be eligible for a standard certificate under this section, a person must:
  - (1) hold a probationary certificate issued under this section;
  - (2) be employed by:
    - (A) a public or private primary or secondary school; or
    - (B) an institution of higher education or an independent or private institution of higher education as those terms are defined by Section 61.003; and
  - (3) perform satisfactorily on a standard trade and industrial workforce training certificate examination prescribed by the board.
- (d) The limitation imposed by Section 21.048(a-1) on the number of administrations of an examination does not apply to the administration of the standard trade and industrial workforce training certificate examination prescribed by the board.
- (e) Notwithstanding any other law, the board may administer the standard trade and industrial workforce training certificate examination to a person who satisfies the requirements of Subsections (c)(1) and (2).
- (f) The board shall propose rules to:
  - (1) specify the term of a probationary certificate and a standard certificate issued under this section; and
  - (2) establish the requirements for renewal of a standard certificate.

This page has been intentionally left blank.



**ATTACHMENT II**  
**Text of Proposed Amendments to 19 TAC**

**Chapter 233. Categories of Classroom Teaching Certificates**

**§233.1. General Authority.**

- (a) In this chapter, the State Board for Educator Certification (SBEC) establishes separate certificate categories within the certificate class for the classroom teacher established under §230.33 of this title (relating to Classes of Certificates).
- (b) For purposes of authorizing a person to be employed by a school district under the Texas Education Code, §21.003(a), a certificate category identifies:
  - (1) the content area or the special student population the holder may teach;
  - (2) the grade levels the holder may teach; and
  - (3) the earliest date the certificate may be issued.
- (c) Unless provided otherwise in this title, the content area and grade level of a certificate category as well as the standards underlying the certification examination for each category are aligned with the Texas Essential Knowledge and Skills curriculum adopted by the State Board of Education.
- (d) A category includes both a standard certificate and the related emergency or temporary credential. A category may comprise a standard base certificate or a supplemental certificate. A supplemental certificate may be issued only to a person who already holds the appropriate standard base certificate.
- (e) A person must satisfy all applicable requirements and conditions under this title and other law to be issued a certificate in a category. A person seeking an initial standard certification must pass the appropriate examination(s) as prescribed in §230.21 of this title (relating to Educator Assessment) [grade level of pedagogy and professional responsibility certification examination, the appropriate content subject examination(s), and, as applicable, the appropriate oral or communication proficiency examination in the target language for the certification sought as established by the SBEC] . A person completing requirements for a standard certificate using a score on an examination that has been eliminated must apply and pay for the certification not later than one year from the last test administration of the deleted examination. Exceptions may be granted for a period of two years after the elimination of the examination for catastrophic illness of the educator or an immediate family member or military service of the applicant.
- ~~(f) If the governor declares a state of disaster consistent with the Texas Government Code, §418.014, Texas Education Agency staff may extend deadlines in this chapter for up to 90 days as necessary to accommodate persons in the affected disaster areas.~~
- ~~[(f) — A person seeking a languages other than English certificate valid for Early Childhood Grade 12 specified in §233.15 of this title (relating to Languages Other Than English) must successfully complete an approved oral or communication proficiency examination in the target language in addition to the appropriate grade level of pedagogy and professional responsibility and content subject examinations as specified in subsection (e) of this section.]~~
- (g) A holder of a certificate valid for Grades 4-8 may teach technology applications in Grades 4-8 if integrated within an academic course or through interdisciplinary methodology in those subjects that the individual is certified to teach. The school district is responsible for ensuring that the educator has the appropriate technology applications knowledge and skills to teach the course(s) to which he or she is assigned. If Technology Applications is taught as a separate course, the educator shall be required to hold an appropriate technology applications certificate as specified in §233.5 of this title (relating to Technology Applications and Computer Science).
- (h) The general assignment descriptions in this chapter, where applicable, are subject to the specific provisions for the assignment of a holder of a certificate in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments), and in the event of any conflict with this chapter, Chapter 231 of this title shall prevail.

**§233.2. Early Childhood; Core Subjects; [Generalist]**

(a) ~~Early Childhood: Prekindergarten-Grade 3. The Early Childhood: Prekindergarten-Grade 3 certificate may be issued no earlier than January 1, 2020.~~

(b) ~~(a)~~ Core Subjects: Early Childhood-Grade 6. The Core Subjects: Early Childhood-Grade 6 certificate may be issued no earlier than January 1, 2015. ~~[The holder of the Core Subjects: Early Childhood-Grade 6 certificate may teach the following content areas in a prekindergarten program, in kindergarten, and in Grades 1-6:]~~

~~[(1) — Art;]~~

~~[(2) — Health;]~~

~~[(3) — Music;]~~

~~[(4) — Physical Education;]~~

~~[(5) — English Language Arts and Reading;]~~

~~[(6) — Mathematics;]~~

~~[(7) — Science;]~~

~~[(8) — Social Studies;]~~

~~[(9) — Technology Applications; and]~~

~~[(10) — Theater;]~~

(c) ~~(b)~~ Core Subjects: Grades 4-8. The Core Subjects: Grades 4-8 certificate may be issued no earlier than January 1, 2015. ~~[The holder of the Core Subjects: Grades 4-8 certificate may teach the following content areas in Grades 4-8:]~~

~~[(1) — English Language Arts and Reading;]~~

~~[(2) — Mathematics;]~~

~~[(3) — Science; and]~~

~~[(4) — Social Studies;]~~

~~(c) — Generalist: Early Childhood-Grade 6. The Generalist: Early Childhood-Grade 6 certificate may be issued no earlier than September 1, 2008. A candidate must meet the requirements for a Generalist: Early Childhood-Grade 6 certificate by August 31, 2017. All applications must be complete and received by the Texas Education Agency (TEA) by October 30, 2017. The holder of the Generalist: Early Childhood-Grade 6 certificate may teach the following content areas in a prekindergarten program, in kindergarten, and in Grades 1-6:]~~

~~[(1) — Art;]~~

~~[(2) — Health;]~~

~~[(3) — Music;]~~

~~[(4) — Physical Education;]~~

~~[(5) — English Language Arts and Reading;]~~

~~[(6) — Mathematics;]~~

~~[(7) — Science;]~~

~~[(8) — Social Studies;]~~

~~[(9) — Technology Applications; and]~~

~~[(10) — Theater;]~~

~~[(d) Generalist: Grades 4-8. The Generalist: Grades 4-8 certificate may be issued no earlier than September 1, 2002. A candidate must meet the requirements for a Generalist: Grades 4-8 certificate by August 31, 2017. All applications must be complete and received by the TEA by October 30, 2017. The holder of the Generalist: Grades 4-8 certificate may teach the following content areas in Grades 4-8:]~~

~~[(1) English Language Arts and Reading;]~~

~~[(2) Mathematics;]~~

~~[(3) Science; and]~~

~~[(4) Social Studies.]~~

### **§233.3. English Language Arts and Reading; Social Studies.**

- (a) English Language Arts and Reading: Grades 4-8. The English Language Arts and Reading: Grades 4-8 certificate may be issued no earlier than September 1, 2002. ~~[The holder of the English Language Arts and Reading: Grades 4-8 certificate may teach English language arts and reading in Grades 4-8.]~~
- (b) Social Studies: Grades 4-8. The Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002. ~~[The holder of the Social Studies: Grades 4-8 certificate may teach social studies in Grades 4-8.]~~
- (c) English Language Arts and Reading/Social Studies: Grades 4-8. The English Language Arts and Reading/Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002. ~~[The holder of the English Language Arts and Reading/Social Studies: Grades 4-8 certificate may teach English language arts and reading, and social studies in Grades 4-8.]~~
- (d) English Language Arts and Reading: Grades 7-12. The English Language Arts and Reading: Grades 7-12 certificate may be issued no earlier than September 1, 2013. ~~[The holder of the English Language Arts and Reading: Grades 7-12 certificate may teach English language arts and reading in Grades 7 and 8 and all English language arts and reading courses in Grades 9-12, excluding journalism and speech courses.]~~
- (e) Social Studies: Grades 7-12. The Social Studies: Grades 7-12 certificate may be issued no earlier than September 1, 2013. ~~[The holder of the Social Studies: Grades 7-12 certificate may teach social studies in Grades 7 and 8 and all social studies and economics courses in Grades 9-12.]~~
- (f) History: Grades 7-12. The History: Grades 7-12 certificate may be issued no earlier than September 1, 2013. ~~[The holder of the History: Grades 7-12 certificate may teach social studies in Grades 7 and 8 and all history courses in Grades 9-12.]~~
- ~~[(g) Journalism: Grades 8-12. The Journalism: Grades 8-12 certificate may be issued no earlier than September 1, 2005. The holder of the Journalism: Grades 8-12 certificate is eligible to teach all journalism courses in Grades 8-12. A candidate must meet the requirements for a Journalism: Grades 8-12 certificate by August 31, 2016. All applications must be complete and received by the TEA by October 30, 2016.]~~
- (g) ~~[(h)]~~ Journalism: Grades 7-12. The Journalism: Grades 7-12 certificate may be issued no earlier than September 1, 2013. ~~[The holder of the Journalism: Grades 7-12 certificate is eligible to teach all journalism courses in Grades 7-12.]~~
- (h) ~~[(i)]~~ Speech: Grades 7-12. The Speech: Grades 7-12 certificate may be issued no earlier than November 1, 2010. ~~[The holder of the Speech: Grades 7-12 certificate is eligible to teach all speech courses in Grades 7-12.]~~

### **§233.4. Mathematics; Science.**

- (a) Mathematics: Grades 4-8. The Mathematics: Grades 4-8 certificate may be issued no earlier than September 1, 2002. ~~[The holder of the Mathematics: Grades 4-8 certificate may teach mathematics in Grades 4-8, including Algebra I for high school credit.]~~
- (b) Science: Grades 4-8. The Science: Grades 4-8 certificate may be issued no earlier than September 1, 2002. ~~[The holder of the Science: Grades 4-8 certificate may teach science in Grades 4-8.]~~

- (c) Mathematics/Science: Grades 4-8. The Mathematics/Science: Grades 4-8 certificate may be issued no earlier than September 1, 2002. [~~The holder of the Mathematics/Science: Grades 4-8 certificate may teach mathematics and science in Grades 4-8.~~]
- (d) Mathematics: Grades 7-12. The Mathematics: Grades 7-12 certificate may be issued no earlier than September 1, 2013. [~~The holder of the Mathematics: Grades 7-12 certificate may teach mathematics in Grades 7 and 8 and all mathematics courses in Grades 9-12.~~]
- (e) Science: Grades 7-12. The Science: Grades 7-12 certificate may be issued no earlier than September 1, 2013. [~~The holder of the Science: Grades 7-12 certificate may teach science in Grades 7 and 8 and all science courses in Grades 9-12.~~]
- (f) Life Science: Grades 7-12. The Life Science: Grades 7-12 certificate may be issued no earlier than September 1, 2013. [~~The holder of the Life Science: Grades 7-12 certificate may teach science in Grades 7 and 8 and all biology, environmental systems, environmental science, and aquatic science courses in Grades 9-12.~~]
- (g) Physical Science: Grades 6-12. The Physical Science: Grades 6-12 certificate may be issued no earlier than September 1, 2013. [~~The holder of the Physical Science: Grades 6-12 certificate is eligible to teach science in Grades 6-8 and all physics and chemistry courses, including Integrated Physics and Chemistry, in Grades 9-12.~~]
- ~~(h) Physics/Mathematics: Grades 8-12. The Physics/Mathematics: Grades 8-12 certificate may be issued no earlier than September 1, 2004. The holder of the Physics/Mathematics: Grades 8-12 certificate is eligible to teach mathematics in Grade 8 and all mathematics courses in Grades 9-12. The holder may also teach science in Grade 8 and all physics courses in Grades 9-12. A candidate must meet the requirements for a Physics/Mathematics: Grades 8-12 certificate by August 31, 2016. All applications must be complete and received by the TEA by October 30, 2016.~~
- (h) ~~(+)~~ Physics/Mathematics: Grades 7-12. The Physics/Mathematics: Grades 7-12 certificate may be issued no earlier than September 1, 2014. [~~The holder of the Physics/Mathematics: Grades 7-12 certificate is eligible to teach mathematics in Grades 7 and 8 and all mathematics courses in Grades 9-12. The holder may also teach science in Grades 7 and 8 and all physics courses in Grades 9-12.~~]
- ~~(j) Mathematics/Physical Science/Engineering: Grades 8-12. The Mathematics/Physical Science/Engineering: Grades 8-12 certificate may be issued no earlier than September 1, 2005. The holder of the Mathematics/Physical Science/Engineering: Grades 8-12 certificate is eligible to teach mathematics in Grade 8 and all mathematics courses in Grades 9-12. The holder is also eligible to teach science in Grade 8 and all physics and chemistry courses, including Integrated Physics and Chemistry, in Grades 9-12. A candidate must meet the requirements for a Mathematics/Physical Science/Engineering: Grades 8-12 certificate by August 31, 2016. All applications must be complete and received by the TEA by October 30, 2016.~~
- (i) ~~(+)~~ Mathematics/Physical Science/Engineering: Grades 6-12. The Mathematics/Physical Science/Engineering: Grades 6-12 certificate may be issued no earlier than September 1, 2014. [~~The holder of the Mathematics/Physical Science/Engineering: Grades 6-12 certificate is eligible to teach mathematics in Grades 6-8 and all mathematics courses in Grades 9-12. The holder is also eligible to teach science in Grades 6-8 and all physics and chemistry courses, including Integrated Physics and Chemistry, in Grades 9-12.~~]
- (j) ~~(+)~~ Chemistry: Grades 7-12. The Chemistry: Grades 7-12 certificate may be issued no earlier than September 1, 2013. [~~The holder of the Chemistry: Grades 7-12 certificate is eligible to teach science in Grades 7 and 8 and all chemistry courses in Grades 9-12.~~]

### §233.5. Technology Applications and Computer Science.

- (a) Technology Applications: Grades 8-12. The Technology Applications: Grades 8-12 certificate may be issued no earlier than June 1, 2001. [~~The holder of the Technology Applications: Grades 8-12 certificate may teach Technology Applications in Grade 8 and the following technology applications courses in Grades 9-12: desktop publishing, digital graphics/animation, multimedia, video technology, web mastering, and independent study in technology applications.~~] A candidate must meet the requirements for a

Technology Applications: Grades 8-12 certificate by August 31, 2018. All applications must be complete and received by the Texas Education Agency by October 30, 2018.

- (b) Technology Applications: Early Childhood-Grade 12. The Technology Applications: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2002. [~~The holder of the Technology Applications: Early Childhood-Grade 12 certificate may teach the technology applications curriculum in prekindergarten, kindergarten, and Grades 1-12, with the exception of Computer Science I and II.~~]
- (c) Computer Science: Grades 8-12. The Computer Science: Grades 8-12 certificate may be issued no earlier than June 1, 2001. [~~The holder of the Computer Science: Grades 8-12 certificate may teach Computer Science I, II, and III in Grades 8-12 and the following courses in Grades 9-12: Digital Forensics, Robotics Programming and Design, Fundamentals of Computer Science, Advanced Placement Computer Science Principles, Game Programming and Design, and Mobile Application Development.~~]

### §233.6. Bilingual Education.

- ~~(a) Bilingual Generalist: Early Childhood-Grade 6. The Bilingual Generalist: Early Childhood-Grade 6 certificate may be issued no earlier than September 1, 2008. The holder of the Bilingual Generalist: Early Childhood-Grade 6 certificate may teach in a bilingual prekindergarten program, a bilingual kindergarten program, and a bilingual program in Grades 1-6. The holder of the Bilingual Generalist: Early Childhood-Grade 6 certificate may teach the same content areas, in either a bilingual or general education program, as the holder of the Generalist: Early Childhood-Grade 6 certificate may teach under §233.2(a) of this title (relating to Generalist). The holder of the Bilingual Generalist: Early Childhood-Grade 6 certificate may also teach in an English as a second language program in Early Childhood-Grade 6. A candidate must meet the requirements for a Bilingual Generalist: Early Childhood-Grade 6 certificate by August 31, 2017. All applications must be complete and received by the Texas Education Agency (TEA) by October 30, 2017.~~
- ~~(b) Bilingual Generalist: Grades 4-8. The Bilingual Generalist: Grades 4-8 certificate may be issued no earlier than September 1, 2002. The holder of the Bilingual Generalist: Grades 4-8 certificate may teach in a bilingual program in Grades 4-8. The holder of the Bilingual Generalist: Grades 4-8 certificate may teach the same content areas, in either a bilingual or a general education program, as the holder of the Generalist: Grades 4-8 certificate may teach under §233.2(b) of this title. The holder of the Bilingual Generalist: Grades 4-8 certificate may also teach in an English as a second language program in Grades 4-8. A candidate must meet the requirements for a Bilingual Generalist: Grades 4-8 certificate by August 31, 2017. All applications must be complete and received by the TEA by October 30, 2017.~~
- (a) ~~(e)~~ Bilingual Education Supplemental. The Bilingual Education Supplemental certificate may be issued no earlier than September 1, 2009. [~~The holder of the Bilingual Education Supplemental certificate may teach in a bilingual program at the same grade levels and in the content area(s) of the holder's base certificate. The holder of the Bilingual Education Supplemental certificate may also teach in an English as a second language program at the same grade levels and in the content area(s) of the holder's base certificate.~~]
- (b) ~~(d)~~ The State Board for Educator Certification shall determine the target languages for bilingual education certificates based on the student population in the Texas public schools.

### §233.7. English as a Second Language.

- ~~(a) English as a Second Language Generalist: Early Childhood-Grade 6. The English as a Second Language Generalist: Early Childhood-Grade 6 certificate may be issued no earlier than September 1, 2008. The holder of the English as a Second Language Generalist: Early Childhood-Grade 6 certificate may teach in an English as a second language program in prekindergarten-Grade 6. The holder of an English as a Second Language Generalist: Early Childhood-Grade 6 certificate may also teach the component of a dual language immersion/one way or two way bilingual education program model that is provided in English for prekindergarten-Grade 6. The holder of the English as a Second Language Generalist: Early Childhood-Grade 6 certificate may teach the same content areas, in either an English as a second language or a general education program, as the holder of the Generalist: Early Childhood-Grade 6 certificate may teach under §233.2(a) of this title (relating to Generalist). A candidate must meet the requirements for an English as a Second Language Generalist: Early Childhood-Grade 6 certificate by August 31, 2017. All applications must be complete and received by the Texas Education Agency (TEA) by October 30, 2017.~~

~~[(b) English as a Second Language Generalist: Grades 4-8. The English as a Second Language Generalist: Grades 4-8 certificate may be issued no earlier than September 1, 2003. The holder of the English as a Second Language Generalist: Grades 4-8 certificate may teach in an English as a second language program in Grades 4-8. The holder of an English as a Second Language Generalist: Grades 4-8 certificate may also teach the component of a dual language immersion/one-way or two-way bilingual education program model that is provided in English for Grades 4-6 only. The holder of the English as a Second Language Generalist: Grades 4-8 certificate may teach the same content areas, in either an English as a second language or a general education program, as the holder of the Generalist: Grades 4-8 certificate may teach under §233.2(b) of this title. A candidate must meet the requirements for an English as a Second Language Generalist: Grades 4-8 certificate by August 31, 2017. All applications must be complete and received by the TEA by October 30, 2017.]~~

~~[(c) English as a Second Language Supplemental. The English as a Second Language Supplemental certificate may be issued no earlier than September 1, 2003. [The holder of the English as a Second Language Supplemental certificate may teach in an English as a second language program at the same grade levels and in the same content area(s) of the holder's base certificate. The holder of an English as a Second Language Supplemental certificate may also teach the component of a dual language immersion/one-way or two-way bilingual program model that is provided in English for prekindergarten-Grade 6.]~~

### **§233.8. Special Education.**

- (a) Special Education: Early Childhood-Grade 12. The Special Education: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2003. ~~[The holder of the Special Education: Early Childhood-Grade 12 certificate may teach at any level of a basic special education instructional program serving eligible students 3-21 years of age, unless otherwise specified in §89.1131 of this title (relating to Qualifications of Special Education, Related Service, and Paraprofessional Personnel). If an individual is providing content instruction in a special education classroom setting, a valid certificate that matches the subject and grade level of the assignment is also required, or the individual must demonstrate competency through the state's 2010 and 2011 high-objective uniform State standard of evaluation for elementary and secondary special education teachers.]~~
- (b) Special Education Supplemental. The Special Education Supplemental certificate may be issued no earlier than September 1, 2003. ~~[The holder of the Special Education Supplemental certificate may teach in a special education instructional program serving eligible students at the same grade levels and in the content area(s) of the holder's base certificate, unless otherwise specified in §89.1131 of this title.]~~
- (c) Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12. The Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005. ~~[The holder of the Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12 certificate is eligible to teach at any level in a special education instructional program serving eligible students, unless otherwise specified in §89.1131 of this title.]~~
- (d) Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12. The Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005. ~~[The holder of the Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12 certificate is eligible to teach at any level in a special education instructional program serving eligible students, unless otherwise specified in §89.1131 of this title.]~~

### **§233.9. Gifted and Talented.**

Gifted and Talented Supplemental. The Gifted and Talented Supplemental certificate may be issued no earlier than September 1, 2004. ~~[The holder of the Gifted and Talented Supplemental certificate may teach students in a gifted and talented program at the same grade levels and in the same content area(s) of the holder's base certificate.]~~

**§233.10. Fine Arts.**

- (a) Music: Early Childhood-Grade 12. The Music: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Music: Early Childhood-Grade 12 certificate is eligible to teach music in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (b) Art: Early Childhood-Grade 12. The Art: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005. [~~The holder of the Art: Early Childhood-Grade 12 certificate is eligible to teach art in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (c) Theatre: Early Childhood-Grade 12. The Theatre: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005. [~~The holder of the Theatre: Early Childhood-Grade 12 certificate is eligible to teach theatre in a prekindergarten program, in kindergarten, and in Grades 1-12. The holder of the Theatre: Early Childhood-Grade 12 certificate is also eligible to teach Musical Theatre, Grades 9-12.~~]
- (d) Dance: Grades 8-12. The Dance: Grades 8-12 certificate may be issued no earlier than September 1, 2005. The holder of the Dance: Grades 8-12 certificate is eligible to teach all dance courses in Grades 8-12. [~~The holder of the Dance: Grades 8-12 certificate is also eligible to teach Dance, Middle School 1-3 courses for Grades 6-8.~~] A candidate must meet the requirements for a Dance: Grades 8-12 certificate by August 31, 2018. All applications must be complete and received by the Texas Education Agency by October 30, 2018.
- (e) Dance: Grades 6-12. The Dance: Grades 6-12 certificate may be issued no earlier than March 1, 2017. [~~The holder of the Dance: Grades 6-12 certificate is eligible to teach all dance courses in Grades 6-12.~~]

**§233.11. Health.**

Health: Early Childhood-Grade 12. The Health: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Health: Early Childhood-Grade 12 certificate may teach health in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]

**§233.12. Physical Education.**

Physical Education: Early Childhood-Grade 12. The Physical Education: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Physical Education: Early Childhood-Grade 12 certificate may teach physical education in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]

**§233.13. Career and Technical Education (Certificates not requiring experience and preparation in a skill area).**

- (a) Technology Education: Grades 6-12. The Technology Education: Grades 6-12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Technology Education: Grades 6-12 certificate may teach all technology education courses in Grades 6-12.~~]
- (b) Family and Consumer Sciences, Composite: Grades 6-12. The Family and Consumer Sciences, Composite: Grades 6-12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Family and Consumer Sciences, Composite: Grades 6-12 certificate may teach all family and consumer sciences courses in Grades 6-12.~~]
- (c) Human Development and Family Studies: Grades 8-12. The Human Development and Family Studies: Grades 8-12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Human Development and Family Studies: Grades 8-12 certificate may teach the specific courses in Grades 8-12 listed in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments).~~]
- (d) Hospitality, Nutrition, and Food Sciences: Grades 8-12. The Hospitality, Nutrition, and Food Sciences: Grades 8-12 certificate may be issued no earlier than September 1, 2004. [~~The holder of the Hospitality, Nutrition, and Food Sciences: Grades 8-12 certificate may teach the specific courses in Grades 8-12 listed in Chapter 231 of this title.~~]

- ~~(e) — Agricultural Science and Technology: Grades 6-12. The Agricultural Science and Technology: Grades 6-12 certificate may be issued no earlier than September 1, 2005. The holder of the Agricultural Science and Technology: Grades 6-12 certificate is eligible to teach all agricultural science and technology courses in Grades 6-12. A candidate must meet the requirements for an Agricultural Science and Technology: Grades 6-12 certificate by August 31, 2017. All applications must be complete and received by the Texas Education Agency (TEA) by October 30, 2017.]~~
- (e) ~~(f)~~ Agriculture, Food, and Natural Resources: Grades 6-12. The Agriculture, Food, and Natural Resources: Grades 6-12 certificate may be issued no earlier than September 1, 2014. ~~[The holder of the Agriculture, Food, and Natural Resources: Grades 6-12 certificate is eligible to teach all agricultural science and technology courses in Grades 6-12.]~~
- ~~(g) — Business Education: Grades 6-12. The Business Education: Grades 6-12 certificate may be issued no earlier than November 8, 2006. The holder of the Business Education: Grades 6-12 certificate may teach all business education courses in Grades 6-12, excluding economics courses. A candidate must meet the requirements for a Business Education: Grades 6-12 certificate by August 31, 2017. All applications must be complete and received by the TEA by October 30, 2017.]~~
- (f) ~~(h)~~ Business and Finance: Grades 6-12. The Business and Finance: Grades 6-12 certificate may be issued no earlier than September 1, 2014. ~~[The holder of the Business and Finance: Grades 6-12 certificate may teach all business and finance courses in Grades 6-12.]~~
- ~~(i) — Science, Technology, Engineering, and Mathematics: Grades 6-12. The Science, Technology, Engineering, and Mathematics: Grades 6-12 certificate may be issued no earlier than September 1, 2014. The holder of the Science, Technology, Engineering, and Mathematics: Grades 6-12 certificate may teach all science, technology, engineering, and mathematics cluster courses in Grades 6-12.]~~

**§233.14. Career and Technical Education (Certificates requiring experience and preparation in a skill area).**

- (a) All individuals seeking a career and technical education certificate specified in this section must have the required number of years of qualified work experience and preparation in a skill area approved in accordance with the provisions of subsection (f) ~~(h)~~ of this section prior to issuance of the certificate and assignment in a Texas school.
- ~~(b) — Marketing Education: Grades 8-12. The Marketing Education: Grades 8-12 certificate may be issued no earlier than September 1, 2005. A candidate must meet the requirements for a Marketing Education: Grades 8-12 certificate by August 31, 2017. All applications must be complete and received by the Texas Education Agency (TEA) by October 30, 2017. The holder of the Marketing Education: Grades 8-12 certificate is eligible to teach all marketing education courses in Grades 8-12. A candidate for the Marketing Education: Grades 8-12 certificate must:~~
- ~~(1) — hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB); and~~
- ~~(2) — have two years of full-time wage-earning experience in a marketing occupation as specified in subsection (h) of this section.]~~
- (b) ~~(e)~~ Marketing: Grades 6-12. The Marketing: Grades 6-12 certificate may be issued no earlier than September 1, 2014. ~~[The holder of the Marketing: Grades 6-12 certificate is eligible to teach all marketing courses in Grades 6-12.]~~ A candidate for the Marketing: Grades 6-12 certificate must:
- (1) hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and
  - (2) have two years of full-time wage-earning experience in a marketing occupation as specified in subsection (f) ~~(h)~~ of this section.
- ~~(d) — Health Science Technology Education: Grades 8-12. A standard Health Science Technology Education: Grades 8-12 certificate shall be based on experience and academic preparation in the skill area. A candidate must meet the requirements for a standard Health Science Technology Education: Grades 8-12 certificate by August 31, 2017. All applications must be complete and received by the TEA by October 30, 2017.]~~



~~[(1) — The standard Health Science Technology Education: Grades 8-12 certificate shall require the following:]~~

~~[(A) — an associate or more advanced degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB;]~~

~~[(B) — current licensure, certification, or registration by a nationally recognized accrediting agency as a health professions practitioner; and]~~

~~[(C) — approval, by the certification officer of an approved educator preparation program (EPP), of two years of wage-earning experience using the licensure requirement described in subparagraph (B) of this paragraph.]~~

~~[(2) — The standard Health Science Technology Education: Grades 8-12 certificate curricula shall be based on the standards approved by the State Board for Educator Certification. A candidate for this certificate must pass the appropriate certification examinations.]~~

(c) ~~[(e)]~~ Health Science: Grades 6-12 certificate. The standard Health Science: Grades 6-12 certificate may be issued no earlier than September 1, 2014. A standard Health Science: Grades 6-12 certificate shall be based on experience and academic preparation in the skill area and require the following: [ ]

~~[(1) — The standard Health Science: Grades 6-12 certificate shall require the following:]~~

~~(1) [(A)] an associate or more advanced degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB;~~

~~(2) [(B)] current licensure, certification, or registration by a nationally recognized accrediting agency as a health professions practitioner; and~~

~~(3) [(C)] approval, by the certification officer of an approved EPP, of two years of full-time wage-earning experience using the licensure requirement described in paragraph (2) [subparagraph (B)] of this subsection [paragraph] .~~

~~[(2) — The standard Health Science: Grades 6-12 certificate curricula shall be based on the standards approved by the State Board for Educator Certification. A candidate for this certificate must pass the appropriate certification examinations.]~~

~~[(f) — Trade and Industrial Education: Grades 8-12 certificate. A standard Trade and Industrial Education: Grades 8-12 certificate shall be based on academic preparation and experience in the skill areas to be taught and completion of specified pedagogy and professional responsibilities training.]~~

~~[(1) — The standard Trade and Industrial Education: Grades 8-12 certificate shall require the following academic preparation and wage-earning experience:]~~

~~[(A) — Option I. An individual must:]~~

~~[(i) — hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and]~~

~~[(ii) — have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 8-12 certificate. Up to 18 months of the wage-earning experience can be met through a formal documented internship.]~~

~~[(B) — Option II. An individual must:]~~

~~[(i) — hold an associate degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and]~~

~~[(ii) — have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 8-12 certificate.]~~

~~[(C) — Option III. An individual must:]~~

~~[(i) — hold a high school diploma or the equivalent; and]~~

~~[(ii) — have five years of full-time wage-earning experience within the past eight years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 8-12 certificate.]~~

~~[(2) — The standard Trade and Industrial Education: Grades 8-12 certificate shall require current licensure, certification, or registration by a nationally recognized accrediting agency based on a recognized test or measurement. If the licensure, certification, or registration is not based on a recognized test or measurement, then passing the appropriate National Occupational Competency Testing Institute (NOCTI) assessment is required. A cosmetology teacher must hold a current cosmetology instructor license issued by the Texas Department of Licensing and Regulation.]~~

~~[(3) — An individual must complete one year of creditable classroom teaching experience, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on Creditable Years of Service), on an emergency permit or probationary certificate in the specific area of trade and industrial education.]~~

~~[(4) — The holder of a standard or provisional Trade and Industrial Education: Grades 8-12 certificate or Vocational Trades and Industry certificate may be approved for additional trade and industrial education assignments provided he or she meets the required number of years of wage-earning experience as indicated in this subsection. Work experience must be approved according to the provisions of this subsection. The EPP must submit a statement of qualifications to the Texas Education Agency (TEA) within 60 calendar days of approval.]~~

(d) ~~[(g)]~~ Trade and Industrial Education: Grades 6-12 certificate. The certificate may be issued no earlier than September 1, 2014. A standard Trade and Industrial Education: Grades 6-12 certificate shall be based on academic preparation and experience in the skill areas to be taught and completion of specified pedagogy and professional responsibilities training.

(1) The standard Trade and Industrial Education: Grades 6-12 certificate shall require the following academic preparation and wage-earning experience.

(A) Option I. An individual must:

- (i) hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and
- (ii) have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate. Up to 18 months of the wage-earning experience can be met through a formal documented internship.

(B) Option II. An individual must:

- (i) hold an associate degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and
- (ii) have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The

experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate.

- (C) Option III. An individual must:
- (i) hold a high school diploma or the equivalent; and
  - (ii) have five years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate.
- (2) The standard Trade and Industrial Education: Grades 6-12 certificate shall require current licensure, certification, or registration by a nationally recognized accrediting agency based on a recognized test or measurement. If the licensure, certification, or registration is not based on a recognized test or measurement, then passing the appropriate NOCTI assessment is required. A cosmetology teacher must hold a current cosmetology instructor license issued by the Texas Department of Licensing and Regulation.
- (3) An individual must complete one year of creditable classroom teaching experience, as defined in Chapter 153, Subchapter CC, of this title, on an emergency permit or probationary certificate in the specific area of trade and industrial education.
- (4) The holder of a standard or provisional Trade and Industrial Education: Grades 6-12 certificate or Vocational Trades and Industry certificate may be approved for additional trade and industrial education assignments provided he or she meets the required number of years of wage-earning experience as indicated in this subsection. Work experience must be approved according to the provisions of this subsection. The EPP must submit a statement of qualifications to the TEA within 60 calendar days of approval.

(e) Trade and Industrial Workforce Training: Grades 6-12 certificate. The certificate may be issued no earlier than September 1, 2018. A standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall be based on academic preparation and experience in the skill areas to be taught and completion of specified pedagogy and professional responsibilities training.

(1) The standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall require all of the following academic preparation and wage-earning experience.

(A) An individual must have been issued a high school diploma or its equivalent or a postsecondary credential, certificate or degree.

(B) An individual must have seven years of full-time wage-earning experience within the preceding 10 years in an approved occupation for which instruction is offered, and have not been the subject of a complaint filed with a licensing entity or other agency that regulates the occupation of the person, other than a complaint that was determined baseless or unfounded by that entity or agency.

(C) An individual must hold with respect to that occupation a current license, certificate, or registration, as applicable, issued by a nationally recognized accrediting agency based on a recognized test or measurement.

(2) The standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall require current licensure, certification, or registration by a nationally recognized accrediting agency based on a recognized test or measurement.

(f) ~~(4)~~ Career and technical education certificates. Approval of career and technical education certificates in this section shall be based on prior experience and preparation in a skill area.

(1) Prospective career and technical education teachers shall submit a statement of qualifications detailing prior experience and skill area preparation to the EPP approved to prepare teachers for the career and technical education certificate sought. The certification officer of the EPP shall review the applicant's statement of qualifications to determine whether the applicant meets the appropriate approval criteria specified in this subsection. In the case of an educator who otherwise

qualifies for certification by examination in [~~Marketing Education: Grades 8-12,~~] Marketing: Grades 6-12, [~~Health Science Technology Education: Grades 8-12,~~] Health Science: Grades 6-12, or Trade and Industrial Education: Grades 6-12, the review and approval of required work experience may be performed by a certified school administrator.

- (2) Under this subsection, 12 months of wage-earning experience consisting of at least 40 hours per week shall equal one year of full-time experience. Wage-earning experience consisting of less than 40 hours, but at least 20 hours per week, shall be calculated at a 50% rate in determining years of full-time experience. Wage-earning experience consisting of less than 20 hours per week shall not be considered acceptable in determining full-time experience.
- (3) Postsecondary and proprietary school teaching experience in the specific occupational area for which the candidate is seeking certification may be counted on a year-for-year basis in lieu of on-the-job experience. Proprietary schools must be accredited or otherwise approved by the Texas Workforce Commission. Recency of experience requirements must be met, as well as current licensure, certification, or registration by a state or nationally recognized accrediting agency.

### **§233.15. Languages Other Than English.**

(a) The State Board for Educator Certification (SBEC) shall issue languages other than English (LOTE) certificates in the following areas:

- (1) [~~(a)~~] American Sign Language: Early Childhood-Grade 12. The American Sign Language: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005. [~~The holder of the American Sign Language: Early Childhood-Grade 12 certificate is eligible to teach American Sign Language in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (2) [~~(b)~~] Arabic: Early Childhood-Grade 12. The Arabic: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007. [~~The holder of the Arabic: Early Childhood-Grade 12 certificate is eligible to teach Arabic in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (3) [~~(c)~~] Chinese: Early Childhood-Grade 12. The Chinese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007. [~~The holder of the Chinese: Early Childhood-Grade 12 certificate is eligible to teach Chinese in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (4) [~~(d)~~] French: Early Childhood-Grade 12. The French: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009. [~~The holder of the French: Early Childhood-Grade 12 certificate is eligible to teach French in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (5) [~~(e)~~] German: Early Childhood-Grade 12. The German: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009. [~~The holder of the German: Early Childhood-Grade 12 certificate is eligible to teach German in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (6) [~~(f)~~] Hindi: Early Childhood-Grade 12. The Hindi: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010. [~~The holder of the Hindi: Early Childhood-Grade 12 certificate is eligible to teach Hindi in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (7) [~~(g)~~] Italian: Early Childhood-Grade 12. The Italian: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010. [~~The holder of the Italian: Early Childhood-Grade 12 certificate is eligible to teach Italian in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]
- (8) [~~(h)~~] Japanese: Early Childhood-Grade 12. The Japanese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007. [~~The holder of the Japanese: Early Childhood-Grade 12 certificate is eligible to teach Japanese in a prekindergarten program, in kindergarten, and in Grades 1-12.~~]

- (9) ~~(4)~~ Korean: Early Childhood-Grade 12. The Korean: Early Childhood-Grade 12 certificate may be issued no earlier than June 1, 2016. ~~[The holder of the Korean: Early Childhood Grade 12 certificate is eligible to teach Korean in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (10) ~~(4)~~ Latin: Early Childhood-Grade 12. The Latin: Early Childhood-Grade 12 certificate may be issued no earlier than January 1, 2010. ~~[The holder of the Latin: Early Childhood Grade 12 certificate is eligible to teach Latin in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (11) ~~(4)~~ Portuguese: Early Childhood-Grade 12. The Portuguese: Early Childhood-Grade 12 certificate may be issued no earlier than June 1, 2016. ~~[The holder of the Portuguese: Early Childhood Grade 12 certificate is eligible to teach Portuguese in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (12) ~~(4)~~ Russian: Early Childhood-Grade 12. The Russian: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007. ~~[The holder of the Russian: Early Childhood Grade 12 certificate is eligible to teach Russian in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (13) ~~(m)~~ Spanish: Early Childhood-Grade 12. The Spanish: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009. ~~[The holder of the Spanish: Early Childhood Grade 12 certificate is eligible to teach Spanish in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (14) ~~(n)~~ Turkish: Early Childhood-Grade 12. The Turkish: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010. ~~[The holder of the Turkish: Early Childhood Grade 12 certificate is eligible to teach Turkish in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (15) ~~(o)~~ Urdu: Early Childhood-Grade 12. The Urdu: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010. ~~[The holder of the Urdu: Early Childhood Grade 12 certificate is eligible to teach Urdu in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (16) ~~(p)~~ Vietnamese: Early Childhood-Grade 12. The Vietnamese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007. ~~[The holder of the Vietnamese: Early Childhood Grade 12 certificate is eligible to teach Vietnamese in a prekindergarten program, in kindergarten, and in Grades 1-12.]~~
- (b) An interested party may request an additional LOTE certificate using the petition process described in §250.20 of this title (relating to Petition for Adoption of Rules or Rule Changes) for SBEC consideration. The petitioner must provide:
- (1) the desired LOTE certificate and confirmation of the number of students likely to receive instruction in the requested language;
  - (2) the number of individuals interested in adding a certification in the new language; and
  - (3) the rationale for the request and anticipated benefit to students.

### **§233.17. Junior Reserve Officer Training Corps.**

Junior Reserve Officer Training Corps: Grades 6-12 certificate. The holder of the Junior Reserve Officer Training Corps: Grades 6-12 certificate is eligible to teach all junior reserve officer training courses in Grades 6-12. A candidate for the standard Junior Reserve Officer Training Corps: Grades 6-12 certificate must:

- (1) hold a Junior Reserve Officer Training Corps instructor certificate issued by one of the military branches;
- (2) complete an approved educator preparation program;

- (3) hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
- (4) pass the appropriate ~~[obtain a passing performance on the pedagogy and professional responsibilities]~~ certification examination.

**Review of Proposed Amendments 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes**

**September 14, 2018**

**COMMITTEE ON SCHOOL INITIATIVES: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the State Board of Education (SBOE) an opportunity to review a State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, and Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment to §250.1 would reflect a technical change that would update in rule relevant cross references to the state's Historically Underutilized Business (HUB) program. The proposed amendment to §250.20 would implement legislation from the 84th Texas Legislature, 2015, to update the petition form for adoption of rules or rule changes to require the petitioner to indicate that the petitioner meets one of the four definitions of an *interested person*.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 250, Subchapter A, §250.1, is the Texas Education Code (TEC), §§21.035(b), 21.040(6), and 21.041(a), and Texas Government Code (TGC), §2161.003. The statutory authority for Subchapter B, §250.20, is the TEC, §21.035(b) and §21.041(a) and (b)(1), and TGC, §2001.021, as amended by House Bill (HB) 763, 84th Texas Legislature, 2015.

TEC, §21.035(b), requires the Texas Education Agency (TEA) to provide the SBEC's administrative functions and services.

TEC, §21.040(6), requires the SBEC to develop and implement policies that clearly define the respective responsibilities of the SBEC and TEA staff.

TEC, §21.041(a), authorizes the SBEC to adopt rules as necessary to implement its procedures.

TEC, §21.041(b)(1), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

TGC, §2001.021, authorizes a state agency to prescribe by rule the form for a petition and the procedure for the submission, consideration, and disposition.

TGC, §2161.003, as amended by HB 763, 84th Texas Legislature, 2015, requires the SBEC to adopt the Comptroller's rules under §2161.002, as the SBEC's own rules regarding the purchase of goods or services paid for with appropriated money.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendments to 19 TAC Chapter 250 would be October 21, 2018.

**PREVIOUS BOARD ACTION:** None.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Government Code (TGC), §2161.003, requires state agencies to adopt the Comptroller of Public Accounts' rules under TGC, §2161.002, as the SBEC's own rules regarding the purchases of goods or services paid for with appropriated money. Section 250.1, Historically Underutilized Business (HUB) Program, states that the SBEC adopts the rules of the Comptroller of Public Accounts found in Title 34 concerning the HUB Program. The section numbers in 34 TAC cross-referenced in §250.1 have been renumbered; therefore, a technical change is required to update relevant cross references in rule. The proposed amendment to §250.1 in Attachment II would replace the current cross references to §§20.11-20.22 and §§20.24-20.28, and update the rule with the correct, renumbered sections, §§20.281-20.298.

Section 250.20, Petition for Adoption of Rules or Rule Changes, provides the process for interested persons to petition the SBEC for changes to rules, in accordance with the TGC, §2001.021.

HB 763, 84th Texas Legislature, 2015, amended the TGC, §2001.021, to define the term *interested person* for the purposes of petitioning a rule change. The statute states that an *interested person* must be one of the following: (1) a resident of Texas; (2) a business entity located in Texas; (3) a governmental subdivision located in Texas; or (4) a public or private organization located in Texas that is not a state agency.

The proposed amendment to Figure: 19 TAC §250.20(a) in Attachment II would implement HB 763 to update the petition form in rule by adding the four definitions of an *interested person* and requiring the petitioner to indicate all applicable definitions.

#### SBOE Review of Proposed SBEC Rules

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting, but may not modify a rule.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendments. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under TGC, §2001.002. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to TGC, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.



**PUBLIC AND STUDENT BENEFIT:** The public and student benefit of the proposed amendments would be correctly citing cross references in rule and aligning the rule with statute by including the four definitions of *interested person* in the petition form. The proposed amendments do not impose a cost on persons required to comply with the rules.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendment to §250.1 would have no procedural and reporting implications. The proposed amendment to §250.20 would require a petitioner to select on the petition form all the definitions of *interested person* that are applicable.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendments would have no locally maintained paperwork requirements.

**PUBLIC COMMENTS:** In accordance with the SBEC rulemaking process, a summary of any comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Take no action on the proposed amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Ryan Franklin, Associate Commissioner  
Educator Leadership and Quality

Christie Pogue, SBEC Manager,  
Educator Leadership and Quality

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes (including Figure: 19 TAC §250.20(a))

This page has been intentionally left blank.

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 250, Administration, Subchapter A, Purchasing, §250.1, Historically Underutilized Business (HUB) Program, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes**

#### **Texas Education Code, §21.035, Administration by Agency (excerpt):**

- (b) The agency shall provide the board's administrative functions and services.

#### **Texas Education Code, §21.040, General Powers and Duties of Board (excerpt):**

The board shall:

- (6) develop and implement policies that clearly define the respective responsibilities of the board and the board's staff; and

#### **Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (a) The board may adopt rules as necessary for its own procedures.
- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

#### **Texas Government Code, §2001.021, Petition for Adoption of Rules:**

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
  - (1) deny the petition in writing, stating its reasons for the denial; or
  - (2) initiate a rulemaking proceeding under this subchapter.
- (d) For the purposes of this section, an interested person must be:
  - (1) a resident of this state;
  - (2) a business entity located in this state;
  - (3) a governmental subdivision located in this state; or
  - (4) a public or private organization located in this state that is not a state agency.

#### **Texas Government Code, §2161.003, Agency Rules:**

A state agency, including an institution of higher education, shall adopt the commission's rules under Section 2161.002 as the agency's or institution's own rules. Those rules apply to the agency's construction projects and purchases of goods and services paid for with appropriated money without regard to whether a project or purchase is otherwise subject to this subtitle.

This page has been intentionally left blank.

**ATTACHMENT II**  
**Text of Proposed Amendments to 19 TAC**

**Chapter 250. Administration**

**Subchapter A. Purchasing**

**§250.1. Historically Underutilized Business (HUB) Program.**

In accordance with the Texas Government Code, §2161.003, the State Board for Educator Certification adopts by reference the rules of the Comptroller of Public Accounts, found at Title 34 Texas Administrative Code, §§20.281-20.298 [~~§§20.11-20.22 and §§20.24-20.28~~], concerning the Historically Underutilized Business (HUB) Program.

**Subchapter B. Rulemaking Procedures**

**§250.20. Petition for Adoption of Rules or Rule Changes.**

- (a) Any interested person, as defined in Texas Government Code, §2001.021, may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.
- Figure: 19 TAC §250.20(a) [~~Figure: 19 TAC §250.20(a)~~]
- (b) In accordance with the Texas Government Code, §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.
- (1) Where possible, the recommendation concerning the petition shall be placed on the SBEC agenda, and the SBEC shall act on the petition within the 60-calendar-day time limit.
- (2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.
- (c) The SBEC will review the petition and the recommendation and will either direct the TEA staff to begin the rulemaking process or deny the petition, giving reasons for the denial. The TEA staff will notify the petitioner of the SBEC's action related to the petition.
- (d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:
- (1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;
- (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;
- (3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding; or
- (4) the petitioner is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing a petition:
- (A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or
- (B) to amend a rule proposed or adopted by the SBEC that has not yet become effective.
- (e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.

Figure: 19 TAC §250.20(a)

## STATE BOARD FOR EDUCATOR CERTIFICATION

### Petition for Adoption of a Rule

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

Office of Educator Leadership and Quality  
Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494

---

Name:

Affiliation/Organization (if applicable):

Address:

Telephone:

Date:

Texas Government Code, §2001.021, specifies that an interested person must meet one of the following criteria. Please check all of the following that apply to you.

- resident of Texas
- business entity located in Texas
- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

Statutory authority for the proposed rule action:

Why is this rule action necessary or desirable?

(If more space is required, attach additional sheets.)

---

Petitioner's Signature

## **Review of Proposed Amendments to 19 TAC Chapter 247, Educators' Code of Ethics**

**September 14, 2018**

### **COMMITTEE ON SCHOOL INITIATIVES: ACTION STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the State Board of Education (SBOE) an opportunity to review a State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 TAC Chapter 247, Educators' Code of Ethics. The proposed amendment to 19 TAC §247.1 would add the definitions of "sexual harassment" and "under the influence of alcohol." The proposed amendment to 19 TAC §247.2 would make educators who act recklessly in diverting money for personal gain or misrepresenting the educator's employment history subject to discipline by the SBEC, would clarify language regarding an educator's illegal use of drugs, and would add a standard regarding educator-on-educator workplace sexual harassment. The proposed amendment to 19 TAC §247.2 would also strike Standard 1.14 (a prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor) with the intent to move that provision to 19 TAC §249.15.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 247 is the Texas Education Code (TEC), §21.031(a) and §21.041(a) and (b)(1), (7), and (8); and Every Student Succeeds Acts (ESSA), 20 United States Code (USC), §7926.

TEC, §21.031(a), charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators.

TEC, §21.041, authorizes the SBEC to adopt rules as necessary to regulate educators, administer statutory requirements, and provide for educator disciplinary proceedings.

ESSA, 20 USC, §7926, requires state educational agencies to make rules forbidding an educator from aiding other school employees, contractors, or agents in getting jobs when the educator knows the job-seeker has committed sexual misconduct with a student or minor in violation of the law.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendments would be October 21, 2018.

**PREVIOUS BOARD ACTION:** None.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The proposed amendment to §247.1(e)(17) would add a new definition for "sexual harassment," defining the term that is used later in the proposed new §247.2(2)(H) that makes it a violation of the Educators' Code of Ethics for an educator to intentionally or knowingly subject a colleague to sexual harassment. This provision is intended to address educator-on-educator sexual misconduct and is tailored to exclude concepts such as hostile work environment that can be better addressed by employment law actions than by educator disciplinary proceedings.

The proposed amendment to §247.1(e)(22) would define "under the influence of alcohol" for purposes of §247.2(1)(M), which makes educators subject to discipline when they are "under the influence of alcohol" at school or at school-related activities. The proposed definition would include any educator with a blood-

alcohol content of .04% or higher because this is the blood alcohol level at which standard school district policy prohibits individuals from driving school buses and at which a commercial driver is considered to be driving while intoxicated under both state and federal law. The definition also would include any physical or mental symptoms to allow evidence of such symptoms to suffice to prove a violation of the Educators' Code of Ethics if evidence of the educator's blood-alcohol content is not available or admissible.

The proposed amendment to §247.2(1)(B) would change the level of intent required to prove that an educator violated the Educators' Code of Ethics by diverting money or property for personal gain from "knowingly" to "intentionally, knowingly, or recklessly." This would allow SBEC to discipline educators for misappropriation when the educator was reckless in book-keeping or in how the educator kept the money or property, as well as when the educator acted intentionally or knowingly to divert the money or property.

The proposed amendment to §247.2(1)(K) would change the level of intent required to prove that an educator violated the Educators' Code of Ethics by misrepresenting personal history when applying for employment to include educators who act recklessly. The change is intended to inspire educators to take extra care in the information they provide school districts and to allow SBEC to discipline educators who make such misrepresentations even when there is insufficient evidence that the educator acted knowingly or intentionally.

The proposed change to §247.2(1)(L) would revise the wording of the prohibition on educators illegally using, distributing, or abusing drugs to make it clearer and more enforceable. The changes are not intended to significantly alter the meaning of the provision.

The proposed amendment would strike §247.2(1)(N), which currently prohibits an educator from assisting another educator in getting a new job as an educator or any position in a school if the educator knows that the job-seeker engaged in sexual misconduct with a student or minor. This provision was initially adopted to implement the ESSA, 20 USC, §7926. TEA received feedback from stakeholders who felt that 19 TAC Chapter 249 was a more appropriate location for educator disciplinary rules that reiterate or implement separate statutory authority and that the Educators' Code of Ethics should be reserved for ethical requirements that were not otherwise reflected in the law. To that end, the language of this provision is simultaneously being proposed for inclusion in 19 TAC §249.15, Disciplinary Action by State Board for Educator Certification, in a separate item in this agenda.

#### *SBOE Review of Proposed SBEC Rules*

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendments. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code (TGC), §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under TGC, §2001.022. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to TGC, §2001.0045.



**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation making educators subject to discipline by the SBEC for intentionally or knowingly engaging in sexual harassment of another educator. In addition, the proposed rulemaking would not expand, limit, or repeal an existing regulation, except by striking the provision that prohibits an educator from assisting another educator in getting a job if the job-seeker is known to have engaged in sexual misconduct with a minor, but that provision is proposed to be added to 19 TAC Chapter 249.

The proposed rulemaking would not create or eliminate a government program, would not require the creation of new employee positions or the elimination of existing employee positions, would not require an increase or decrease in future legislative appropriations to the agency, would not require an increase or decrease in fees paid to the agency, would not increase or decrease the number of individuals subject to its applicability, and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit anticipated as a result of the proposed amendments would be to allow SBEC more effective and efficient enforcement of its Educators' Code of Ethics, to clarify the meaning of terms in the Educators' Code of Ethics, to clarify the purpose of the Educators' Code of Ethics, to protect educators from sexual harassment by other educators, and to further deter educators from misappropriating assets or misrepresenting themselves on job applications. The proposed amendments do not impose a cost on persons required to comply with the rules.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendments would have no additional procedural and reporting implications.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendments would have no additional locally maintained paperwork requirements.

**PUBLIC COMMENTS:** In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Take no action on the proposed amendments to 19 TAC Chapter 247, Educators' Code of Ethics, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Ryan Franklin, Associate Commissioner  
Educator Leadership and Quality

Laura Moriarty, Director  
Legal Services for Educator Leadership and Quality

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Amendments to 19 TAC Chapter 247, Educators' Code of Ethics

This page has been intentionally left blank.

## ATTACHMENT I

### Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 247, Educators' Code of Ethics

#### **Texas Education Code, §21.031, Purpose (excerpt):**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

#### **Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (a) The board may adopt rules as necessary for its own procedures.
- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
  - (7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;
  - (8) provide for the adoption, amendment, and enforcement of an educator's code of ethics;

#### **Every Student Succeeds Act, 20 United States Code, §7926, Prohibition on Aiding and Abetting Sexual Abuse (excerpt):**

- (a) In general

A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this chapter shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

This page has been intentionally left blank.

**ATTACHMENT II**  
**Text of Proposed Amendments to 19 TAC**

**Chapter 247. Educators' Code of Ethics**

**§247.1. Purpose and Scope; Definitions.**

- (a) In compliance with the Texas Education Code, §21.041(b)(8), the State Board for Educator Certification (SBEC) adopts an Educators' Code of Ethics as set forth in §247.2 of this title (relating to Code of Ethics and Standard Practices for Texas Educators). The SBEC may amend the ethics code in the same manner as any other formal rule.
- (b) The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty and good moral character. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community. This chapter shall apply to educators and candidates for certification.
- (c) The SBEC is solely responsible for enforcing the Educators' Code of Ethics for purposes related to certification disciplinary proceedings. The Educators' Code of Ethics is enforced through the disciplinary procedure set forth in Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) pursuant to the purposes stated therein.
- (d) As provided in §249.5 of this title (relating to Purpose; Policy Governing Disciplinary Proceedings), the primary goals the SBEC seeks to achieve in educator disciplinary matters are:
  - (1) to protect the safety and welfare of Texas schoolchildren and school personnel;
  - (2) to ensure educators and applicants are morally fit and worthy to instruct or to supervise the youth of the state; and
  - (3) to fairly and efficiently resolve educator disciplinary proceedings at the least expense possible to the parties and the state.
- (e) The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) Abuse--Includes the following acts or omissions:
    - (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
    - (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
    - (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
    - (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.
  - (2) Applicant--A party seeking issuance, renewal, or reinstatement of a certificate from the Texas Education Agency staff or the State Board for Educator Certification.
  - (3) Code of Ethics--The Educators' Code of Ethics codified in this chapter.

- (4) Complaint--A written statement submitted to the Texas Education Agency staff that contains essential facts alleging improper conduct by an educator, applicant, or examinee, the complainant's verifiable contact information, including full name, complete address, and phone number, which provides grounds for sanctions.
- (5) Contested case--A proceeding under this chapter in which the legal rights, duties, and privileges related to a party's educator certificate are to be determined by the State Board for Educator Certification and/or the State Office of Administrative Hearings commencing when a petition is properly served under this chapter.
- (6) Disciplinary proceedings--Any matter arising under this chapter or Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) that results in a final order or finding issued by the Texas Education Agency staff, the State Office of Administrative Hearings, or the State Board for Educator Certification relating to the legal rights, duties, privileges, and status of a party's educator certificate.
- (7) Educator--A person who is required to hold a certificate issued under the Texas Education Code, Chapter 21, Subchapter B.
- (8) Endanger--Exposure of a student or minor to unjustified risk of injury or to injury that jeopardizes the physical health or safety of the student or minor without regard to whether there has been an actual injury to the student or minor.
- (9) Good moral character--The virtues of a person as evidenced by patterns of personal, academic, and occupational behaviors that, in the judgment of the State Board for Educator Certification, indicate honesty, accountability, trustworthiness, reliability, and integrity. Lack of good moral character may be evidenced by the commission of crimes relating directly to the duties and responsibilities of the education profession as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21), or by the commission of acts involving moral turpitude, but conduct that evidences a lack of good moral character is not necessarily limited to such crimes or acts.
- (10) Intentionally--An educator acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.
- (11) Knowingly--An educator acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that the conduct is reasonably certain to cause the result.
- (12) Minor--A person under 18 years of age.
- (13) Moral turpitude--Improper conduct, including, but not limited to, the following: dishonesty; fraud; deceit; theft; misrepresentation; deliberate violence; base, vile, or depraved acts that are intended to arouse or to gratify the sexual desire of the actor; drug or alcohol related offenses as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21); or acts constituting abuse or neglect under the Texas Family Code, §261.001.
- (14) Neglect--The placing or leaving of a student or minor in a situation where the student or minor would be exposed to a substantial risk of physical or mental harm.
- (15) Recklessly--An educator acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the results of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or that the result will occur.

- (16) Sanction--A disciplinary action by the State Board for Educator Certification, including a restriction, reprimand, suspension, revocation of a certificate, or a surrender in lieu of disciplinary action.
- (17) Sexual harassment--Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.
- (18) [~~17~~] State Board for Educator Certification--The State Board for Educator Certification acting through its voting members in a decision-making capacity.
- (19) [~~18~~] State Board for Educator Certification member(s)--One or more of the members of the State Board for Educator Certification, appointed and qualified under the Texas Education Code, §21.033.
- (20) [~~19~~] Student--A person enrolled in a primary or secondary school, whether public, private, or charter, regardless of the person's age, or a person 18 years of age or younger who is eligible to be enrolled in a primary or secondary school, whether public, private, or charter.
- (21) [~~20~~] Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.
- (22) Under the influence of alcohol--A blood alcohol content of .04% or greater and/or lacking the normal use of mental or physical faculties by reason of the introduction of alcohol.
- (23) [~~21~~] Worthy to instruct or to supervise the youth of this state--Presence of those moral, mental, and psychological qualities that are required to enable an educator to render the service essential to the accomplishment of the goals and mission of the State Board for Educator Certification policy and this chapter.

#### §247.2. Code of Ethics and Standard Practices for Texas Educators.

##### Enforceable Standards.

- (1) Professional Ethical Conduct, Practices and Performance.
- (A) Standard 1.1. The educator shall not intentionally, knowingly, or recklessly engage in deceptive practices regarding official policies of the school district, educational institution, educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process.
- (B) Standard 1.2. The educator shall not intentionally, knowingly, or recklessly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.
- (C) Standard 1.3. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (D) Standard 1.4. The educator shall not use institutional or professional privileges for personal or partisan advantage.
- (E) Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or that are used to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents of students, or other persons or organizations in recognition or appreciation of service.
- (F) Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.
- (G) Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other state and federal laws.
- (H) Standard 1.8. The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

- (I) Standard 1.9. The educator shall not make threats of violence against school district employees, school board members, students, or parents of students.
  - (J) Standard 1.10. The educator shall be of good moral character and be worthy to instruct or supervise the youth of this state.
  - (K) Standard 1.11. The educator shall not intentionally, ~~or~~ knowingly, or recklessly misrepresent his or her employment history, criminal history, and/or disciplinary record when applying for subsequent employment.
  - (L) Standard 1.12. The educator shall refrain from the illegal use, abuse, or distribution of controlled substances, prescription drugs, and toxic inhalants ~~[or distribution of controlled substances and/or abuse of prescription drugs and toxic inhalants]~~ .
  - (M) Standard 1.13. The educator shall not be under the influence of alcohol or consume alcoholic beverages on school property or during school activities when students are present.
  - ~~(N) Standard 1.14. The educator shall not assist another educator, school employee, contractor, or agent in obtaining a new job as an educator or in a school, apart from the routine transmission of administrative and personnel files, if the educator knows or has probable cause to believe that such person engaged in sexual misconduct regarding a minor or student in violation of the law.]~~
- (2) Ethical Conduct Toward Professional Colleagues.
- (A) Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
  - (B) Standard 2.2. The educator shall not harm others by knowingly making false statements about a colleague or the school system.
  - (C) Standard 2.3. The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.
  - (D) Standard 2.4. The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.
  - (E) Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender, disability, family status, or sexual orientation.
  - (F) Standard 2.6. The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.
  - (G) Standard 2.7. The educator shall not retaliate against any individual who has filed a complaint with the SBEC or who provides information for a disciplinary investigation or proceeding under this chapter.
  - ~~(H) Standard 2.8. The educator shall not intentionally or knowingly subject a colleague to sexual harassment.~~
- (3) Ethical Conduct Toward Students.
- (A) Standard 3.1. The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.
  - (B) Standard 3.2. The educator shall not intentionally, knowingly, or recklessly treat a student or minor in a manner that adversely affects or endangers the learning, physical health, mental health, or safety of the student or minor.
  - (C) Standard 3.3. The educator shall not intentionally, knowingly, or recklessly misrepresent facts regarding a student.



- (D) Standard 3.4. The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, gender, disability, national origin, religion, family status, or sexual orientation.
- (E) Standard 3.5. The educator shall not intentionally, knowingly, or recklessly engage in physical mistreatment, neglect, or abuse of a student or minor.
- (F) Standard 3.6. The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student or minor.
- (G) Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any person under 21 years of age unless the educator is a parent or guardian of that child or knowingly allow any person under 21 years of age unless the educator is a parent or guardian of that child to consume alcohol or illegal/unauthorized drugs in the presence of the educator.
- (H) Standard 3.8. The educator shall maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard.
- (I) Standard 3.9. The educator shall refrain from inappropriate communication with a student or minor, including, but not limited to, electronic communication such as cell phone, text messaging, email, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:
  - (i) the nature, purpose, timing, and amount of the communication;
  - (ii) the subject matter of the communication;
  - (iii) whether the communication was made openly or the educator attempted to conceal the communication;
  - (iv) whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;
  - (v) whether the communication was sexually explicit; and
  - (vi) whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

This page has been intentionally left blank.

**Review of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5, Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification**

**September 14, 2018**

**COMMITTEE ON SCHOOL INITIATIVES: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the State Board of Education (SBOE) an opportunity to review a State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, and Subchapter B, Enforcement Actions and Guidelines. The proposed amendments to 19 TAC §§249.3, Definitions, 249.5, Purpose; Policy Governing Disciplinary Proceedings, and 249.15, Disciplinary Action by State Board for Educator Certification, would add language creating a legal presumption based on an educator's violation of written directives from school administrators regarding the educator's behavior toward a student. This presumption would be included in the definition of "solicitation of a romantic relationship," and in the rules that define and address the term "unworthy to instruct or to supervise the youth of this state." The proposed amendments also would add the existing prohibition on assisting an educator with getting a new job when the educator had an inappropriate relationship with a student or minor to the list of reasons the SBEC can take disciplinary action. This provision is intended to comply with both the Every Student Succeeds Act (ESSA), 20 United States Code (USC), §7926, and Texas Education Code (TEC), §21.009(e), and proposed to be stricken from 19 TAC Chapter 247, Educators' Code of Ethics.

**STATUTORY AUTHORITY:** The statutory authority for the proposed amendments to 19 TAC §§249.3, 249.5, and 249.15, is the TEC, §§21.009, 21.031(a), 21.035, 21.041, and 21.060; and ESSA, 20 USC, §7926.

TEC, §21.009, states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor.

TEC, §21.031(a), charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators.

TEC, §21.035, states that Texas Education Agency (TEA) staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification.

TEC, §21.041, authorizes the SBEC to adopt rules as necessary to regulate educators, administer statutory requirements, and provide for educator disciplinary proceedings.

TEC, §21.060, sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses.

ESSA, 20 USC, §7926, requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator knows the job-seeker has committed sexual misconduct with a student or minor in violation of the law.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendments to 19 TAC §§249.3, 249.5, and 249.15 would be October 21, 2018.

**PREVIOUS BOARD ACTION:** None.

**BACKGROUND INFORMATION AND JUSTIFICATION:** In many cases involving an educator's solicitation of a romantic relationship with a student, an educator's violation of educator-student relationship boundaries, or an educator's violence toward or inappropriate discipline of students, the evidence in the cases shows that the educator has violated a written directive from a supervising administrator regarding the educator's inappropriate behavior toward a student. This evidence is important because it shows that the educator was warned, that the behavior toward students was inappropriate, and that the educator was either unable or unwilling to stop the inappropriate behavior. The existence of such evidence shows that the educator did not make a one-time mistake, misestimation, or miscommunication, and thereby proves that the educator's conduct was serious and intentional. To ensure that the State Office of Administrative Hearings understands the importance of this sort of evidence and to make the disciplinary consequences of violating a written directive regarding behavior toward students more predictable for educators, the proposed amendments contain several provisions regarding such directives.

Section 249.3, Definitions, lists acts in paragraph (51)(A)-(K) that may constitute prima facie evidence of solicitation by an educator of a romantic relationship with a student. The proposed amendment to §249.3 would add to the list of acts, as a new subparagraph (J), the act of violating written directives from school administrators regarding the educator's behavior toward a student. The proposed amendment would reletter existing subparagraphs, respectively.

The proposed amendment to §249.3 would also add language in paragraph (60) to the definition of the term "unworthy to instruct or to supervise the youth of this state" that would create a rebuttable presumption that an educator who violates written directives from school administrators regarding the educator's behavior toward a student is unworthy to instruct or to supervise the youth of this state.

The proposed amendment to §249.5, Purpose; Policy Governing Disciplinary Proceedings, would add in subsection (b)(2)(E) the same rebuttable presumption to the general principle listed in subsection (b) to further explain the concept of "unworthy to instruct or supervise the youth of this state."

The proposed amendment to §249.15, Disciplinary Action by State Board for Educator Certification, would add a new paragraph (13) to include a provision that makes educators subject to discipline for helping another educator, school employee, or contractor obtain a new job when the educator knows that the job-seeker engaged in an inappropriate relationship with a student or minor. This provision currently exists in 19 TAC §247.2, Educators' Code of Ethics, where it was adopted to fulfill the requirements of the ESSA. Stakeholders subsequently suggested that the Educators' Code of Ethics should only include ethical standards that are not required by any other statute, while 19 TAC Chapter 249 should house the disciplinary rules that implement other sources of statutory authority. To that end, the provision, §247.2(1)(N), is proposed to be stricken from Chapter 247 and added to Chapter 249. The proposed language in §249.15(b)(13) would be amended to reflect the requirements of TEC, §21.009(e), which is similar to the ESSA but uses the term "inappropriate relationship" rather than "sexual misconduct." Subsequent paragraphs would be renumbered, respectively.

Technical edits were also made to comply with style and formatting requirements.

*SBOE Review of Proposed SBEC Rules*

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendments. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, (TGC), §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under TGC, §2001.002. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to TGC, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy. While the proposed rulemaking appears to add a regulation prohibiting educators from assisting other educators in getting jobs if the job-seeker is known to have engaged in sexual misconduct with a minor, that provision already exists in 19 TAC Chapter 247 and is merely being moved to 19 TAC Chapter 249.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit anticipated as a result of the proposed amendments would be to ensure that educators who violate written directives from school administrators regarding the educator's behavior toward students are disciplined more consistently and predictably by the SBEC, and that the Educators' Code of Ethics regains its role as an independent ethical code separate and apart from the disciplinary rules that implement separate statutory authority. The proposed amendments do not impose a cost on persons required to comply with the rules.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendments would have no reporting or procedural implications.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendments would have no additional locally maintained paperwork requirements.

**PUBLIC COMMENTS:** In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Take no action on the proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5, Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Ryan Franklin, Associate Commissioner  
Educator Leadership and Quality

Laura Moriaty, Director  
Legal Services for Educator Leadership and Quality

**Attachment I:** Statutory Citations

**Attachment II:** Text of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5, Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, §249.5, Purpose; Policy Governing Disciplinary Proceedings; and Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification**

#### **Texas Education Code, §21.009, Pre-employment Affidavit (excerpt):**

- (e) The State Board for Educator Certification may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Section 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.

#### **Texas Education Code, §21.031, Purpose (excerpt):**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

#### **Texas Education Code, §21.035, Delegation Authority; Administration by Agency:**

- (a) The board is permitted to make a written delegation of authority to the commissioner or the agency to informally dispose of a contested case involving educator certification.
- (b) The agency shall provide the board's administrative functions and services.

#### **Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (a) The board may adopt rules as necessary for its own procedures.
- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
  - (4) specify the requirements for the issuance and renewal of an educator certificate;
  - (7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;
  - (8) provide for the adoption, amendment, and enforcement of an educator's code of ethics;

#### **Texas Education Code, §21.060, Eligibility of Persons Convicted of Certain Offenses:**

The board may suspend or revoke the certificate or permit held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate or permit to a person under this subchapter if the person has been convicted of a felony or misdemeanor offense relating to the duties and responsibilities of the education profession, including:

- (1) an offense involving moral turpitude;
- (2) an offense involving a form of sexual or physical abuse of a minor or student or other illegal conduct in which the victim is a minor or student;

- (3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
- (4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or
- (5) an offense involving an attempt by fraudulent or unauthorized means to obtain or alter a professional certificate or license issued under this subchapter.

**Texas Education Code, §21.105, Resignations Under Probationary Contract (excerpt):**

- (c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher employed under a probationary contract who:
  - (1) resigns;
  - (2) fails without good cause to comply with Subsection (a) or (b); and
  - (3) fails to perform the contract.

**Texas Education Code, §21.160, Resignation Under Continuing Contract (excerpt):**

- (c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher who is employed under a continuing contract that obligates the district to employ the person for the following school year and who:
  - (1) resigns;
  - (2) fails without good cause to comply with Subsection (a) or (b); and
  - (3) fails to perform the contract.

**Texas Education Code, §21.210, Resignation Under Term Contract (excerpt):**

- (c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher who is employed under a term contract that obligates the district to employ the person for the following school year and who:
  - (1) resigns;
  - (2) fails without good cause to comply with Subsection (a) or (b); and
  - (3) fails to perform the contract.

**Every Student Succeeds Act, 20 United States Code, §7926, Prohibition on Aiding and Abetting Sexual Abuse (excerpt):**

- (a) In general

A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this chapter shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.



**ATTACHMENT II**  
**Text of Proposed Amendments to 19 TAC**

**Chapter 249. Disciplinary Proceedings, Sanctions, and Contested Cases**

**Subchapter A. General Provisions**

**§249.3. Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Abuse--Includes the following acts or omissions:
  - (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
  - (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
  - (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
  - (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.
- (2) Administrative denial--A decision or action by the Texas Education Agency staff, acting on behalf of the State Board for Educator Certification, to deny certification (including certification following revocation, cancellation, or surrender of a previously issued certificate), renewal of certification, or reinstatement of a previously suspended certificate based on the withholding or voiding of certification test scores; the invalidation of a certification test registration; evidence of a lack of good moral character; or evidence of improper conduct.
- (3) Administrative law judge--A person appointed by the chief judge of the State Office of Administrative Hearings under the Texas Government Code, Chapter 2003.
- (4) Answer--The responsive pleading filed in reply to factual and legal issues raised in a petition.
- (5) Applicant--A party seeking issuance, renewal, or reinstatement of a certificate from the Texas Education Agency staff or the State Board for Educator Certification.
- (6) Cancellation--The invalidation of an erroneously issued certificate.
- (7) Certificate--The whole or part of any educator credential, license, or permit issued under the Texas Education Code, Chapter 21, Subchapter B. The official certificate is the record of the certificate as maintained on the Texas Education Agency's website.
- (8) Certificate holder--A person who holds an educator certificate issued under the Texas Education Code, Chapter 21, Subchapter B.
- (9) Chair--The presiding officer of the State Board for Educator Certification, elected pursuant to the Texas Education Code, §21.036, or other person designated by the chair to act in his or her absence or inability to serve.
- (10) Chief judge--The chief administrative law judge of the State Office of Administrative Hearings.
- (11) Code of Ethics--The Educators' Code of Ethics codified in Chapter 247 of this title (relating to the Educators' Code of Ethics).

- (12) Complaint--A written statement submitted to the Texas Education Agency staff that contains essential facts alleging improper conduct by an educator, applicant, or examinee, the complainant's verifiable contact information, including full name, complete address, and phone number, which provides grounds for sanctions.
- (13) Contested case--A proceeding under this chapter in which the legal rights, duties, and privileges related to a party's educator certificate are to be determined by the State Board for Educator Certification and/or the State Office of Administrative Hearings commencing when a petition is properly served under this chapter.
- (14) Conviction--An adjudication of guilt for a criminal offense. The term does not include the imposition of deferred adjudication for which the judge has not proceeded to an adjudication of guilt.
- (15) Deferred adjudication--The resolution of a criminal charge, based on a defendant's plea to the offense of guilty or nolo contendere, which results in the suspension of adjudication of the defendant's guilt and the imposition of conditions such as community supervision or restitution, and, upon successful completion of those conditions, the dismissal of the criminal case. In a contested case under this chapter, the defendant's acceptance of deferred adjudication in a criminal case may be considered as provided by the Texas Occupations Code, §53.021.
- (16) Disciplinary proceedings--Any matter arising under this chapter or Chapter 247 of this title (relating to the Educators' Code of Ethics) that results in a final order or finding issued by the Texas Education Agency staff, the State Office of Administrative Hearings, or the State Board for Educator Certification relating to the legal rights, duties, privileges, and status of a party's educator certificate.
- (17) Educator--A person who is required to hold a certificate issued under the Texas Education Code, Chapter 21, Subchapter B.
- (18) Effective date--The date the decision or action taken by the State Board for Educator Certification or the Texas Education Agency staff becomes final under the appropriate legal authority.
- (19) Endanger--Exposure of a student or minor to unjustified risk of injury or to injury that jeopardizes the physical health or safety of the student or minor without regard to whether there has been an actual injury to the student or minor.
- (20) Examinee--A person who registers to take or who takes any examination required by the State Board for Educator Certification for admission to an educator preparation program or to obtain an educator certificate.
- (21) Expired--No longer valid because a specific period or term of validity of a certificate has ended; an expired certificate is not subject to renewal or revalidation and a new certificate must be issued.
- (22) Filing--Any written petition, answer, motion, response, other written instrument, or item appropriately filed under this chapter with the Texas Education Agency staff, the State Board for Educator Certification, or the State Office of Administrative Hearings.
- (23) Good moral character--The virtues of a person as evidenced by patterns of personal, academic, and occupational behaviors that, in the judgment of the State Board for Educator Certification, indicate honesty, accountability, trustworthiness, reliability, and integrity. Lack of good moral character may be evidenced by the commission of crimes relating directly to the duties and responsibilities of the education profession as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21), or by the commission of acts involving moral turpitude, but conduct that evidences a lack of good moral character is not necessarily limited to such crimes or acts.
- (24) Inactive--Lacking current effectiveness. An inactive certificate does not currently entitle the certificate holder to work as a professional educator in Texas public schools. An inactive certificate is distinguished from a certificate that is void or expired by the fact that it can be reactivated by satisfying the condition or conditions that caused it to be placed in inactive status

(failure to renew, failure to submit fingerprint information, or payment of fees), subject to any other certification requirements applicable to active certificates.

- (25) Inappropriate relationship--A violation of Texas Penal Code, §21.12(a); a sexual or romantic relationship with a student or minor; or solicitation of a sexual or romantic relationship with a student or minor.
- (26) Informal conference--An informal meeting between the Texas Education Agency staff and an educator, applicant, or examinee; such a meeting may be used to give the person an opportunity to show compliance with all requirements of law for the granting or retention of a certificate or test score pursuant to Texas Government Code, §2001.054(c).
- (27) Invalid--Rendered void; lacking legal or administrative efficacy.
- (28) Law--The United States and Texas Constitutions, state and federal statutes, regulations, rules, relevant case law, and decisions and orders of the State Board for Educator Certification and the commissioner of education.
- (29) Mail--Certified United States mail, return receipt requested, unless otherwise provided by this chapter.
- (30) Majority--A majority of the voting members of the State Board for Educator Certification who are present and voting on the issue at the time the vote is recorded.
- (31) Moral turpitude--Improper conduct, including, but not limited to, the following: dishonesty; fraud; deceit; theft; misrepresentation; deliberate violence; base, vile, or depraved acts that are intended to arouse or to gratify the sexual desire of the actor; drug or alcohol related offenses as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21); or acts constituting abuse or neglect under the Texas Family Code, §261.001.
- (32) Neglect--The placing or leaving of a student or minor in a situation where the student or minor would be exposed to a substantial risk of physical or mental harm.
- (33) Party--Each person named or admitted to participate in a contested case under this chapter.
- (34) Permanent revocation--Revocation without the opportunity to reapply for a new certificate.
- (35) Person--Any individual, representative, corporation, or other entity, including the following: an educator, applicant, or examinee; the Texas Education Agency staff; or the State Board for Educator Certification, the State Office of Administrative Hearings, or any other agency or instrumentality of federal, state, or local government.
- (36) Petition--The written pleading served by the petitioner in a contested case under this chapter.
- (37) Petitioner--The party seeking relief, requesting a contested case hearing under this chapter, and having the burden of proof by a preponderance of the evidence in any contested case hearing or proceeding under this chapter.
- (38) Physical mistreatment--Any act of unreasonable or offensive touching that would be offensive to a reasonable person in a similar circumstance. It is an affirmative defense that any unreasonable or offensive touching was justified under the circumstances, using a reasonable person standard.
- (39) Presiding officer--The chair or acting chair of the State Board for Educator Certification.
- (40) Proposal for decision--A recommended decision issued by an administrative law judge in accordance with the Texas Government Code, §2001.062.
- (41) Quorum--A majority of the 14 members appointed to and serving on the State Board for Educator Certification (SBEC) pursuant to the Texas Education Code, §21.033; eight SBEC members, including both voting and non-voting members, as specified in the SBEC Operating Policies and Procedures.

- (42) Recklessly--An educator acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the results of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or that the result will occur.
- (43) Reinstatement--The restoration of a suspended certificate to valid status by the State Board for Educator Certification.
- (44) Reported criminal history--Information concerning any formal criminal justice system charges and dispositions. The term includes, without limitation, arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction.
- (45) Representative--A person representing an educator, applicant, or examinee in matters arising under this chapter; in a contested case proceeding before the State Office of Administrative Hearings (SOAH), an attorney licensed to practice law in the State of Texas or other person authorized as a party representative under SOAH rules.
- (46) Reprimand--The State Board for Educator Certification's formal censuring of a certificate holder.
- (A) An "inscribed reprimand" is a formal, published censure appearing on the face of the educator's virtual certificate.
- (B) A "non-inscribed reprimand" is a formal, unpublished censure that does not appear on the face of the educator's virtual certificate.
- (47) Respondent--The party who contests factual or legal issues or both raised in a petition; the party filing an answer in response to a petition.
- (48) Restricted--The condition of an educator certificate that has had limitations or conditions on its use imposed by State Board for Educator Certification order.
- (49) Revocation--A sanction imposed by the State Board for Educator Certification invalidating an educator's certificate.
- (50) Sanction--A disciplinary action by the State Board for Educator Certification, including a restriction, reprimand, suspension, revocation of a certificate, or a surrender in lieu of disciplinary action.
- (51) Solicitation of a romantic relationship--Deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or by patterns of exclusivity [§] but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:
- (A) behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior, include, without limitation:
- (i) the nature of the communications;
  - (ii) the timing of the communications;
  - (iii) the extent of the communications;
  - (iv) whether the communications were made openly or secretly;
  - (v) the extent that the educator attempts to conceal the communications;

- (vi) if the educator claims to be counseling a student, the State Board for Educator Certification may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
- (vii) any other evidence tending to show the context of the communications between educator and student;
- (B) making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images;
- (C) making sexually demeaning comments to a student;
- (D) making comments about a student's potential sexual performance;
- (E) requesting details of a student's sexual history;
- (F) requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator;
- (G) engaging in conversations regarding the sexual problems, preferences, or fantasies of either party;
- (H) inappropriate hugging, kissing, or excessive touching;
- (I) providing the student with drugs or alcohol;
- (J) violating written directives from school administrators regarding the educator's behavior toward a student;
- (K) [~~(J)~~ suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage; and
- (L) [~~(K)~~ any other acts tending to show that the educator solicited a romantic relationship with a student.
- (52) State assessment testing violation--Conduct that violates the security or confidential integrity of any test or assessment required by the Texas Education Code, Chapter 39, Subchapter B, or conduct that is a departure from the test administration procedures established by the commissioner of education in Chapter 101 of this title (relating to Assessment). The term does not include benchmark tests or other locally required assessments.
- (53) State Board for Educator Certification--The State Board for Educator Certification acting through its voting members in a decision-making capacity.
- (54) State Board for Educator Certification member(s)--One or more of the members of the State Board for Educator Certification, appointed and qualified under the Texas Education Code, §21.033.
- (55) Student--A person enrolled in a primary or secondary school, whether public, private, or charter, regardless of the person's age, or a person 18 years of age or younger who is eligible to be enrolled in a primary or secondary school, whether public, private, or charter.
- (56) Surrender--An educator's voluntary relinquishment of a particular certificate in lieu of disciplinary proceedings under this chapter resulting in an order of revocation of the certificate.
- (57) Suspension--A sanction imposed by the State Board for Educator Certification (SBEC) temporarily invalidating a particular certificate until reinstated by the SBEC.
- (58) Test administration rules or procedures--Rules and procedures governing professional examinations administered by the State Board for Educator Certification through the Texas Education Agency staff and a test contractor, including policies, regulations, and procedures set out in a test registration bulletin.

- (59) Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.
- (60) Unworthy to instruct or to supervise the youth of this state--Absence of those moral, mental, and psychological qualities that are required to enable an educator to render the service essential to the accomplishment of the goals and mission of the State Board for Educator Certification policy and Chapter 247 of this title (relating to Educators' Code of Ethics). Unworthy to instruct serves as a basis for sanctions under §249.15(b)(2) of this title (relating to Disciplinary Action by State Board for Educator Certification) and for administrative denial under §249.12(b) of this title (relating to Administrative Denial; Appeal). A determination that a person is unworthy to instruct does not require a criminal conviction. It is a rebuttable presumption that an educator who violates written directives from school administrators regarding the educator's behavior toward a student is unworthy to instruct or to supervise the youth of this state.
- (61) Virtual certificate--The official record of a person's certificate status as maintained on the Texas Education Agency's website.

**§249.5. Purpose; Policy Governing Disciplinary Proceedings.**

- (a) Purpose. The purpose of this chapter is:
  - (1) to protect the safety and welfare of Texas schoolchildren and school personnel;
  - (2) to ensure educators and applicants are morally fit and worthy to instruct or to supervise the youth of the state;
  - (3) to regulate and to enforce the standards of conduct of educators and applicants;
  - (4) to provide for disciplinary proceedings in conformity with the Texas Government Code, Chapter 2001, and the rules of practice and procedure of the State Office of Administrative Hearings;
  - (5) to enforce an educators' code of ethics;
  - (6) to fairly and efficiently resolve disciplinary proceedings at the least expense possible to the parties and the state;
  - (7) to promote the development of legal precedents through State Board for Educator Certification (SBEC) decisions to the end that disciplinary proceedings may be justly resolved; and
  - (8) to provide for regulation and general administration pursuant to the SBEC's enabling statutes.
- (b) Policy governing disciplinary proceedings.
  - (1) A certified educator holds a unique position of public trust with almost unparalleled access to the hearts and minds of impressionable students. The conduct of an educator must be held to the highest standard. Because SBEC sanctions are imposed for reasons of public policy, and are not penal in nature, criminal procedural and punishment standards are not appropriate to educator disciplinary proceedings.
  - (2) The following general principles shall apply.
    - (A) Because the SBEC's primary duty is to safeguard the interests of Texas students, educator certification must be considered a privilege and not a right.
    - (B) The SBEC may pursue disciplinary proceedings and sanctions based on convictions of felonies and misdemeanors as provided by the Texas Education Code (TEC), §21.060; the Texas Occupations Code, Chapter 53; and this chapter.
    - (C) The SBEC may also pursue disciplinary proceedings and sanctions based on educator conduct that is proved by a preponderance of the evidence, and such proceedings and sanctions do not require a criminal conviction, deferred adjudication, community supervision, an indictment, or an arrest.

- (D) An educator's good moral character, as defined in §249.3 of this title (relating to Definitions), constitutes the essence of the role model that the educator represents to students both inside and outside the classroom. Chapter 247 of this title (relating to Educators' Code of Ethics) and this chapter provide for educator disciplinary proceedings and provide a minimum standard for educator conduct. Conduct or conditions that may demonstrate that an educator or applicant lacks good moral character, is a negative role model to students, and does not possess the moral fitness necessary to be a certified educator include, but are not limited to:
- (i) active community supervision or criminal probation;
  - (ii) conduct that indicates dishonesty or untruthfulness;
  - (iii) habitual impairment through drugs or alcohol;
  - (iv) abuse or neglect of students and minors, including the educator's own children; and
  - (v) reckless endangerment of the safety of others.
- (E) "Unworthy to instruct or to supervise the youth of this state," defined in §249.3 of this title, which serves as a basis for sanctions under §249.15(b)(2) of this title (relating to Disciplinary Action by State Board for Educator Certification), is a broad concept that is not limited to the specific criminal convictions that are described in the TEC, §21.058 and §21.060. The moral fitness of a person to instruct the youth of this state must be determined from an examination of all relevant conduct, is not limited to conduct that occurs while performing the duties of a professional educator, and is not limited to conduct that constitutes a criminal violation or results in a criminal conviction or to conduct that constitutes a violation of Chapter 247 of this title. It is a rebuttable presumption that an educator who violates written directives from school administrators regarding the educator's behavior toward a student is unworthy to instruct or to supervise the youth of this state.
- (F) Educators have positions of authority, have extensive access to students when no other adults (or even other students, in some cases) are present, and have access to confidential information that could provide a unique opportunity to exploit student vulnerabilities. Educators must clearly understand the boundaries of the educator-student relationship that they are trusted not to cross. Any violation of that trust, such as soliciting or engaging in a romantic or sexual relationship with any student or minor, is considered conduct that may result in permanent revocation of an educator's certificate.
- (G) Administrators who hold Superintendent, Principal, or Mid-Management Administrator certificates issued by the SBEC have, as a result of their actual or potential positions of authority over both students and other educators, an even greater obligation to maintain good moral character than teachers and paraprofessionals. When an administrator's conduct demonstrates that the administrator lacks good moral character, is a negative role model to students, or does not possess the moral fitness necessary to be a certified educator as described in subparagraph (D) of this paragraph, the administrator may be subject to greater sanction than a teacher or paraprofessional would receive for the same conduct.
- (H) Evidence of rehabilitation with regard to educator conduct that could result in sanction, denial of a certification application, or denial of an application for reinstatement of a certificate shall be recognized and considered. In addition, the following shall also be considered:
- (i) the nature and seriousness of prior conduct;
  - (ii) the potential danger the conduct poses to the health and welfare of students;
  - (iii) the effect of the prior conduct upon any victims of the conduct;

- (iv) whether sufficient time has passed, and sufficient evidence is presented to demonstrate that the educator or applicant has been rehabilitated from the prior conduct; and
- (v) the effect of the conduct upon the educator's good moral character and ability to be a proper role model for students.



## Subchapter B. Enforcement Actions and Guidelines

### §249.15. Disciplinary Action by State Board for Educator Certification.

- (a) Pursuant to this chapter, the State Board for Educator Certification (SBEC) may take any of the following actions:
- (1) place restrictions on the issuance, renewal, or holding of a certificate, either indefinitely or for a set term;
  - (2) issue an inscribed or non-inscribed reprimand;
  - (3) suspend a certificate for a set term or issue a probated suspension for a set term;
  - (4) revoke or cancel, which includes accepting the surrender of, a certificate without opportunity for reapplication for a set term or permanently;
  - (5) impose any additional conditions or restrictions upon a certificate that the SBEC deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials; or
  - (6) impose an administrative penalty of \$500-\$10,000 on a superintendent or director who fails to file timely a report required under §249.14(d) of this title (relating to Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition) or on a principal who fails to timely notify a superintendent or director as required under §249.14(e) of this title under the circumstances and in the manner required by the Texas Education Code (TEC), §21.006.
- (b) The SBEC may take any of the actions listed in subsection (a) of this section based on satisfactory evidence that:
- (1) the person has conducted school or education activities in violation of law;
  - (2) the person is unworthy to instruct or to supervise the youth of this state;
  - (3) the person has violated a provision of the Educators' Code of Ethics;
  - (4) the person has failed to report or has hindered the reporting of child abuse pursuant to the Texas Family Code, §261.001, or has failed to notify the SBEC or the school superintendent or director under the circumstances and in the manner required by the TEC, §21.006, and §249.14(d)-(f) of this title;
  - (5) the person has abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c);
  - (6) the person has failed to cooperate with the Texas Education Agency (TEA) in an investigation;
  - (7) the person has failed to provide information required to be provided by §229.3 of this title (relating to Required Submissions of Information, Surveys, and Other Data);
  - (8) the person has violated the security or integrity of any assessment required by the TEC, Chapter 39, Subchapter B, as described in subsection (g) of this section or has committed an act that is a departure from the test administration procedures established by the commissioner of education in Chapter 101 of this title (relating to Assessment);
  - (9) the person has committed an act described in §249.14(k)(1) [~~§249.14(h)(1)~~], of this title, which constitutes sanctionable Priority 1 conduct, as follows:
    - (A) any conduct constituting a felony criminal offense;
    - (B) indecent exposure;
    - (C) public lewdness;
    - (D) child abuse and/or neglect;
    - (E) possession of a weapon on school property;
    - (F) drug offenses occurring on school property;

- (G) sale to or making alcohol or other drugs available to a student or minor;
  - (H) sale, distribution, or display of harmful material to a student or minor;
  - (I) certificate fraud;
  - (J) state assessment testing violations;
  - (K) deadly conduct; or
  - (L) conduct that involves soliciting or engaging in sexual conduct or a romantic relationship with a student or minor;
- (10) the person has committed an act that would constitute an offense (without regard to whether there has been a criminal conviction) that is considered to relate directly to the duties and responsibilities of the education profession, as described in §249.16(c) of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21). Such offenses indicate a threat to the health, safety, or welfare of a student or minor, parent of a student, fellow employee, or professional colleague; interfere with the orderly, efficient, or safe operation of a school district, campus, or activity; or indicate impaired ability or misrepresentation of qualifications to perform the functions of an educator and include, but are not limited to:
- (A) offenses involving moral turpitude;
  - (B) offenses involving any form of sexual or physical abuse or neglect of a student or minor or other illegal conduct with a student or minor;
  - (C) offenses involving any felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in the Texas Health and Safety Code, Chapter 481;
  - (D) offenses involving school property or funds;
  - (E) offenses involving any attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
  - (F) offenses occurring wholly or in part on school property or at a school-sponsored activity; or
  - (G) felony offenses involving driving while intoxicated (DWI);
- (11) the person has intentionally failed to comply with the reporting, notification, and confidentiality requirements specified in the Texas Code of Criminal Procedure, §15.27(a), relating to student arrests, detentions, and juvenile referrals for certain offenses;
- (12) the person has failed to discharge an employee or to refuse to hire an applicant when the person knew that the employee or applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with the TEC, §21.009(e), or knew or should have known through a criminal history record information review that the employee or applicant had been convicted of an offense in accordance with the TEC, §22.085;
- (13) the person assisted another educator, school employee, contractor, or agent in obtaining a new job as an educator or in a school, apart from the routine transmission of administrative and personnel files, when the educator knew or had probable cause to believe that such person engaged in an inappropriate relationship with a minor or student;
- ~~(14) [(13)]~~ the person is a superintendent of a school district or the chief operating officer of an open-enrollment charter school who falsely or inaccurately certified to the commissioner of education that the district or charter school had complied with the TEC, §22.085; or
- ~~(15) [(14)]~~ the person has failed to comply with an order or decision of the SBEC.

- (c) The TEA staff may commence a contested case to take any of the actions listed in subsection (a) of this section by serving a petition to the certificate holder in accordance with this chapter describing the SBEC's intent to issue a sanction and specifying the legal and factual reasons for the sanction. The certificate holder shall have 30 calendar days to file an answer as provided in §249.27 of this title (relating to Answer).
- (d) Upon the failure of the certificate holder to file a written answer as required by this chapter, the TEA staff may file a request for the issuance of a default judgment from the SBEC imposing the proposed sanction in accordance with §249.35 of this title (relating to Disposition Prior to Hearing; Default).
- (e) If the certificate holder files a timely answer as provided in this section, the case will be referred to the State Office of Administrative Hearings (SOAH) for hearing in accordance with the SOAH rules; the Texas Government Code, Chapter 2001; and this chapter.
- (f) The provisions of this section are not exclusive and do not preclude consideration of other grounds or measures available by law to the SBEC or the TEA staff, including student loan default or child support arrears. The SBEC may request the Office of the Attorney General to pursue available civil, equitable, or other legal remedies to enforce an order or decision of the SBEC under this chapter.
- (g) The statewide assessment program as defined by the TEC, Chapter 39, Subchapter B, is a secure testing program.
  - (1) Procedures for maintaining security shall be specified in the appropriate test administration materials.
  - (2) Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials.
  - (3) The contents of each test booklet and answer document are confidential in accordance with the Texas Government Code, Chapter 551, and the Family Educational Rights and Privacy Act of 1974. Individual student performance results are confidential as specified under the TEC, §39.030(b).
  - (4) Violation of security or confidential integrity of any test required by the TEC, Chapter 39, Subchapter B, shall be prohibited. A person who engages in conduct prohibited by this section may be subject to sanction of credentials, including any of the sanctions provided by subsection (a) of this section.
  - (5) Charter school test administrators are not required to be certified; however, any irregularity in the administration of any test required by the TEC, Chapter 39, Subchapter B, would cause the charter itself to come under review by the commissioner of education for possible sanctions or revocation, as provided under the TEC, §12.115(a)(4).
  - (6) Conduct that violates the security and confidential integrity of a test is evidenced by any departure from the test administration procedures established by the commissioner of education. Conduct of this nature may include, but is not limited to, the following acts and omissions:
    - (A) viewing a test before, during, or after an assessment unless specifically authorized to do so;
    - (B) duplicating secure examination materials;
    - (C) disclosing the contents of any portion of a secure test;
    - (D) providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
    - (E) changing or altering a response or answer of an examinee to a secure test item or prompt;
    - (F) aiding or assisting an examinee with a response or answer to a secure test item or prompt;
    - (G) fraudulently exempting or preventing a student from the administration of a required state assessment;

- (H) encouraging or assisting an individual to engage in the conduct described in paragraphs (1)-(7) of this subsection; or
  - (I) failing to report to an appropriate authority that an individual has engaged in conduct outlined in paragraphs (1)-(8) of this subsection.
- (7) Any irregularities in test security or confidential integrity may also result in the invalidation of student results.
- (8) The superintendent and campus principal of each school district and chief administrative officer of each charter school and any private school administering the tests as allowed under the TEC, §39.033, shall develop procedures to ensure the security and confidential integrity of the tests specified in the TEC, Chapter 39, Subchapter B, and shall be responsible for notifying the TEA in writing of conduct that violates the security or confidential integrity of a test administered under the TEC, Chapter 39, Subchapter B. A person who fails to report such conduct as required by this subsection may be subject to any of the sanctions provided by subsection (a) of this section.

**Review of Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs**

**September 14, 2018**

**COMMITTEE ON SCHOOL INITIATIVES: ACTION  
STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item provides the State Board of Education (SBOE) an opportunity to review a State Board for Educator Certification (SBEC) rule action that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 228, Requirements for Educator Preparation Programs. The proposed amendments would implement the statutory requirements of Senate Bills (SBs) 7 and 1839 and House Bills (HBs) 2039, 3349, and 1963, 85th Texas Legislature, Regular Session, 2017. The proposed amendments would also implement changes based on stakeholder input and Texas Education Agency (TEA) staff recommendations.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 228 is the Texas Education Code (TEC), §§21.031; 21.041(b)(1); 21.044, as amended by SBs 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017; 21.0442(c), as added by HB 3349, 85th Texas Legislature, Regular Session, 2017; 21.0443; 21.0453; 21.0454; 21.0455; 21.046(b); 21.0485; 21.0487(c); 21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017; 21.049(a); 21.0491, as added by HB 3349, 85th Texas Legislature, Regular Session, 2017; 21.050(b) and (c); 21.051, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017; and the Texas Occupations Code (TOC), §55.007.

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

TEC, §21.041(b)(1), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

TEC, §21.044, as amended by SBs 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program.

TEC, §21.0442(c), as added by HB 3349, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to ensure that an Educator Preparation Program (EPP) requires at least 80 hours of instruction for a candidate seeking a Trade and Industrial Workforce Training certificate.

TEC, §21.0443, requires the SBEC to establish rules for the approval and renewal of EPPs.

TEC, §21.0453, states that the SBEC may propose rules as necessary to ensure that all EPPs provide the SBEC with accurate information.

TEC, §21.0454, requires the SBEC to develop a set of risk factors to assess the overall risk level of each EPP and use the set of risk factors to guide the TEA in conducting monitoring, inspections, and evaluations of EPPs.

TEC, §21.0455, requires the SBEC to propose rules necessary to establish a process for complaints to be directed against an EPP.

TEC, §21.046(b), states that the qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements.

TEC, §21.0485, states the issuance requirements for certification to teach students with visual impairments.

TEC, §21.0487(c), states that because an effective principal is essential to school improvement, the SBEC shall ensure that each candidate for certification as a principal is of the highest caliber and that multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success.

TEC, §21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017, states the eligibility for an Early Childhood: Prekindergarten-Grade 3 certificate.

TEC, §21.049(a), authorizes the SBEC to adopt rules providing for educator certification programs as an alternative to traditional EPPs.

TEC, §21.0491, requires the SBEC to create a probationary and standard trade and industrial workforce training certificate.

TEC, §21.050(b), states that the SBEC may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate.

TEC, §21.050(c), states that a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate.

TEC, §21.051, as amended by SB 1839, 85<sup>th</sup> Texas Legislature, Regular Session, 2017, provides a requirement that before a school may employ a certification candidate as a teacher of record, the candidate must have completed at least 15 hours of field-based experience in which the candidate was actively engaged at an approved school in instructional or educational activities under supervision.

TOC, §55.007, provides that verified military service, training, and education be credited toward licensing requirements.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendments to 19 TAC Chapter 228 would be October 21, 2018.

**PREVIOUS BOARD ACTION:** None.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 TAC Chapter 228, Requirements for Educator Preparation Programs, provide for rules that establish requirements for EPPs.

The following is a description of the proposed amendments included in Attachment II.

§228.1. General Provisions.

A proposed new subsection (d) would allow staff to extend rule deadlines when rules in this chapter cannot be complied with because of a disaster that results in the governor declaring a state of disaster. This amendment would allow TEA staff to extend deadlines in this chapter for up to 90 days to accommodate persons in the disaster areas identified by the governor's declaration.

§228.2. Definitions.

The definition of *cooperating teacher* in §228.2(12) would be amended to add the phrase, "including training in how to coach and mentor teacher candidates," to the criteria of the cooperating teacher training. This amendment would require cooperating teachers to be trained on how to coach and mentor teacher candidates so they could adequately guide and support the candidates throughout their clinical teaching experiences.

The definition of *field supervisor* in §228.2(16) would be amended to clarify that a field supervisor who has certification as a principal and experience as a campus-level administrator may also supervise classroom teacher, master teacher, and reading specialist candidates; and a field supervisor who has certification as a superintendent and experience as a district-level administrator may also supervise principal candidates. While this amendment would provide flexibility for EPPs in determining the field supervisor, it would also ensure that teacher candidates are supervised by a field supervisor who has experience as a classroom teacher. A technical edit is also recommended to update in rule relevant cross references.

The definition of *internship* in §228.2(21) would be amended to move the criteria for a successful internship into the appropriate preparation program coursework and training in subsection §228.35(f)(2)(B)(vii). This amendment would provide consistency among the requirements for internships, clinical teaching, and practicums.

The definition of *mentor* in §228.2(23) would be amended to add the phrase, "including training in how to coach and mentor teacher candidates," to the criteria of the mentor training. This amendment would require mentors to be trained on how to coach and mentor teacher candidates so they could adequately guide and support the candidates throughout their internship experiences.

The definition of *site supervisor* in §228.2(30) would be amended to add the phrase, "including training in how to coach and mentor candidates," to the criteria of the site supervisor training. This amendment would require site supervisors to be trained on how to coach and mentor candidates so they could adequately guide and support the candidates throughout their internship experiences.

*§228.30. Educator Preparation Curriculum.*

Language would be amended in §228.30(c)(3) to clarify curriculum requirements for instruction regarding mental health, substance abuse, and youth suicide. The TEC, §21.044(c-1), requires EPPs to select training from a list of recommended best practice-based programs and research-based practices. This amendment would clarify that an EPP that acquires training from a provider on the list may use that training on its own if it implements the training as required by the provider.

Language would be amended in §228.30(c)(7) to incorporate the requirements of the TEC, §21.044(g)(6), as amended by SB 7, 85th Texas Legislature, Regular Session, 2017. The language being proposed would require the curriculum for all certification classes to include instruction regarding appropriate relationships, boundaries, and communications between educators and students.

Language would be amended in §228.30(c)(8) to incorporate the requirements of the TEC, §21.044, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017. The language being proposed would require the curriculum for all certification classes to include instruction in digital learning. The proposed rule would require EPPs to assess each candidate with a digital literacy evaluation followed by a prescribed digital learning curriculum that must include resources to address any deficiencies identified by the digital literacy evaluation. The instruction must be aligned with the International Society for Technology in Education's (ISTE) standards and provide effective, evidence-based strategies to determine a person's degree of digital literacy. The current ISTE standards for educators and administrators are published on its website at <https://www.iste.org/standards>.

Language would be amended in §228.30(d)(4) and §228.30(e) to remove the domains of the Teacher and Administrator Standards. Because these domains are identified in commissioner of education rules, Chapter 149, Subchapters AA and BB, this amendment would reduce the amount of redundancy in the rules.

Proposed new §228.30(f) would incorporate the requirements of the TEC, §21.0489, as amended by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017. The subsection would identify the standards that an EPP must include in its Early Childhood: Prekindergarten-Grade 3 curriculum for candidates who hold a valid standard, provisional, or one-year classroom teacher certificate that has been issued by the SBEC and allows them to teach all subjects in grades prekindergarten, kindergarten, first, second, or third. The curriculum must include the Child Development provision of the Early Childhood-Grade 3 Content Standards, the Early Childhood-Grade 3 Pedagogy and Professional Responsibilities Standards, and the Science of Teaching Reading Standards. This amendment would implement the statutory requirements of the TEC, §21.0489.

*§228.35. Preparation Program Coursework and/or Training.*

Language would be amended in §228.35(a)(6) to broaden the options from which EPPs may select to ensure coursework and training that is offered online is of a high quality. This amendment would include the certification options that are provided by the Distance Education Accreditation Commission. This amendment would provide EPPs that do not offer all their coursework and training online additional cost-effective options for quality assurance.

Proposed new §228.35(c) would incorporate the abbreviated program requirements of the TEC, §21.0442(c), as amended by HB 3349, 85th Texas Legislature, Regular Session, 2017. The proposal would require an EPP to provide a minimum of 200 clock-hours of coursework and/or training for a



candidate seeking initial certification in the classroom teacher certification class in Trade and Industrial Workforce Training. The coursework and/or training requirement is 100 hours less than the minimum for all other initial classroom teacher certificates because the statute calls for an abbreviated EPP for Trade and Industrial Workforce Training and because this certificate is only available to individuals with prior wage-earning experience in an occupation they will be teaching. New subsection (c)(1) would require a candidate to complete the following prior to clinical teaching or internship: a minimum of 30 clock-hours of field-based experience as prescribed in subsection (b)(1) and 80 clock-hours of coursework/training as prescribed in subsection (c)(1)(B). The 30 clock-hours of field-based experience is consistent with the required hours of field-based experience for all certificates and ensures that an individual has a baseline of experience in a classroom prior to assuming a position as the teacher of record. Additionally, the 80 clock-hours of coursework and training provides for basic training in essential topics while upholding the requirement for an abbreviated certificate. New subsection (c)(2) would require a candidate to complete a minimum of 90 additional clock-hours in the curriculum prescribed in §228.30(a)-(d) prior to completion of the program. The 90 additional clock-hours are necessary to ensure adequate training in the topics the TEC, §21.044, requires. The curriculum would include:

- the Pedagogy and Professional Responsibilities for Trade and Industrial Education (Grades 6-12) educator standards;
- the Educators' Code of Ethics;
- instruction in the detection and education of students with dyslexia;
- instruction regarding mental health, substance abuse, and youth suicide;
- the importance of setting high expectations for students and building strong classroom management skills;
- the framework for teacher and principal evaluation;
- appropriate relationships, boundaries, and communication between educators and students;
- instruction in digital learning;
- the relevant Texas Essential Knowledge and Skills; and
- reading instruction.

This amendment would implement the statutory requirements of the TEC, §21.0442(c), and will provide consistency among EPPs.

Based on stakeholder feedback from the San Antonio area, the provisions in §228.35(c) would be expanded to include initial certification in the classroom teacher certification class in Marketing: Grades 6-12 and Health Science: Grades 6-12. These certificates are similar to the Trade and Industrial Workforce Training certificate in that they also require experience and preparation in a skill area. This would provide an abbreviated route to certification for these areas. Remaining subsections would be re-lettered accordingly.

Language would be amended in §228.35(f)(1)(C) to incorporate the requirements of the TEC, §21.051(b-1), as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017. The language being proposed would allow a teacher candidate to satisfy up to 15 clock-hours of field-based experience by serving as a long-term substitute. A long-term substitute would be defined as an individual who has been hired by a public or private school accredited or approved by the TEA to work more than 30 consecutive days in an assignment as a classroom teacher. Long-term substitute experience may occur after the candidate's admission to an EPP or during the two years before the date the candidate is admitted to the EPP. The candidate's experience in instructional or educational activities during the long-term substitute experience must be documented by the EPP. This change implements the provisions of the TEC, §21.051(b-1), and will provide consistency among EPPs.

Language would be amended in §228.35(f)(2)(A)(i)(I) to increase the minimum required days for a 14-week clinical teaching assignment from 65 days to 70 full days and, in subsection (f)(2)(A)(i)(II), to increase the minimum required days for a 28-week clinical teaching assignment from 130 to 140 half days. These changes would reflect the actual number of days and half-days in a five-day week. Current rule allows fewer days to provide flexibility for an exception for maternity leave, military leave, or illness. These changes would provide clarity of the expected days required and then allow for an exception due to these circumstances, as reflected in subsection (f)(2)(A)(iv). These amendments would still allow flexibility for and consistency among EPPs.

Language would be added as new §228.35(f)(2)(A)(ii) to clarify that a full-day clinical teaching assignment must be an average of four hours per day in the subject and grade level of the certification category being sought. This average would include intermissions and recesses but not conference periods and duty-free lunch periods. This amendment would allow more assignments to qualify as full-day clinical teaching assignments and provide more consistency between clinical teaching and internship assignments.

Language would be added as new §228.35(f)(2)(A)(iii) to specify criteria for a successful clinical teaching assignment. A successful assignment would include that the candidate demonstrates proficiency in each of the educator standards for the assignment. Based on stakeholder feedback, if either the field supervisor or cooperating teacher do not recommend the candidate for a standard certificate, the documentation supporting that recommendation be provided to the candidate for review by all parties. This would provide clarification of the recommendation to all parties and provide consistency among the requirements for all certificates.

Language would be amended in new §228.35(f)(2)(A)(iv) to permit a full day clinical teaching assignment to be up to five days fewer than the minimum of 70 days and a half day clinical teaching assignment to be up to ten days fewer than the minimum of 140 days. The grounds for permitting fewer than the minimum number of days would be maternity leave, military leave, and illness. This amendment would provide flexibility for candidates and EPPs to complete clinical teaching experiences. In response to public comment, the SBEC approved at adoption to add bereavement to the list of grounds permitting fewer than the minimum number of days of the teaching assignment.

Language would be amended in §228.35(f)(2)(B)(i) to clarify that an internship may be up to 30 school days fewer than the minimum of 180 days if the candidate is hired by the school or district after the first day of school due to maternity leave, military leave, illness, or bereavement. In response to public comment, the SBEC approved at adoption to add bereavement to the list of grounds permitting an internship to be fewer than the minimum days. This amendment would ensure that candidates are only eligible for the shortened internship if they are hired after the first day of school.

Language would be amended in §228.35(f)(2)(B)(ii) to clarify that the beginning date of an internship for the purpose of field supervision would be the first day of instruction with students. Because the requirement for an internship is 180 days, interns may need to participate in professional development before and after the first and last instructional day to meet the requirements of an internship. Because the purpose of field supervision is to provide support to candidates based on observed instructional practices, field supervision does not need to begin until candidates are providing instruction to students.

Language would be amended in §228.35(f)(2)(B)(iii) to include intermissions and recesses into the average of four hours a day an individual must teach during an internship. Intermissions and recesses are included in the statutory definition of school day and the educational activities that beginning teachers are

expected to perform during intermissions and recesses are included in the classroom teacher educator standards. This change would also clarify that conference periods and duty-free lunch periods do not count toward internship hours. This amendment would allow more assignments to qualify as internships. A technical edit would update in rule relevant cross references.

Language would be amended in §228.35(f)(2)(B)(vi)(II)-(IV) to provide candidates and EPPs with more time to provide the required notices related to inactivation of intern and probationary certificates. The time required for candidates to provide an EPP a notice of resignation, non-renewal, or termination of employment or withdrawal from the EPP would increase from one business day to seven calendar days. The time required for EPPs to provide candidates with a notice of inactivation of intern or probationary certificates due to resignation, non-renewal, or termination of employment or withdrawal from the EPP would increase from one business day to seven calendar days. This amendment would provide candidates and EPPs with more flexibility in providing required notices. Technical edits would update in rule relevant cross references.

Language would be amended in new §228.35(f)(2)(B)(vi)(V) to add notification requirements for EPPs when an internship assignment does not meet requirements. An EPP would need to provide a candidate with notice within seven calendar days of when the EPP knows that an internship assignment does not meet requirements. The notice would inform the candidate that the employer would be notified, and the intern or probationary certificate would be inactivated within 30 calendar days. Within one business day of notifying the candidate, an EPP would need to provide similar notice to the employer. Within one business day of notifying the employer, the EPP would need to provide similar notice to TEA staff. This amendment would provide consistency among EPPs in providing required notices that result in the inactivation of certificates. This timeline is consistent with other notification requirements related to the inactivation of certificates and is necessary to ensure that programs provide prompt notification to candidates, employers, and TEA staff to prevent a candidate from continuing in an inappropriate assignment.

Language would be amended in new §228.35(f)(2)(B)(vii) to add language that was stricken from §228.2(21) describing the criteria for a successful internship. Based on stakeholder feedback, if either the field supervisor or campus supervisor do not recommend the candidate for a standard certificate, the EPP would be required to provide the documentation supporting that recommendation to the candidate for review by all parties. This would provide clarification of the recommendation to all parties and provide consistency among the requirements for all certificates.

Language would be amended in new §228.35(f)(2)(B)(viii) to incorporate the provisions of the TEC, §21.0491(c)(2), as amended by HB 3349, 85th Texas Legislature, Regular Session, 2017. The proposed language would authorize a candidate seeking a Trade and Industrial Workforce Training certificate to complete an internship at an accredited institution of higher education if the candidate teaches not less than an average of four hours each day, including intermissions and recesses, in a dual credit career and technical instructional setting. Permitting an internship in this setting allows candidates to fulfill the employment eligibility requirement found in the TEC, §21.0491(c)(2)(B), at an institution of higher education. A dual credit career and technical instructional setting would be defined by Part 1, Chapter 4, Subchapter D of this title (relating to Dual Credit Partnerships Between Secondary Schools and Public Schools). This amendment would implement the statutory requirements of the TEC, §21.0491(c)(2), and will provide consistency among EPPs.

Language would be amended in new §228.35(f)(3) to add requirements for the review, approval, and revocation of clinical teaching exception requests. The review and approval requirements reflect the

procedures that TEA staff and the SBEC currently use for requests that have already been approved. The revocation requirements being added would address how approval of an exception is revoked if an EPP does not meet the conditions of the exception that was approved by the SBEC. This amendment would clarify the process by which clinical teaching exception requests are reviewed, approved, and revoked. This amendment is necessary because the current rules do not provide for a clear process for revoking a clinical teaching exception for a program that does not meet the conditions of the exception. The September 15 deadline tracks the deadline for programs to report data.

Language would be amended in §228.35(f)(4) to add language clarifying that "candidates" as used in this subsection refers to candidates participating in an internship or clinical teaching assignment. This amendment would provide consistency among clinical teaching and internship assignments.

Based on stakeholder feedback, language would be amended in §228.35(f)(8)(D) regarding practicum experiences to specify that if either the field supervisor or site supervisor do not recommend the candidate for a standard certificate, the documentation supporting that recommendation would be provided to the candidate for review by all parties. This would provide clarification of the recommendation to all parties and provide consistency among the requirements for all certificates.

Language would be amended in §228.35(h)(8) to define the observation requirements for a full-day clinical teaching assignment that exceeds 14 weeks and extends beyond one semester. A field supervisor from an EPP would need to provide at least two formal observations during the first half of the assignment and two formal observations during the second half of the assignment. This change would ensure that candidates receive necessary support and feedback throughout the clinical teaching assignment as a means to foster continuous improvement and would provide consistency among EPPs. Technical edits would update in rule relevant cross references.

Language would be amended in §228.35(i)(2) to incorporate the requirements of the TEC, §21.044(f-1), as amended by SBs 1839 and 1963, 85th Texas Legislature, Regular Session, 2017. The proposed language would remove the requirement that at least one formal observation by a field supervisor be onsite and face-to-face for a candidate seeking a principal, superintendent, school counselor, school librarian, educational diagnostician, reading specialist, or master teacher certificate. This change would implement the statutory requirements of the TEC, §21.044(f-1). Remaining subsections would be renumbered accordingly.

Language would be amended in §228.35(i)(3) to clarify that a minimum of three observations are required during a practicum, regardless of the type of certificate that is held by a candidate. Because a practicum can be completed while a candidate seeking an advanced certificate is employed under an intern, probationary, or standard certificate, this clarification is needed because the number of observations for a teacher candidate participating in an internship differs according to the type of certificate the candidate holds. This change would clarify the requirements for candidates seeking an advanced certificate.

Proposed new §228.35(j) would incorporate the requirements of the TEC, §21.0489, as amended by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017. New §228.35(j)(1) would identify the concepts and themes that coursework and/or training must include. These concepts and themes were recommended to TEA staff by experts in the field of early childhood education. New §228.35(j)(2) would require an EPP to provide a minimum of 150 clock-hours of coursework and/or training for candidates seeking an Early Childhood: Prekindergarten-Grade 3 certificate who hold a valid standard, provisional, or one-year classroom teacher certificate that has been issued by the SBEC and would allow them to teach all subjects in grades prekindergarten, kindergarten, first, second, or third. Teachers already certified in

these areas have already demonstrated their content proficiency based on the passing of their prior content tests. Additionally, their time in the classroom provides the same real-world teaching experience that is the purpose of field-based experiences and clinical teaching. This reduces the number of hours of additional required training for educators currently certified in these areas. New §228.35(j)(3) would require an EPP to provide a candidate who holds any other classroom teacher certificate the same coursework and training that the EPP would provide for a candidate who is seeking an initial certificate in Early Childhood: Prekindergarten-Grade 3. Due to the specialized nature of early childhood, content knowledge, content pedagogy, and pedagogy practices from outside of the early childhood grade-bands cannot be directly applied to this setting. These changes would implement the statutory requirements of the TEC, §21.0489, and would provide consistency among programs.

Proposed new §228.35(k) would define the coursework and/or training requirements for the Teacher of Students with Visual Impairments (TVI) Supplemental: Early Childhood-Grade 12 certificate. The proposed requirements parallel that which is already being used by the two EPPs actively certifying candidates for the TVI certificate to adequately produce educators.

The TEC, §21.0485, requires an individual to complete coursework in an EPP to be eligible for this certificate. This proposed minimum is the minimum amount of coursework and/or training hours provided by the two programs that actively offer this certificate. The assignment needs to take place in a public school accredited by the TEA or other school approved by the TEA for this purpose. Other schools would include private schools accredited by the Texas Private School Accreditation Commission, all Department of Defense Education Activity schools, and schools that meet the approval standards described in 19 TAC §228.35(e)(7)(C) and (D). The TEC, §21.0485, requires an individual to satisfy any other requirements prescribed by the SBEC to be eligible for this certificate. This proposed minimum describes the level of support provided by the two programs that actively offer this certificate and is necessary to ensure sufficient levels of support for the specialized nature of this certificate. This change would reflect the requirements of the EPPs that currently offer training for this certificate and would also provide consistency among EPPs that may offer the certification in the future.

Proposed new §228.35(l) would create provisions for individuals employed as certified educational aides to complete an EPP. New subsection (l)(1) would create a clinical teaching option for candidates who are employed as a certified educational aide to satisfy their clinical teaching assignment requirements through their instructional duties under the supervision of a certified educator. New subsection (l)(1)(A) would allow for the assignment requirements of 490 hours to be satisfied through their instructional duties. While the 490-hour requirement is equivalent to the 14-week requirement for other individuals completing clinical teaching, the 490-hour requirement allows an individual more flexibility in completing the assignment while working as a certified educational aide. This change also creates flexibility for school districts and charter schools by allowing them to "grow their own" educational aides into certified teachers and to diversify the pool of new teachers while ensuring sufficient time within the clinical teaching assignment to demonstrate proficiency in each of the educator standards for the assignment.

Proposed new §228.35(l)(1)(B) would permit an educational aide clinical teaching assignment to be up to 35 hours fewer than the minimum of 490 hours. The grounds for permitting fewer than the minimum number of hours would be maternity leave, military leave, and illness. This amendment would provide flexibility for candidates and EPPs to complete clinical teaching experiences despite intervening life events.

Proposed new §228.35(1)(1)(C) would add criteria for a successful clinical teaching assignment. A successful assignment would include that the candidate demonstrates proficiency in each of the educator standards for the assignment. Based on stakeholder feedback, if either the field supervisor or cooperating teacher do not recommend the candidate for a standard certificate, the documentation supporting that recommendation would be provided to the candidate for review by all parties. This would provide clarification of the recommendation to all parties and provide consistency among the requirements for all certificates.

Proposed new §228.35(1)(2) would specify the coursework and/or training requirements and define the observation requirements for a 490-hour clinical teaching option for candidates who are employed as a certified educational aide. A field supervisor from an EPP would need to provide at least one formal observation during the first third of the assignment, one formal observation during the second third of the assignment, and one formal observation during the final third of the assignment. This change would ensure that candidates receive necessary support and feedback throughout the clinical teaching assignment as a means to foster continuous improvement and would provide consistency among EPPs.

Technical edits were also made to 19 TAC Chapter 228 to conform to style and formatting requirements.

#### *SBOE Review of Proposed SBEC Rules*

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendments beyond that which the authorizing statute requires. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code (TGC), §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under TGC, §2001.022. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to TGC, §2001.0045.

**GOVERNMENT GROWTH IMPACT:** The TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking for the first five years the proposed rulemaking would be in effect. The TEA staff has determined that, although the proposed rulemaking could potentially have a government growth impact by creating a new regulation, that impact is created by the statutory requirement and not the agency regulation.

The TEA staff has also determined that the proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC AND STUDENT BENEFIT:** The proposed amendments to 19 TAC Chapter 228 will result in clear guidance for EPPs on requirements for providing preparation to individuals seeking certification as

an educator. Beyond that which the underlying legislation requires, the proposed amendments do not impose a cost on persons required to comply with the rules.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendments would have no additional procedural and reporting implications.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendments would have no locally maintained paperwork requirements.

**PUBLIC COMMENTS:** In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Take no action on the proposed amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Ryan Franklin, Associate Commissioner  
Educator Leadership and Quality

Tam Jones, Director  
Educator Preparation

**Attachment I:** Statutory Citations  
**Attachment II:** Text of Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs

This page has been intentionally left blank.



## ATTACHMENT I

### **Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs**

#### **Texas Education Code, §21.031, Purpose:**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.
- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

#### **Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

#### **Texas Education Code, §21.044, Educator Preparation, as amended by Senate Bill (SB) 7, SB 1839, and SB 1963, 85th Texas Legislature, Regular Session, 2017:**

- (a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The board shall specify the minimum academic qualifications required for a certificate.
- (b) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction in detection and education of students with dyslexia.
- (c) The instruction under Subsection (b) must:
  - (1) be developed by a panel of experts in the diagnosis and treatment of dyslexia who are:
    - (A) employed by institutions of higher education; and
    - (B) approved by the board; and
  - (2) include information on:
    - (A) characteristics of dyslexia;
    - (B) identification of dyslexia; and
    - (C) effective, multisensory strategies for teaching students with dyslexia.
- (c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction regarding mental health, substance abuse, and youth suicide. The instruction required must:
  - (1) be provided through a program selected from the list of recommended best practice-based programs and research-based practices established under Section 161.325, Health and Safety Code; and

- (2) include effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports.
- (c-2) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction in digital learning, including a digital literacy evaluation followed by a prescribed digital learning curriculum. The instruction required must:
- (1) be aligned with the International Society for Technology in Education's standards for teachers;
  - (2) provide effective, evidence-based strategies to determine a person's degree of digital literacy; and
  - (3) include resources to address any deficiencies identified by the digital literacy evaluation.
- (d) In proposing rules under this section, the board shall specify that to obtain a certificate to teach an "applied STEM course," as that term is defined by Section 28.027, at a secondary school, a person must:
- (1) pass the certification test administered by the recognized national or international business and industry group that created the curriculum the applied STEM course is based on; and
  - (2) have at a minimum:
    - (A) an associate degree from an accredited institution of higher education; and
    - (B) three years of work experience in an occupation for which the applied STEM course is intended to prepare the student.
- (e) In proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, the board shall specify that a person must have:
- (1) an associate degree or more advanced degree from an accredited institution of higher education;
  - (2) current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and
  - (3) at least two years of wage earning experience utilizing the licensure requirement.
- (f) The board may not propose rules for a certificate to teach a health science technology education course that specify that a person must have a bachelor's degree or that establish any other credential or teaching experience requirements that exceed the requirements under Subsection (e).
- (f-1) Board rules addressing ongoing educator preparation program support for a candidate seeking certification in a certification class other than classroom teacher may not require that an educator preparation program conduct one or more formal observations of the candidate on the candidate's site in a face-to-face setting. The rules must permit each required formal observation to occur on the candidate's site or through use of electronic transmission or other video-based or technology-based method.
- (g) Each educator preparation program must provide information regarding:
- (1) the skills that educators are required to possess, the responsibilities that educators are required to accept, and the high expectations for students in this state;

- (2) the effect of supply and demand forces on the educator workforce in this state;
- (3) the performance over time of the educator preparation program;
- (4) the importance of building strong classroom management skills; ~~and~~
- (5) the framework in this state for teacher and principal evaluation, including the procedures followed in accordance with Subchapter H; and
- (6) appropriate relationships, boundaries, and communications between educators and students.

**Texas Education Code, §21.0442, Educator Preparation Program for Probationary and Standard Trade and Industrial Workforce Training Certificates, as added by House Bill (HB) 3349, 85th Texas Legislature, Regular Session, 2017 (excerpts):**

- (c) In proposing rules for an educator preparation program under this section, the board shall ensure that the program requires at least 80 hours of classroom instruction in:
  - (1) a specific pedagogy;
  - (2) creating lesson plans;
  - (3) creating student assessment instruments;
  - (4) classroom management; and
  - (5) relevant federal and state education laws.

**Texas Education Code, §21.0443, Educator Preparation Program Approval and Renewal:**

- (a) The board shall propose rules to establish standards to govern the approval or renewal of approval of:
  - (1) educator preparation programs; and
  - (2) certification fields authorized to be offered by an educator preparation program.
- (b) To be eligible for approval or renewal of approval, an educator preparation program must adequately prepare candidates for educator certification and meet the standards and requirements of the board.
- (c) The board shall require that each educator preparation program be reviewed for renewal of approval at least every five years. The board shall adopt an evaluation process to be used in reviewing an educator preparation program for renewal of approval.

**Texas Education Code, §21.0453, Information for Candidates for Teacher Certification:**

- (a) The board shall require an educator preparation program to provide candidates for teacher certification with information concerning the following:
  - (1) skills and responsibilities required of teachers;
  - (2) expectations for student performance based on state standards;
  - (3) the current supply of and demand for teachers in this state;
  - (4) the importance of developing classroom management skills; and
  - (5) the state's framework for appraisal of teachers and principals.
- (b) The board may propose rules as necessary for administration of this section, including rules to ensure that accurate and consistent information is provided by all educator preparation programs.

**Texas Education Code, §21.0454, Risk Factors for Educator Preparation Programs; Risk-Assessment Model:**

- (a) The board shall propose rules necessary to develop a set of risk factors to use in assessing the overall risk level of each educator preparation program. The set of risk factors must include:
  - (1) a history of the program's compliance with state law and board rules, standards, and procedures, with consideration given to:
    - (A) the seriousness of any violation of a rule, standard or procedure;
    - (B) whether the violation resulted in an action being taken against the program;
    - (C) whether the violation was promptly remedied by the program;
    - (D) the number of alleged violations; and
    - (E) any other matter considered to be appropriate in evaluating the program's compliance history; and
  - (2) whether the program meets the accountability standards under Section 21.045.
- (b) The set of risk factors developed by the board may include whether an educator preparation program is accredited by other organizations.
- (c) The board shall use the set of risk factors to guide the agency in conducting monitoring, inspections, and compliance audits of educator preparation programs, including evaluations associated with renewals under Section 21.0443.

**Texas Education Code, §21.0455, Complaints Regarding Educator Preparation Programs:**

- (a) The board shall propose rules necessary to establish a process for a candidate for teacher certification to direct a complaint against an educator preparation program to the agency.
- (b) The board by rule shall require an educator preparation program to notify candidates for teacher certification of the complaint process adopted under Subsection (a). The notice must include the name, mailing address, telephone number, and Internet website address of the agency for the purpose of directing complaints to the agency. The educator preparation program shall provide for that notification:
  - (1) on the Internet website of the educator preparation program, if the program maintains a website; and
  - (2) on a sign prominently displayed in program facilities.
- (c) The board shall post the complaint process adopted under Subsection (a) on the agency's Internet website.
- (d) The board has no authority to arbitrate or resolve contractual or commercial issues between an educator preparation program and a candidate for teacher certification.

**Texas Education Code, §21.046, Qualifications for Certification as Superintendent or Principal (excerpts):**

- (b) The qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements. Supervised and approved on-the-job experience in addition to required internship shall be accepted in lieu of classroom hours. The qualifications must emphasize:

- (1) instructional leadership;
- (2) administration, supervision, and communication skills;
- (3) curriculum and instruction management;
- (4) performance evaluation;
- (5) organization; and
- (6) fiscal management.

**Texas Education Code, §21.0485, Certification to Teach Students with Visual Impairments:**

- (a) To be eligible to be issued a certificate to teach students with visual impairments, a person must:
  - (1) complete either:
    - (A) all course work required for that certification in an approved educator preparation program; or
    - (B) an alternative educator certification program approved for the purpose by the board;
  - (2) perform satisfactorily on each examination prescribed under Section 21.048 for certification to teach students with visual impairments, after completing the course work or program described by Subdivision (1); and
  - (3) satisfy any other requirements prescribed by the board.
- (b) Subsection (a) does not apply to eligibility for a certificate to teach students with visual impairments, including eligibility for renewal of that certificate, if the application for the initial certificate was submitted on or before September 1, 2011.

**Texas Education Code, §21.0487, Junior Reserve Officer Training Corps Teacher Certification (excerpts):**

- (c) The board shall propose rules to:
  - (1) approve educator preparation programs to prepare a person as a teacher for certification under this section; and
  - (2) establish requirements under which:
    - (A) a person's training and experience acquired during the person's military service serves as proof of the person's demonstration of subject matter knowledge if that training and experience is verified by the branch of service in which the person served; and
    - (B) a person's employment by a school district as a Junior Reserve Officer Training Corps instructor before the person was enrolled in an educator preparation program or while the person is enrolled in an educator preparation program is applied to satisfy any student teaching, internship, or field-based experience program requirement.

**Texas Education Code, §21.0489, Early Childhood Certification, as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017 (excerpt):**

- (c) To be eligible for a certificate established under this section, a person must:
  - (1) either:

- (A) satisfactorily complete the course work for that certificate in an educator preparation program, including a knowledge-based and skills-based course of instruction on early childhood education that includes:
  - (i) teaching methods for:
    - (a) using small group instructional formats that focus on building social, emotional, and academic skills;
    - (b) navigating multiple content areas; and
    - (c) managing a classroom environment in which small groups of students are working on different tasks; and
  - (ii) strategies for teaching fundamental academic skills, including reading, writing, and numeracy; or
- (B) hold an early childhood through grade six certificate issued under this subchapter and satisfactorily complete a course of instruction described by Paragraph (A);
- (2) perform satisfactorily on an early childhood certificate examination prescribed by the board; and
- (3) satisfy any other requirements prescribed by the board.

**Texas Education Code, §21.049, Alternative Certification (excerpt):**

- (a) To provide a continuing additional source of qualified educators, the board shall propose rules providing for educator certification programs as an alternative to traditional educator preparation programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of educators in a school district or subject area.

**Texas Education Code, §21.0491, Probationary and Standard Trade and Industrial Workforce Training Certificates:**

- (a) To provide a continuing additional source of teachers to provide workforce training, the board shall establish a probationary trade and industrial workforce training certificate and a standard trade and industrial workforce training certificate that may be obtained through an abbreviated educator preparation program under Section 21.0442.
- (b) To be eligible for a probationary certificate under this section, a person must:
  - (1) satisfactorily complete the course work for that certificate in an educator preparation program under Section 21.0442; and
  - (2) satisfy any other requirements prescribed by the board.
- (c) To be eligible for a standard certificate under this section, a person must:
  - (1) hold a probationary certificate issued under this section;
  - (2) be employed by:
    - (A) a public or private primary or secondary school; or
    - (B) an institution of higher education or an independent or private institution of higher education as those terms are defined by Section 61.003; and
  - (3) perform satisfactorily on a standard trade and industrial workforce training certificate examination prescribed by the board.

- (d) The limitation imposed by Section 21.048(a-1) on the number of administrations of an examination does not apply to the administration of the standard trade and industrial workforce training certificate examination prescribed by the board.
- (e) Notwithstanding any other law, the board may administer the standard trade and industrial workforce training certificate examination to a person who satisfies the requirements of Subsections (c)(1) and (2).
- (f) The board shall propose rules to:
  - (1) specify the term of a probationary certificate and a standard certificate issued under this section; and
  - (2) establish the requirements for renewal of a standard certificate.

**Texas Education Code, §21.050, Academic Degree Required for Teaching Certificate; Internship (excerpts):**

- (b) The board may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The board shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The board may propose rules requiring additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education.
- (c) A person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under Section 54.363 may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate.

**Texas Education Code, §21.051, Rules Regarding Field-Based Experience and Options for Field Experience and Internships, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017:**

- (a) In this section, "teacher of record" means a person employed by a school district who teaches the majority of the instructional day in an academic instructional setting and is responsible for evaluating student achievement and assigning grades.
- (b) Before a school district may employ a candidate for certification as a teacher of record and, except as provided by Subsection (b-1), after the candidate's admission to an educator preparation program, the candidate must complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervision at:
  - (1) a public school campus accredited or approved for the purpose by the agency; or
  - (2) a private school recognized or approved for the purpose by the agency.
- (b-1) A candidate may satisfy up to 15 hours of the field-based experience requirement under Subsection (b) by serving as a long-term substitute teacher as prescribed by board rule. Experience under this subsection may occur after the candidate's admission to an educator preparation program or during the two years before the date the candidate is admitted to the program. The candidate's experience in instructional or educational activities must be documented by the educator preparation program and must be obtained at:
  - (1) a public school campus accredited or approved for the purpose by the agency; or
  - (2) a private school recognized or approved for the purpose by the agency.

- (c) Subsection (b) applies only to an initial certification issued on or after September 1, 2012. Subsection (b) does not affect:
  - (1) the validity of a certification issued before September 1, 2012; or
  - (2) the eligibility of a person who holds a certification issued before September 1, 2012, to obtain a subsequent renewal of the certification in accordance with board rule.
- (d) Subsection (b) does not affect the period within which an individual must complete field-based experience hours as determined by board rule if the individual is not accepted into an educator preparation program before the deadline prescribed by board rule and is hired for a teaching assignment by a school district after the deadline prescribed by board rule.
- (e) The board shall propose rules relating to the field-based experience required by Subsection (b). The commissioner by rule shall adopt procedures and standards for recognizing a private school under Subsection (b)(2).
- (f) The board shall propose rules providing flexible options for persons for any field-based experience or internship required for certification.

**Texas Occupations Code, §55.007, License Eligibility Requirements for Applicants with Military Experience:**

- (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.
- (b) The state agency shall adopt rules necessary to implement this section.
- (c) Rules adopted under this section may not apply to an applicant who:
  - (1) holds a restricted license issued by another jurisdiction; or
  - (2) has an unacceptable criminal history according to the law applicable to the state agency.



**ATTACHMENT II**  
**Text of Proposed Amendments to 19 TAC**

**Chapter 228. Requirements for Educator Preparation Programs**

**§228.1. General Provisions.**

- (a) To ensure the highest level of educator preparation and practice, the State Board for Educator Certification (SBEC) recognizes that the preparation of educators must be the joint responsibility of educator preparation programs (EPPs) and the Early Childhood-Grade 12 public and private schools of Texas. Collaboration in the development, delivery, and evaluation of educator preparation is required.
- (b) Consistent with the Texas Education Code, §21.049, the SBEC's rules governing educator preparation are designed to promote flexibility and creativity in the design of EPPs to accommodate the unique characteristics and needs of different regions of the state as well as the diverse population of potential educators.
- (c) All EPPs are subject to the same standards of accountability, as required under Chapter 229 of this title (relating to Accountability System for Educator Preparation Programs).
- (d) If the governor declares a state of disaster consistent with the Texas Government Code, §418.014, Texas Education Agency staff may extend deadlines in this chapter for up to 90 days and decrease clinical teaching, internship, and practicum assignment minimums by up to 20 percent as necessary to accommodate persons in the affected disaster areas.

**§228.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Academic year--If not referring to the academic year of a particular public, private, or charter school or institution of higher education, September 1 through August 31.
- (2) Accredited institution of higher education--An institution of higher education that, at the time it conferred the degree, was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board.
- (3) Alternative certification program--An approved educator preparation program, delivered by entities described in §228.20(a) of this title (relating to Governance of Educator Preparation Programs), specifically designed as an alternative to a traditional undergraduate certification program, for individuals already holding at least a bachelor's degree from an accredited institution of higher education.
- (4) Benchmarks--A record similar to a transcript for each candidate enrolled in an educator preparation program documenting the completion of admission, program, certification, and other requirements.
- (5) Candidate--An individual who has been formally or contingently admitted into an educator preparation program; also referred to as an enrollee or participant.
- (6) Certification category--A certificate type within a certification class; also known as certification field.
- (7) Certification class--A certificate, as described in §230.33 of this title (relating to Classes of Certificates), that has defined characteristics; also known as certification field.
- (8) Classroom teacher--An educator who is employed by a school or district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technical instructional setting. This term does not include an educational aide or a full-time administrator.

- (9) Clinical teaching--A supervised educator assignment through an educator preparation program at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that may lead to completion of a standard certificate; also referred to as student teaching.
- (10) Clock-hours--The actual number of hours of coursework or training provided; for purposes of calculating the training and coursework required by this chapter, one semester credit hour at an accredited institution of higher education is equivalent to 15 clock-hours. Clock-hours of field-based experiences, clinical teaching, internship, and practicum are actual hours spent in the required educational activities and experiences.
- (11) Contingency admission--Admission as described in §227.15 of this title (relating to Contingency Admission).
- (12) Cooperating teacher--For a clinical teacher candidate, an educator who is collaboratively assigned by the educator preparation program (EPP) and campus administrator; who has at least three years of teaching experience; who is an accomplished educator as shown by student learning; who has completed cooperating teacher training , including training in how to coach and mentor teacher candidates, by the EPP within three weeks of being assigned to a clinical teacher; who is currently certified in the certification category for the clinical teaching assignment for which the clinical teacher candidate is seeking certification; who guides, assists, and supports the candidate during the candidate's clinical teaching in areas such as planning, classroom management, instruction, assessment, working with parents, obtaining materials, district policies; and who reports the candidate's progress to that candidate's field supervisor.
- (13) Educator preparation program--An entity that must be approved by the State Board for Educator Certification to recommend candidates in one or more educator certification classes.
- (14) Entity--The legal entity that is approved to deliver an educator preparation program.
- (15) Field-based experiences--Introductory experiences for a classroom teacher certification candidate involving, at the minimum, reflective observation of Early Childhood-Grade 12 students, teachers, and faculty/staff members engaging in educational activities in a school setting.
- (16) Field supervisor--A currently certified educator, hired by the educator preparation program, who preferably has advanced credentials, to observe candidates, monitor their performance, and provide constructive feedback to improve their effectiveness as educators. A field supervisor shall have at least three years of experience and current certification in the class in which supervision is provided. A field supervisor shall be an accomplished educator as shown by student learning. A field supervisor with experience as a campus-level administrator [~~principal~~] and who holds a current certificate that is appropriate for a principal assignment may also supervise [~~principal,~~] classroom teacher, master teacher, and reading specialist candidates. A field supervisor with experience as a district-level administrator [~~superintendent~~] and who holds a current certificate that is appropriate for a superintendent assignment may also supervise [~~superintendent,~~] principal [~~classroom teacher, master teacher, and reading specialist~~] candidates. If an individual is not currently certified, an individual must hold at least a master's degree in the academic area or field related to the certification class for which supervision is being provided and comply with the same number, content, and type of continuing professional education requirements described in §232.11 of this title (relating to Number and Content of Required Continuing Professional Education Hours), §232.13 of this title (relating to Number of Required Continuing Professional Education Hours by Classes of Certificates), and §232.15 of this title (relating to Types of Acceptable Continuing Professional Education Activities). A field supervisor shall not be employed by the same school where the candidate being supervised is completing his or her clinical teaching, internship, or practicum. A mentor, cooperating teacher, or site supervisor, assigned as required by §228.35(g) [~~§228.35(e)~~] of this title (relating to Preparation Program Coursework and/or Training), may not also serve as a candidate's field supervisor.
- (17) Formal admission--Admission as described in §227.17 of this title (relating to Formal Admission).

- (18) Head Start Program--The federal program established under the Head Start Act (42 United States Code, §9801 et seq.) and its subsequent amendments.
- (19) Initial certification--The first Texas certificate in a class of certificate issued to an individual based on participation in an approved educator preparation program.
- (20) Intern certificate--A type of certificate as specified in §230.36 of this title (relating to Intern Certificates) that is issued to a candidate who has pass all required content certification examinations and is completing initial requirements for certification through an approved educator preparation program.
- (21) Internship--A paid supervised classroom teacher assignment for one full school year at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that may lead to completion of a standard certificate. [An internship is successful when the field supervisor and supervising campus administrator recommend to the EPP that the candidate should be recommended for a standard certificate.]
- (22) Late hire--An individual who has not been accepted into an educator preparation program before the 45th day before the first day of instruction and who is hired for a teaching assignment by a school after the 45th day before the first day of instruction or after the school's academic year has begun.
- (23) Mentor--For an internship candidate, an educator who is collaboratively assigned by the campus administrator and the educator preparation program (EPP); who has at least three years of teaching experience; who is an accomplished educator as shown by student learning; who has completed mentor training , including training in how to coach and mentor teacher candidates, by an EPP within three weeks of being assigned to the intern; who is currently certified in the certification category in which the internship candidate is seeking certification; who guides, assists, and supports the candidate during the internship in areas such as planning, classroom management, instruction, assessment, working with parents, obtaining materials, district policies; and who reports the candidate's progress to that candidate's field supervisor.
- (24) Pedagogy--The art and science of teaching, incorporating instructional methods that are developed from scientifically-based research.
- (25) Post-baccalaureate program--An educator preparation program, delivered by an accredited institution of higher education and approved by the State Board for Educator Certification to recommend candidates for certification, that is designed for individuals who already hold at least a bachelor's degree and are seeking an additional degree.
- (26) Practicum--A supervised educator assignment at a public school accredited by the Texas Education Agency (TEA) or other school approved by the TEA for this purpose that is in a school setting in the particular class for which a certificate in a class other than classroom teacher is sought.
- (27) Probationary certificate--A type of certificate as specified in §230.37 of this title (relating to Probationary Certificates) that is issued to a candidate who has passed all required certification examinations and is completing requirements for certification through an approved educator preparation program.
- (28) School day--If not referring to the school day of a particular public or private school, a school day shall be at least seven hours (420 minutes) each day, including intermissions and recesses.
- (29) School year--If not referring to the school year of a particular public or private school, a school year shall provide at least 180 days (75,600 minutes) of instruction for students.
- (30) Site supervisor--For a practicum candidate, an educator who has at least three years of experience in the aspect(s) of the certification class being pursued by the candidate; who is collaboratively assigned by the campus or district administrator and the educator preparation program (EPP); who is currently certified in the certification class in which the practicum candidate is seeking certification; who has completed training by the EPP , including training in how to coach and mentor candidates, within three weeks of being assigned to a practicum candidate; who is an

accomplished educator as shown by student learning; who guides, assists, and supports the candidate during the practicum; and who reports the candidate's progress to the candidate's field supervisor.

- (31) Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.
- (32) Texas Essential Knowledge and Skills (TEKS)--The kindergarten-Grade 12 state curriculum in Texas adopted by the State Board of Education and used as the foundation of all state certification examinations.

### **§228.30. Educator Preparation Curriculum.**

- (a) The educator standards adopted by the State Board for Educator Certification [~~SBEC~~] shall be the curricular basis for all educator preparation and, for each certificate, address the relevant Texas Essential Knowledge and Skills (TEKS).
- (b) The curriculum for each educator preparation program shall rely on scientifically-based research to ensure educator effectiveness.
- (c) The following subject matter shall be included in the curriculum for candidates seeking initial certification in any certification class:
  - (1) the code of ethics and standard practices for Texas educators, pursuant to Chapter 247 of this title (relating to Educators' Code of Ethics), which include:
    - (A) professional ethical conduct, practices, and performance;
    - (B) ethical conduct toward professional colleagues; and
    - (C) ethical conduct toward students;
  - (2) instruction in detection and education of students with dyslexia, as indicated in the Texas Education Code (TEC), §21.044(b);
  - (3) instruction regarding mental health, substance abuse, and youth suicide, as indicated in the TEC, §21.044(c-1) . Instruction acquired from the list of recommended best practice-based programs or research-based practices shall be implemented as required by the provider of the best practice-based program or research-based practice ;
  - (4) the skills that educators are required to possess, the responsibilities that educators are required to accept, and the high expectations for students in this state;
  - (5) the importance of building strong classroom management skills; ~~and~~
  - (6) the framework in this state for teacher and principal evaluation ; [ ]
  - (7) appropriate relationships, boundaries, and communications between educators and students; and
  - (8) instruction in digital learning, including a digital literacy evaluation followed by a prescribed digital learning curriculum. The instruction required must:
    - (A) be aligned with the latest version of the International Society for Technology in Education's (ISTE) standards as appears on the ISTE website;
    - (B) provide effective, evidence-based strategies to determine a person's degree of digital literacy; and
    - (C) include resources to address any deficiencies identified by the digital literacy evaluation.
- (d) The following subject matter shall be included in the curriculum for candidates seeking initial certification in the classroom teacher certification class:
  - (1) the relevant TEKS, including the English Language Proficiency Standards;

- (2) reading instruction, including instruction that improves students' content-area literacy;
  - (3) for certificates that include early childhood and prekindergarten, the Prekindergarten Guidelines; and
  - (4) the skills and competencies captured in the Texas teacher standards in Chapter 149, Subchapter AA, of this title (relating to Teacher Standards)  ~~, [ ,which include: ]~~
    - ~~[(A) — instructional planning and delivery; ]~~
    - ~~[(B) — knowledge of students and student learning; ]~~
    - ~~[(C) — content knowledge and expertise; ]~~
    - ~~[(D) — learning environment; ]~~
    - ~~[(E) — data driven practice; and ]~~
    - ~~[(F) — professional practices and responsibilities; ]~~
- (e) For candidates seeking certification in the principal certification class, the curriculum shall include the skills and competencies captured in the Texas administrator standards, as indicated in Chapter 149, Subchapter BB, of this title (relating to Administrator Standards)  ~~, [ ,which include: ]~~
- ~~[(1) — instructional leadership; ]~~
  - ~~[(2) — human capital; ]~~
  - ~~[(3) — executive leadership; ]~~
  - ~~[(4) — school culture; and ]~~
  - ~~[(5) — strategic operations; ]~~
- (f) The following educator content standards from Chapter 235 of this title (relating to Classroom Teacher Certification Standards) shall be included in the curriculum for candidates who hold a valid standard, provisional, or one-year classroom teacher certificate specified in §230.31 of this title (relating to Types of Certificates) in a certificate category that allows the candidates who are seeking the Early Childhood: Prekindergarten-Grade 3 certificate to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3:
- (1) Child Development provisions of the Early Childhood: Prekindergarten-Grade 3 Content Standards;
  - (2) Early Childhood-Grade 3 Pedagogy and Professional Responsibilities Standards; and
  - (3) Science of Teaching Reading Standards.

**§228.35. Preparation Program Coursework and/or Training.**

- (a) Coursework and/or training for candidates seeking initial certification in any certification class.
  - (1) An educator preparation program (EPP) shall provide coursework and/or training to adequately prepare candidates for educator certification and ensure the educator is effective in the classroom.
  - (2) Coursework and/or training shall be sustained, rigorous, intensive, interactive, candidate-focused, and performance-based.
  - (3) All coursework and/or training shall be completed prior to EPP completion and standard certification.
  - (4) With appropriate documentation such as certificate of attendance, sign-in sheet, or other written school district verification, 50 clock-hours of training may be provided by a school district and/or campus that is an approved Texas Education Agency (TEA)  ~~[TEA]~~ continuing professional education provider to a candidate who is considered a late hire. The training provided by the school district and/or campus must meet the criteria described in the Texas Education Code

(TEC), §21.451 (Staff Development Requirements) and must be directly related to the certificate being sought.

- (5) Each EPP must develop and implement specific criteria and procedures that allow:
  - (A) military service member or military veteran candidates to credit verified military service, training, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification requirements, provided that the military service, training, or education is directly related to the certificate being sought; and
  - (B) candidates who are not military service members or military veterans to substitute prior or ongoing service, training, or education, provided that the experience, education, or training is not also counted as a part of the internship, clinical teaching, or practicum requirements, was provided by an approved EPP or an accredited institution of higher education within the past five years, and is directly related to the certificate being sought.
- (6) Coursework and training that is offered online must meet, or the EPP must be making progress toward meeting, criteria set for accreditation, quality assurance, and/or compliance with one or more of the following:
  - (A) Accreditation or Certification by the Distance Education Accrediting Commission;
  - (B) Program Design and Teaching Support Certification by Quality Matters;
  - (C) Part 1, Chapter 4, Subchapter P, of this title (relating to Approval of Distance Education Courses and Programs for Public Institutions); or
  - (D) Part 1, Chapter 7 of this title (relating to Degree Granting Colleges and Universities Other than Texas Public Institutions).
- (b) Coursework and/or training for candidates seeking initial certification in the classroom teacher certification class. An EPP shall provide each candidate with a minimum of 300 clock-hours of coursework and/or training. Unless a candidate qualifies as a late hire, a candidate shall complete the following prior to any clinical teaching or internship:
  - (1) a minimum of 30 clock-hours of field-based experience. Up to 15 clock-hours of this field-based experience may be provided by use of electronic transmission or other video or technology-based method; and
  - (2) 150 clock-hours of coursework and/or training that allows candidates to demonstrate proficiency in:
    - (A) designing clear, well-organized, sequential, engaging, and flexible lessons that reflect best practice, align with standards and related content, are appropriate for diverse learners and encourage higher-order thinking, persistence, and achievement;
    - (B) formally and informally collecting, analyzing, and using student progress data to inform instruction and make needed lesson adjustments;
    - (C) ensuring high levels of learning, social-emotional development, and achievement for all students through knowledge of students, proven practices, and differentiated instruction;
    - (D) clearly and accurately communicating to support persistence, deeper learning, and effective effort;
    - (E) organizing a safe, accessible, and efficient classroom;
    - (F) establishing, communicating, and maintaining clear expectations for student behavior;
    - (G) leading a mutually respectful and collaborative class of actively engaged learners;
    - (H) meeting expectations for attendance, professional appearance, decorum, procedural, ethical, legal, and statutory responsibilities;

- (I) reflect on his or her practice; and
  - (J) effectively communicating with students, families, colleagues, and community members.
- (c) Coursework and training for candidates seeking initial certification in the classroom teacher certification class in Trade and Industrial Workforce Training, Marketing: Grades 6-12, or Health Science: Grades 6-12. An EPP shall provide a minimum of 200 clock-hours of coursework and/or training for a candidate seeking a Trade and Industrial Workforce Training certificate as specified in §233.14(b), (c), and (e) of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).
- (1) A candidate shall complete the following prior to any clinical teaching or internship:
    - (A) the field-based experience described in subsection (b)(1) of this section; and
    - (B) 80 clock-hours of coursework and/or training described in subsection (b)(2) of this section and the educator standards related to those fields.
  - (2) Prior to completion of the program, a candidate shall complete 90 clock-hours of coursework and/or training described in §228.30(a)-(d) of this title (relating to Educator Preparation Curriculum). The additional coursework and/or training may be provided by a school district, a campus, an EPP, or another entity that is an approved TEA continuing professional education provider. Appropriate documentation such as certificate of attendance, sign-in sheet, or other written verification must be validated by the candidate's EPP.
- (d) ~~(e)~~ Coursework and/or training for candidates seeking initial certification in a certification class other than classroom teacher. An EPP shall provide coursework and/or training to ensure that the educator is effective in the assignment. An EPP shall provide a candidate with a minimum of 200 clock-hours of coursework and/or training that is directly aligned to the educator standards for the applicable certification class.
- (e) ~~(f)~~ Late hire provisions. A late hire for a school district teaching position may begin employment under an intern or probationary certificate before completing the pre-internship requirements of subsection (b) of this section, but shall complete these requirements within 90 school days of assignment.
- (f) ~~(e)~~ Educator preparation program delivery. An EPP shall provide evidence of ongoing and relevant field-based experiences throughout the EPP in a variety of educational settings with diverse student populations, including observation, modeling, and demonstration of effective practices to improve student learning.
- (1) For initial certification in the classroom teacher certification class, each EPP shall provide field-based experiences, as defined in §228.2 of this title (relating to Definitions), for a minimum of 30 clock-hours. The field-based experiences must be completed prior to assignment in an internship or clinical teaching.
    - (A) Field-based experiences must include 15 clock-hours in which the candidate, under the direction of the EPP, is actively engaged in instructional or educational activities that include:
      - (i) authentic school settings in a public school accredited by the TEA [Texas Education Agency (TEA)] or other school approved by the TEA for this purpose;
      - (ii) instruction by content certified teachers;
      - (iii) actual students in classrooms/instructional settings with identity-proof provisions;
      - (iv) content or grade-level specific classrooms/instructional settings; and
      - (v) written reflection of the observation.
    - (B) Up to 15 clock-hours of field-based experience may be provided by use of electronic transmission or other video or technology-based method. Field-based experience provided by use of electronic transmission or other video or technology-based method must include:

- (i) direction of the EPP;
- (ii) authentic school settings in an accredited public or private school;
- (iii) instruction by content certified teachers;
- (iv) actual students in classrooms/instructional settings with identity-proof provisions;
- (v) content or grade-level specific classrooms/instructional settings; and
- (vi) written reflection of the observation.

(C) Up to 15 clock-hours of field-based experience may be satisfied by serving as a long-term substitute. A long-term substitute is an individual who has been hired by a school or district to work at least 30 consecutive days in an assignment as a classroom teacher. Experience may occur after the candidate's admission to an EPP or during the two years before the date the candidate is admitted to the EPP. The candidate's experience in instructional or educational activities must be documented by the EPP and must be obtained at a public or private school accredited or approved for the purpose by the TEA.

(2) For initial certification in the classroom teacher certification class, each EPP shall also provide at least one of the following ; ~~[ ]~~

(A) Clinical Teaching.

(i) Clinical teaching must meet one of the following requirements:

(I) ~~[(A)] [clinical teaching for]~~ a minimum of 14 weeks (no fewer ~~[less]~~ than 70 ~~[65]~~ full days), with a full day being 100% of the school day; or

(II) ~~[(B)] [clinical teaching for]~~ a minimum of 28 weeks (no fewer ~~[less]~~ than 140 ~~[130]~~ half days ) , with a half day being 50% of the school day ; ~~[ ]~~

(ii) A clinical teaching assignment as described in clause (i)(I) of this subparagraph shall not be less than an average of four hours each day in the subject area and grade level of certification sought. The average includes intermissions and recesses but does not include conference and duty-free lunch periods.

(iii) Clinical teaching is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and cooperating teacher recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or cooperating teacher do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or cooperating teacher.

(iv) An EPP may permit a full day clinical teaching assignment up to 5 full days fewer than the minimum and a half day clinical teaching assignment up to 10 half days fewer than the minimum if due to maternity leave, military leave, ~~[or]~~ illness , or bereavement .

(B) ~~[(C)] Internship. An internship must be for a minimum of one full school year for the classroom teacher assignment or assignments that match the certification category or categories for which the candidate is prepared by the EPP.~~

(i) An EPP may permit an internship of up to 30 school days fewer ~~[less]~~ than the minimum if due to maternity leave, military leave, illness, bereavement, or if the late hire date is after the first day of the school year .



- (ii) The beginning date for an internship for the purpose of field supervision is the first day of instruction with students in the school or district in which the internship takes place.
- (iii) An internship assignment shall not be less than an average of four hours each day in the subject area and grade level of certification sought. The average includes intermissions and recesses but does not include conference and duty-free lunch periods. An EPP may permit an additional internship assignment of less than an average of four hours each day if:
  - (I) the primary assignment is not less than an average of four hours each day in the subject area and grade level of certification sought;
  - (II) the EPP is approved to offer preparation in the certification category required for the additional assignment;
  - (III) the EPP provides ongoing support for each assignment as prescribed in subsection (h) [(g)] of this section;
  - (IV) the EPP provides coursework and training for each assignment to adequately prepare the candidate to be effective in the classroom; and
  - (V) the employing school or district notifies the candidate and the EPP in writing that an assignment of less than four hours will be required.
- (iv) A candidate must hold an intern or probationary certificate while participating in an internship. A candidate must meet the requirements and conditions, including the subject matter knowledge requirement, prescribed in §230.36 of this title (relating to Intern Certificates) and §230.37 of this title (relating to Probationary Certificates) to be eligible for an intern or probationary certificate.
- (v) An EPP may recommend an additional internship if:
  - (I) the EPP certifies that the first internship was not successful, the EPP has developed a plan to address any deficiencies identified by the candidate and the candidate's field supervisor, and the EPP implements the plan during the additional internship; or
  - (II) the EPP certifies that the first internship was successful and that the candidate is making satisfactory progress toward completing the EPP before the end of the additional internship.
- (vi) An EPP must provide ongoing support to a candidate as described in subsection (h) [(g)] of this section for the full term of the initial and any additional internship, unless, prior to the expiration of that term:
  - (I) a standard certificate is issued to the candidate during any additional internship under a probationary certificate;
  - (II) the candidate resigns, is non-renewed, or is terminated by the school or district. A candidate must provide the EPP the official notice of resignation or termination within seven calendar days [one business day] after receipt of the notice from the employing school or district. Within seven calendar days [one business day] after receipt of the official notice of resignation or termination, an EPP must notify a candidate in writing that the EPP will provide TEA with notice about the resignation or termination and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the resignation or termination. Within one business day after providing the notice to a candidate, an EPP must email the TEA a copy of the notice to the candidate and a copy of the official notice of the resignation or termination;

- (III) the candidate is discharged or is released from the EPP. An EPP must notify a candidate in writing that the candidate is being discharged or released, that the EPP will provide the employing school or district with notice of the discharge or release, that the EPP will provide TEA with notice about the discharge or release ~~[resignation or termination]~~ , and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the discharge or release. Within one business day after providing a candidate with notice of discharge or release, an EPP must provide written notification to the employing school or district of the withdrawal, discharge, or release. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice of discharge or release and a copy of the notice to the employing school or district; ~~[or]~~
- (IV) the candidate withdraws from the EPP. A candidate must notify the EPP in writing that the candidate is withdrawing from the EPP. Within seven calendar days ~~[one business day]~~ after receipt of the withdrawal notice, an EPP must notify a candidate in writing that the EPP will provide the employing school or district with notice of the withdrawal, that the EPP will provide TEA with notice about the withdrawal, and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date of the withdrawal. Within one business day after providing a candidate with notice of discharge or release, an EPP must provide written notification to the employing school or district of the withdrawal, discharge, or release. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice of withdrawal and a copy of the notice to the employing school or district ; or ~~[;]~~
- ~~(V) the internship assignment does not meet the requirements described in this subparagraph. Within seven calendar days of knowing that an internship assignment does not meet requirements, an EPP must notify a candidate in writing: that the internship assignment does not meet the requirements; that the EPP will provide the employing school or district with notice; that the EPP will provide the TEA with notice; and that the intern or probationary certificate will be inactivated by the TEA 30 calendar days from the effective date the notice to the candidate was sent by the EPP. Within one business day after providing a candidate with notice, an EPP must provide written notification to the employing school or district that the internship assignment does not meet requirements and that the TEA will inactivate the certificate. Within one business day of providing notice to the employing school or district, an EPP must email the TEA a copy of the notice to the candidate and a copy of the notice to the employing school or district.~~
- ~~(vii) An internship is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and campus supervisor recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or campus supervisor do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or campus supervisor.~~
- ~~(viii) An internship for a Trade and Industrial Workforce Training certificate may be at an accredited institution of higher education if the candidate teaches not less than an average of four hours each day, including intermissions and recesses, in~~

a dual credit career and technical instructional setting as defined by Part 1, Chapter 4, Subchapter D of this title (relating to Dual Credit Partnerships Between Secondary Schools and Public Schools).

(3) ~~(4D)~~ An EPP may request an exception to the clinical teaching option described in this subsection.

(A) Submission of Exception Request. The request for an ~~(An)~~ exception must include an alternate requirement that will adequately prepare candidates for educator certification and ensure the educator is effective in the classroom. The request for an exception must be submitted in a form developed by the TEA staff that ~~[which]~~ shall include:

- (i) the rationale and support for the alternate clinical teaching option;
- (ii) a full description and methodology of the alternate clinical teaching option;
- (iii) a description of the controls to maintain the delivery of equivalent, quality education; and
- (iv) a description of the ongoing monitoring and evaluation process to ensure that EPP objectives are met.

(B) Review, Approval, and Revocation of Exception Request.

(i) ~~(4E)~~ Exception requests will be reviewed by TEA staff, and the TEA staff shall recommend to the State Board for Educator Certification (SBEC) whether the exception should be approved. The SBEC may:

- (I) approve the request;
- (II) approve the request with conditions;
- (III) deny approval of the request; or
- (IV) defer action on the request pending receipt of further information.

(ii) If the SBEC approves the request with conditions, the EPP must meet the conditions specified in the request. If the EPP does not meet the conditions, the approval is revoked.

(iii) If the SBEC approves the request, the EPP must submit a written report of outcomes resulting from the clinical teaching exception to the TEA by September 15 of each academic year. If the EPP does not timely submit the report, the approval is revoked.

(iv) If the SBEC does approve the exception or an approval is revoked, an EPP must wait at least six months from the date of the denial or revocation before submitting a new request.

(4) ~~(4F)~~ Candidates participating in an internship or a clinical teaching assignment need to experience a full range of professional responsibilities that shall include the start of the school year. The start of the school year is defined as the first 15 instructional days of the school year. If these experiences cannot be provided through clinical teaching or an internship, they must be provided through field-based experiences.

(5) ~~(4G)~~ An internship or clinical teaching experience for certificates that include early childhood may be completed at a Head Start Program with the following stipulations:

- (A) a certified teacher is available as a trained mentor;
- (B) the Head Start program is affiliated with the federal Head Start program and approved by the TEA;
- (C) the Head Start program teaches three- and four-year-old students; and
- (D) the state's prekindergarten curriculum guidelines are being implemented.

- ~~(6)~~ ~~(4)~~ An internship or clinical teaching experience must take place in an actual school setting rather than a distance learning lab or virtual school setting.
- ~~(7)~~ ~~(5)~~ An internship or clinical teaching experience shall not take place in a setting where the candidate:
- (A) has an administrative role over the mentor or cooperating teacher; or
  - (B) is related to the field supervisor, mentor, or cooperating teacher by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree.
- ~~(8)~~ ~~(6)~~ For certification in a class other than classroom teacher, each EPP shall provide a practicum for a minimum of 160 clock-hours whereby a candidate must demonstrate proficiency in each of the educator standards for the certificate class being sought.
- (A) A practicum experience must take place in an actual school setting rather than a distance learning lab or virtual school setting.
  - (B) A practicum shall not take place in a setting where the candidate:
    - (i) has an administrative role over the site supervisor; or
    - (ii) is related to the field supervisor or site supervisor by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree.
  - (C) An intern or probationary certificate may be issued to a candidate for a certification class other than classroom teacher who meets the requirements and conditions, including the subject matter knowledge requirement, prescribed in §230.37 of this title.
    - (i) A candidate for an intern or probationary certificate in a certification class other than classroom teacher must meet all requirements established by the recommending EPP, which shall be based on the qualifications and requirements for the class of certification sought and the duties to be performed by the holder of a probationary certificate in that class.
    - (ii) An EPP may recommend an additional practicum under a probationary certificate if:
      - (I) the EPP certifies that the first practicum was not successful, the EPP has developed a plan to address any deficiencies identified by the candidate and the candidate's field supervisor, and the EPP implements the plan during the additional practicum; or
      - (II) the EPP certifies that the first practicum was successful and that the candidate is making satisfactory progress toward completing the EPP before the end of the additional practicum.
  - (D) A practicum is successful when the field supervisor and the site supervisor recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or site supervisor does not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or site supervisor.
- ~~(9)~~ ~~(7)~~ Subject to all the requirements of this section, the TEA may approve a school that is not a public school accredited by the TEA as a site for field-based experience, internship, clinical teaching, and/or practicum.
- (A) All Department of Defense Education Activity (DoDEA) schools, wherever located, and all schools accredited by the Texas Private School Accreditation Commission (TEPSAC) are approved by the TEA for purposes of field-based experience, internship, clinical teaching, and/or practicum.
  - (B) An EPP may file an application with the TEA for approval, subject to periodic review, of a public school, a private school, or a school system located within any state or territory

of the United States, as a site for field-based experience. The application shall be in a form developed by the TEA staff and shall include, at a minimum, evidence showing that the instructional standards of the school or school system align with those of the applicable Texas Essential Knowledge and Skills (TEKS) and SBEC certification standards.

- (C) An EPP may file an application with the TEA for approval, subject to periodic review, of a public or private school located within any state or territory of the United States, as a site for an internship, clinical teaching, and/or practicum required by this chapter. The application shall be in a form developed by the TEA staff and shall include, at a minimum:
  - (i) the accreditation(s) held by the school;
  - (ii) a crosswalk comparison of the alignment of the instructional standards of the school with those of the applicable TEKS and SBEC certification standards;
  - (iii) the certification, credentials, and training of the field supervisor(s) who will supervise candidates in the school; and
  - (iv) the measures that will be taken by the EPP to ensure that the candidate's experience will be equivalent to that of a candidate in a Texas public school accredited by the TEA.
- (D) An EPP may file an application with the TEA for approval, subject to periodic review, of a public or private school located outside the United States, as a site for clinical teaching, internship, or practicum required by this chapter. The application shall be in a form developed by the TEA staff and shall include, at a minimum, the same elements required in subparagraph (C) of this paragraph for schools located within any state or territory of the United States, with the addition of a description of the on-site program personnel and program support that will be provided and a description of the school's recognition by the U.S. State Department Office of Overseas Schools.

(g) ~~(f)~~ Mentors, cooperating teachers, and site supervisors. In order to support a new educator and to increase educator retention, an EPP shall collaborate with the campus or district administrator to assign each candidate a mentor during the candidate's internship, assign a cooperating teacher during the candidate's clinical teaching experience, or assign a site supervisor during the candidate's practicum. If an individual who meets the certification category and/or experience criteria for a cooperating teacher, mentor, or site supervisor is not available, the EPP and campus or district administrator shall assign an individual who most closely meets the criteria and document the reason for selecting an individual that does not meet the criteria. The EPP is responsible for providing mentor, cooperating teacher, and/or site supervisor training that relies on scientifically-based research, but the program may allow the training to be provided by a school, district, or regional education service center if properly documented.

(h) ~~(g)~~ Ongoing educator preparation program support for initial certification of teachers. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision provided on or after September 1, 2017, must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first three weeks of assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate, document educational practices observed; provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate; and provide a copy of the written feedback to the candidate's cooperating teacher or mentor. Neither the pre-observation conference nor the post-observation conference need to be onsite. For candidates participating in an internship, the field supervisor shall provide a copy of the written feedback to the candidate's supervising campus administrator. Formal observations by the field supervisor conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal observations and coaching shall be provided by the field supervisor as appropriate. In a clinical teaching experience, the field supervisor shall collaborate with the candidate and cooperating teacher throughout the clinical teaching experience. For an

internship, the field supervisor shall collaborate with the candidate, mentor, and supervising campus administrator throughout the internship.

- (1) Each formal observation must be at least 45 minutes in duration, must be conducted by the field supervisor, and must be on the candidate's site in a face-to-face setting.
  - (2) An EPP must provide the first formal observation within the first third of all clinical teaching assignments and the first six weeks of all internship assignments.
  - (3) For an internship under an intern certificate or an additional internship described in subsection (f)(2)(B)(v)(I) [~~(e)(2)(C)(v)(I)~~] of this section, an EPP must provide a minimum of three formal observations during the first half of the internship and a minimum of two formal observations during the last half of the internship.
  - (4) For a first-year internship under a probationary certificate or an additional internship described in subsection (f)(2)(B)(v)(II) [~~(e)(2)(C)(v)(II)~~] of this section, an EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment.
  - (5) If an internship under an intern certificate or an additional internship described in subsection (f)(2)(B)(v)(I) [~~(e)(2)(C)(v)(I)~~] of this section involves certification in more than one certification category that cannot be taught concurrently during the same period of the school day, an EPP must provide a minimum of three observations in each assignment. For each assignment, the EPP must provide at least two formal observations during the first half of the internship and one formal observation during the second half of the internship.
  - (6) For a first-year internship under a probationary certificate or an additional internship described in subsection (f)(2)(B)(v)(II) [~~(e)(2)(C)(v)(II)~~] of this section that involves certification in more than one certification category that cannot be taught concurrently during the same period of the school day, an EPP must provide a minimum of one formal observation in each of the assignments during the first half of the assignment and a minimum of one formal observation in each assignment during the second half of the assignment.
  - (7) For a 14-week, full-day clinical teaching assignment, an EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment. For an all-level clinical teaching assignment in more than one location, a minimum of two formal observations must be provided during the first half of the assignment and a minimum of one formal observation must be provided during the second half of the assignment.
  - (8) For a 28-week, half-day clinical teaching assignment or a full-day clinical teaching assignment that exceeds 14 weeks and extends beyond one semester, an EPP must provide a minimum of two formal observations during the first half of the assignment and a minimum of two formal observations during the last half of the assignment.
- (i) [~~(h)~~] Ongoing educator preparation program support for certification in a certification class other than classroom teacher. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision provided on or after September 1, 2017, must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first quarter of the assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate; document educational practices observed; provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate; and provide a copy of the written feedback to the candidate's site supervisor. Neither the pre-observation conference nor the post-observation conference need to be onsite. Formal observations conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal

observations and coaching shall be provided by the field supervisor as appropriate. The field supervisor shall collaborate with the candidate and site supervisor throughout the practicum experience.

- (1) Formal observations must be at least 135 minutes in duration in total throughout the practicum and must be conducted by the field supervisor.

~~[(2) At least one of the formal observations must be on the candidate's site in a face-to-face setting.]~~

- ~~(2) [(3)]~~ If a formal observation is not conducted on the candidate's site in a face-to-face setting, the formal observation may be provided by use of electronic transmission or other video or technology-based method. A formal observation that is not conducted on the candidates' site in a face-to-face setting must include a pre- and post-conference.

- ~~(3) [(4)]~~ Regardless of the type of certificate held by a candidate during a practicum, an ~~[A-a]~~ EPP must provide a minimum of one formal observation within the first third of the practicum, one formal observation within the second third of the practicum, and one formal observation within the final third of the practicum.

(j) Coursework and/or training for candidates seeking Early Childhood: Prekindergarten-Grade 3 certification.

- (1) In support of the educator standards that are the curricular basis of the Early Childhood: Prekindergarten-Grade 3 certificate, an EPP shall integrate the following concepts and themes throughout the coursework and training:

(A) using planning and teaching practices that support student learning in early childhood, including:

(i) demonstrating knowledge and skills to support child development (birth-age eight) in the following areas:

(I) brain development;

(II) physical development;

(III) social-emotional learning; and

(IV) cultural development;

(ii) demonstrating knowledge and skills of effective, research supported, developmentally appropriate instructional approaches to support young students' learning, including, but not limited to:

(I) intentional instruction with clear learning goals;

(II) project-based learning;

(III) child-directed inquiry;

(IV) learning through play; and

(V) integration of knowledge across content areas;

(iii) demonstrating knowledge and skills in implementing instruction tailored to the variability in learners' needs, including, but not limited to, small group instruction;

(iv) demonstrating knowledge and skills in early literacy development and pedagogy, including:

(I) demonstrating effective ways to support language development, particularly oral language development, including, but not limited to, growth in academic vocabulary, comprehension, and inferencing abilities; and

- (II) demonstrating effective ways to support early literacy development, including letter knowledge, phonological awareness, early writing, and decoding;
- (v) demonstrating knowledge and skills in early mathematics and science development and pedagogy;
- (vi) demonstrating knowledge and skills in developing and implementing pedagogical approaches for students who are English learners and/or bilingual; and
- (vii) demonstrating knowledge and skills in developing and implementing pedagogical approaches for students who have or are at risk for developmental delays and disabilities;
- (B) assessing the success of instruction and student learning through developmentally appropriate assessment, including:
  - (i) demonstrating knowledge of multiple forms of assessment, the information that each form of assessment can provide about a student's learning and development, and how to conceive, construct, and/or select an assessment aligned to standards that can demonstrate student learning to stakeholders;
  - (ii) demonstrating knowledge in how to use assessments to inform instruction to support student growth; and
  - (iii) demonstrating knowledge and application of children's developmental continuum in the analysis of assessment results utilizing a variety of assessment types to gain a full understanding of students' current development and assets;
- (C) creating developmentally appropriate learning environments, including:
  - (i) demonstrating knowledge and skills in supporting learners' development of self-regulation and executive function (e.g., behavior, attention, goal setting, cooperation);
  - (ii) demonstrating knowledge and skills in designing, organizing, and facilitating spaces for learning, particularly small group learning, in both indoor and outdoor contexts; and
  - (iii) demonstrating knowledge and skills in developing learning environments that support English learners' development, including structures to support language development and communication;
- (D) working with families, students, and the community through:
  - (i) teacher agency and teacher leadership;
  - (ii) research-based family engagement practices;
  - (iii) understanding the capabilities of students through parent and community input; and
  - (iv) the development and modeling of responsive relationships with children; and
- (E) using a diversity and equity framework, such as:
  - (i) demonstrating knowledge and skills in creating early learning communities that capitalize on the cultural knowledge and strengths children bring to the classroom;
  - (ii) demonstrating knowledge and skills in creating an early learning environment that reflects the communities in which they work; and



- (iii) demonstrating knowledge and skills in how to access the knowledge children and families bring to school.
- (2) An EPP shall provide each candidate who holds a valid standard, provisional, or one-year classroom teacher certificate specified in §230.31 of this title (relating to Types of Certificates) in a certificate category that allows the applicant to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3 with a minimum of 150 clock-hours of coursework and/or training that is directly aligned to the educator standards as specified in Chapter 235, Subchapter B, Division 1, of this title (relating to Early Childhood: Prekindergarten-Grade 3) and that is based on the concepts and themes specified in subsection (j)(1) of this section. A clinical teaching, internship, or practicum assignment is not required for completion of program requirements.
- (3) An EPP shall provide each candidate who holds a valid standard, provisional, or one year classroom teacher certificate specified in §230.31 of this title in a certificate category that does not allow the candidate to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3 coursework and/or training as specified in subsections (a) and (b) of this section that is directly aligned to the educator standards as specified in Chapter 235, Subchapter B, Division 1, of this title and that is based on the concepts and themes specified in subsection (j)(1) of this section, a clinical experience as specified in subsection (f)(2) of this section, a mentor or cooperating teacher as specified in subsection (g) of this section, and ongoing support as specified in subsection (h) of this section.
- (k) Coursework and/or training for candidates seeking a Teacher of Students with Visual Impairments (TVI) Supplemental: Early Childhood-Grade 12 certification.
  - (1) An EPP must provide a minimum of 300 hours of coursework and/or training related to the educator standards for that certificate adopted by the SBEC.
  - (2) An EPP shall provide a clinical experience of at least 350 clock-hours in a supervised educator assignment in a public school accredited by the TEA or other school approved by the TEA for this purpose. A TVI certification candidate must demonstrate proficiency in each of the educator standards for the certificate being sought during the clinical experience. A clinical experience is successful when the field supervisor recommends to the EPP that the TVI certification candidate should be recommended for a TVI supplemental certification.
    - (A) An EPP will provide guidance, assistance, and support for the TVI certification candidate by assigning a cooperating teacher and/or providing individual or group consultation. The EPP is responsible for providing training to cooperating teachers and/or consultation providers.
    - (B) An EPP will collaborate with the program coordinator for the Texas School for the Blind and Visually Impaired Statewide Mentor Program to assign a TVI mentor for the TVI certification candidate. The Texas School for the Blind and Visually Impaired Statewide Mentor Program is responsible for providing training for all TVI mentors.
    - (C) An EPP will provide ongoing support for the TVI certification candidate. Supervision of each candidate shall be conducted with the structured guidance and regular ongoing support of an experienced educator who has been trained as a field supervisor. Supervision must be provided by a field supervisor who has completed TEA-approved observation training. The initial contact, which may be made by telephone, email, or other electronic communication, with the assigned candidate must occur within the first quarter of the assignment. For each formal observation, the field supervisor shall participate in an individualized pre-observation conference with the candidate; document educational practices observed; and provide written feedback through an individualized, synchronous, and interactive post-observation conference with the candidate. Neither the pre-observation conference nor the post-observation conference need to be onsite. Formal observations conducted through collaboration with school or district personnel can be used to meet the requirements of this subsection. Informal observations and coaching shall be provided by the field supervisor as appropriate.

- (i) Formal observations must be at least 135 minutes in duration in total throughout the clinical experience and must be conducted by the field supervisor.
- (ii) If a formal observation is not conducted on the candidate's site in a face-to-face setting, the formal observation may be provided by use of electronic transmission or other video or technology-based method. A formal observation that is not conducted on the candidates' site in a face-to-face setting must include a pre- and post-conference.
- (iii) An EPP must provide a minimum of one formal observation within the first third of the clinical experience, one formal observation within the second third of the clinical experience, and one formal observation within the final third of the clinical experience.

(l) Candidates employed as certified educational aides.

- (1) Clinical Teaching Assignment. Candidates employed as certified educational aides may satisfy their clinical teaching assignment requirements through their instructional duties.
  - (A) If an EPP permits candidates employed as certified educational aides, as defined by Chapter 230, Subchapter E, of this title (relating to Educational Aide Certificate), to satisfy the clinical teaching assignment requirements through their instructional duties, the clinical teaching assignment must be for a minimum of 490 hours (14-week equivalent).
  - (B) An EPP may permit an educational aide employed in a clinical teaching to be excused from up to 35 of the required hours due to maternity leave, military leave, or illness.
  - (C) Clinical teaching is successful when the candidate demonstrates proficiency in each of the educator standards for the assignment and the field supervisor and cooperating teacher recommend to the EPP that the candidate should be recommended for a standard certificate. If either the field supervisor or cooperating teacher do not recommend that the candidate should be recommended for a standard certificate, the person who does not recommend the candidate must provide documentation supporting the lack of recommendation to the candidate and either the field supervisor or cooperating teacher.
- (2) Coursework and Training. An EPP must provide coursework and/or training as specified in subsections (a) and (b) of this section, a clinical experience as specified in subsection (f) of this section, a cooperating teacher as specified in subsection (g) of this section, and ongoing support as specified in subsection (h) of this section. An EPP must provide a minimum of one formal observation during the first third of the assignment, a minimum of one formal observation during the second third of the assignment, and a minimum of one formal observation during the last third of the assignment.

(m) ~~(+)~~ Exemptions.

- (1) Under the TEC, §21.050(c), a candidate who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, is exempt from the requirements of this chapter relating to field-based experience, internship, or clinical teaching.
- (2) Under the TEC, §21.0487(c)(2)(B), a candidate's employment by a school or district as a Junior Reserve Officer Training Corps instructor before the person was enrolled in an EPP or while the person is enrolled in an EPP is exempt from any clinical teaching, internship, or field-based experience program requirement.

**STATE BOARD OF EDUCATION OPERATING RULES**  
(Amended January 31, 2017)

**CHAPTER 1. BOARD ORGANIZATION**

*The statutory citation for this chapter is the Texas Education Code, §7.107.*

**§1.1. Officers of the Board.**

- (a) Selection.
  - (1) The vice chair and secretary of the board shall be elected in accordance with Texas Education Code, §7.107, to serve for a term of two years and until their successors are elected.
  - (2) In case of death or resignation of the vice chair or the secretary of the board, the board shall elect a board member to fill the vacancy for the unexpired term of that officer at the next board meeting. Either of these officers may be removed from office by a vote of not less than two-thirds of the membership of the board.
- (b) Duties.
  - (1) Chair. The chair shall preside at meetings and perform all other duties prescribed by law, by board rule, or by board direction.
  - (2) Vice chair. The vice chair shall perform the duties of the chair in case of absence or disability of the chair and other duties as the chair may request. Should the office of the chair become vacant, the vice chair shall serve as chair until a successor has been appointed by the governor.
  - (3) Secretary. The secretary shall perform all duties as required by law and such other duties as the chair may request.

**§1.2. Committees of the Board.**

- (a) The standing committees of the board are:
  - (1) Committee of the Full Board;
  - (2) Committee on Instruction;
  - (3) Committee on School Finance/Permanent School Fund; and
  - (4) Committee on School Initiatives.

- (b) Committees may receive information, investigate, study and report to the board. The board may from time to time define by resolution the areas of oversight of each committee as may be necessary. Each committee shall review and make recommendations on the board agenda items falling under its areas of oversight; except that the chair of the board, in consultation with the respective committee chair, may designate any board agenda item for review and recommendation by the Committee of the Full Board.
- (c) The Committee of the Full Board shall be composed of all members of the board, and the chair of the board shall be the chair of the Committee of the Full Board.
- (d) The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments in the public view for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board shall also consider seniority (total years of service), ethnicity balance, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as the chair of a standing committee.
- (e) Ad hoc committees. Ad hoc committees (i.e., task forces) shall be constituted from time to time as directed by a vote of the board or by the chair to perform such duties as the board or chair may assign. The personnel and length of service of ad hoc committees shall be designated by the chair unless otherwise directed by a vote of the board. No action taken by any ad hoc committee shall be final or binding upon the board unless otherwise directed by a vote of the board.
- (f) From time to time committees may find it necessary to request legal opinions, comprehensive studies, or reports to be prepared by the staff to aid the committees in their deliberations. To ensure clarity and coordination, all such requests shall be directed to the Division of State Board of Education Support and shall be reflected in the minutes of the committee meeting.

**§1.3. Board Member Seating Selection.**

With the exception of the chair, the seating of board members will be by State Board of Education districts. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

## CHAPTER 2. MEETINGS

*The statutory citations for this chapter are the Texas Education Code, §§7.055, 7.106, 7.107, 7.110, and 39.030, and the Texas Government Code, Title 5, Open Government; Ethics, Subtitle A, Open Government, Chapter 551, Open Meetings.*

### **§2.1. Regular Meetings of the Board.**

In accordance with Texas Education Code, §7.106, four regular meetings of the board a year shall be held in Austin, Texas. If a quorum is not present for a meeting, the meeting shall be recessed and all items on the agenda shall be heard at a subsequent meeting.

### **§2.2. Special Meetings of the Board.**

Special meetings of the board may be held at times and places as ordered by the chair during a regular meeting, or special meetings may be called by the chair of the board to be held at a time and place the chair shall designate.

### **§2.3. Open Meetings.**

Regular, special, and committee meetings of the board shall be open to the public; however, the board or board committees may meet in executive session in accordance with law and these rules. Open meetings of the board and standing committees shall be broadcast live over the Internet.

### **§2.4. Executive Sessions.**

Executive sessions of the board or of board committees are meetings with only board members and persons authorized by law. Executive sessions shall be held in accordance with Texas Government Code, Chapter 551, Open Meetings.

### **§2.5. Agendas.**

- (a) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule, listing item titles with short summaries of each item. Other than as is provided in subsection (b) and (c), all agenda items are subject to the approval of the chair of the board. Materials supplementing the agenda may be included. Official agendas will be available the day of the board meeting.
- (b) The chairs of the Committee on Instruction, Committee on School Finance/Permanent School Fund, Committee on School Initiatives, and ad hoc committees shall collaborate with the board chair regarding items to be placed on their respective committee agendas. Committee agendas shall include statutorily mandated motions, items assigned to the committee by the board chair, items posted at the discretion of the committee chair and items voted on as set out in subsection (c) below. Committee chairs may post discussion items per their discretion, but action items must be approved by the board chair, subject to the process set out in (c) below.

- (c) Any member of the board may request that a committee chair, other than the Committee of the Full Board, place an item on the agenda of that chair's committee, as either a discussion item or an action item. If the committee chair agrees, the item is placed on the agenda of that chair's committee in accordance with the member's request, subject to the approval of the board chair. If the committee chair denies the member's request, the member may appeal the denial to the board chair. If the board chair denies the request, the member may appeal the denial to the board. If the board approves the request, it is placed on the agenda of the committee to which the request was made at the next meeting of that committee.
- (d) A subject on the agenda that is outside the scope of the board's authority may only be considered by the board or the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination of whether an item is outside the scope of the board's authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board's authority on the agenda for a subsequent meeting.

**§2.6. Official Transaction of Business.**

- (a) The board shall transact official business only when in session with a quorum present. Unless otherwise provided by law, in order for a board action to be final, it must be approved by a majority of the board members present and voting.
- (b) The chair may authorize the board to meet via videoconference call. As required by Government Code §551.127(b), if videoconference calling technology is used, a quorum of the board must be physically present in one location for the meeting. The chair may limit the number of remote videoconference locations in the interest of decorum and teleconference capacity.
- (c) The board reserves the right to restrict the use of cell phones during all meetings of the board and its committees.
- (d) No posters, props, or other visual displays are allowed by board members within the meeting rooms without permission from the presiding chair.

**§2.7. Rules of Order.**

- (a) The board shall observe *Robert's Rules of Order, Newly Revised*, except as otherwise provided by board rules or by statute.
- (b) The presiding chair shall preserve order and decorum during meetings. In case of disturbance or disorderly conduct in the public gallery, the chair may order that any disruptive individuals be cleared from the area.
- (c) No signs, placards or other objects of a similar nature shall be permitted in the audience gallery area.

- (d) No applause, outburst or other demonstration by any spectator shall be permitted during the public testimony, public hearing or debate portion of any State Board of Education meeting. After warnings to the audience to refrain from such demonstrations, the presiding chair may direct that disruptive individuals in the gallery area be removed as necessary to preserve decorum during meetings.

**§2.8. Minutes.**

The official minutes of the board shall be kept by the office of the commissioner of education or the commissioner's designee and shall be available to any citizen desiring to examine them. Official minutes are those which the board has approved and which carry the original signature of the secretary of the board.

**§2.9. Resolutions.**

- (a) A member wishing to offer a resolution shall give notice of the resolution by submitting a copy to the chair and the Division of State Board of Education Support at least one week prior to the posting deadline for the board meeting at which the resolution is to be considered. The board shall consider the resolution and any germane amendments at the next meeting following such notice.
- (b) The board may by unanimous consent pass a congratulatory, commendatory, or other non-substantive resolution without the notice required by this section.
- (c) The board may consider a resolution which expresses an opinion related to specific instructional materials or which expresses concerns as to the appropriateness of specific instructional materials for certain ages or populations. Resolutions considered under this subsection must conform to the following:
  - (1) The resolution shall be submitted in compliance with subsection (a) of this section.
  - (2) Board action on a resolution expressing an opinion related to specific instructional materials may only be considered after final action has been taken concerning placement of the specific instructional materials on the list of adopted instructional materials for use in the public schools of Texas. Board action relative to instructional materials resolutions must take place within 90 days of adoption of the specific instructional materials under 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, §66.66(c).
  - (3) Nothing in the resolution shall be construed to replace or modify any final action taken by the board under 19 TAC Chapter 66.
  - (4) The board may adopt a resolution expressing an opinion related to instructional materials based on the following criteria:
    - (A) Instructional materials should present the most current factual information accurately and objectively without editorial opinion or bias by the authors. Theories should be clearly distinguished from fact and presented in an objective educational manner.

- (B) Instructional materials should promote citizenship, patriotism, understanding of the essentials and benefits of the free enterprise system, respect for recognized authority, and respect for individual rights. The materials should not include selections or works that encourage or condone civil disorder, social strife, or disregard of the law. Violence, if it appears, should be treated in the context of its cause and consequence. It should not appear for reasons of unwholesome excitement or sensationalism.
  - (i) Instructional materials should present positive aspects of the United States and its heritage.
  - (ii) When significant political or social movements in history generate no clear consensus, instructional materials should present balanced and factual treatment of the positions.
  - (iii) Free enterprise means an economic system characterized by private or corporate ownership of capital goods; investments that are determined by private decision rather than by state control; and prices, production, and the distribution of goods that are determined in a free market.
- (C) Instructional materials should not include blatantly offensive language or illustrations.
- (D) Instructional materials should treat divergent groups fairly without stereotyping and reflect the positive contributions of all individuals and groups to the American way of life. Illustrations and written materials should avoid bias toward any particular group or individual and present a wide range of goal choices. Particular care should be taken in the treatment of ethnic groups, issues related to the aging and aged, roles of men and women, the dignity of workers, and respect for the work ethic.
  - (i) Instructional materials should not encourage life-styles deviating from generally accepted standards of society.
  - (ii) Instructional materials should provide an objective view of cultural confluence and include information needed to develop mutual understanding and respect among all elements of our population. Materials should reflect an awareness that culture and language variation does exist and can be used to promote successful learning.
  - (iii) Instructional materials should present examples of men and women participating in a variety of roles and activities and also shall present the economic, political, social, and cultural contributions of men and women, past and present.
  - (iv) Instructional materials that treat aspects of the world of work should reflect the positive contributions of all types of careers to the American economic system and way of life. People presented should reflect varieties of work and be treated without bias toward particular kinds of work.



- (v) Instructional materials should present traditional and contemporary roles of men, women, boys, and girls.
  - (vi) Instructional materials should present balanced treatment of issues related to aging and the aged.
- (5) A representative of the publisher of the specific instructional material shall be given the opportunity to address the board prior to action by the board on such a resolution.
  - (6) A copy of any resolution passed by the board expressing an opinion related to specific instructional material shall be provided to the board president and superintendent of each school district in Texas.

**§2.10. Oral Public Testimony in Connection with Regular Board and Committee Meetings.**

(a) General Provisions.

- (1) The board shall provide opportunity for oral public testimony at regular committee meetings, special meetings, and at regularly scheduled meetings of the State Board of Education.
- (2) Work session and ad hoc committee meetings are exempt from this requirement.
- (3) The presiding chair shall take appropriate action to avoid unduly repetitious testimony.
- (4) The presiding chair shall assure that members of the public with differing viewpoints have reasonable access to address the board and take steps to ensure that individuals will be given priority over registered lobbyists.
- (5) The presiding chair shall determine which speakers will be heard and the order in which they will be heard if the number exceeds that number which may reasonably be expected to testify in the allotted time for presentations. The presiding chair shall also determine whether speakers who did not register or who registered late will be heard and whether persons asking to testify as a substitute for a registered speaker may do so.
- (6) The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

(b) Registration Procedures.

- (1) Individuals may register between the hours of 8 a.m. on the Friday preceding the board meeting and 5 p.m. (Central Time) on the Monday preceding the board meeting on the agency website at <https://tea.texas.gov/PublicTestimonySBOE/>, or by facsimile at (512) 936-4319, or, during normal operating hours, by telephone at (512) 463-9007 or in person at the William B. Travis (WBT) State Office Building, 1701 N. Congress, room 1-109, Austin, Texas 78701.

- (2) The commissioner of education may update the agency liaison divisions as necessary based upon the agency's organizational structure.
  - (3) The speaker shall provide his or her name and organizational affiliation, if any, contact telephone number, mailing address, email address, and indicate which item or topic the speaker will address and viewpoint on the topic; and the speaker will disclose if he or she is a lobbyist registered with the Texas Ethics Commission.
  - (4) A person may register himself or herself, and one other person. Organizations may not register more than two persons per item.
  - (5) Those registering online will receive an email confirming the registration during the next business day.
  - (6) Registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
  - (7) Late registration will be accepted until 30 minutes before the scheduled start of a meeting, however late registrants are not guaranteed an opportunity to testify due to time constraints.
  - (8) Speakers will be informed if it appears that time constraints will not permit all speakers to make their presentation within the allotted time.
  - (9) All speakers shall provide thirty-five (35) collated or stapled copies of their testimony. Registered speakers who are unable to make their presentations due to time constraints are encouraged to provide thirty-five (35) copies of their testimony for distribution to board members and agency executive staff. Written testimony will not be attached to committee minutes.
- (c) Oral Public Testimony to Committees.
- (1) Oral public testimony to committees is limited to the topics posted for action or discussion on committee agendas at that specific committee meeting.
  - (2) Three (3) minute time limits on individual oral testimony will be imposed unless modified by the presiding chair.
  - (3) The presiding chair shall designate whether oral public testimony shall be taken at the beginning of the meeting or at the time the related item is taken up by the committee after staff has presented the item.
  - (4) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The committee, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

- (d) Oral Public Testimony to the General Meeting of the Board.
  - (1) Oral public testimony at general meetings of the State Board of Education is limited to topics that are *not* posted for action or discussion at the corresponding regular committee meetings or information published in the information section (yellow pages) of the agenda.
  - (2) Thirty (30) minutes shall be allotted for oral public testimony, excluding the questions and answers, at the beginning of each board meeting, unless modified by a majority vote of the board. Three (3) minute time limits on individual oral testimony will be imposed unless modified by the presiding chair. Testimony invited by board members shall not be counted against the time allotted for oral public testimony. Agency staff shall inform the presiding chair and any affected registered speakers prior to the meeting if time constraints may not allow some registered speakers to testify.
  - (3) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

**§2.11. Written Testimony in Connection with Regular Board and Committee Meetings.**

- (a) Persons may file written testimony with regard to any committee or board agenda item. Any written testimony or comments shall identify the date of the meeting; the subject of the comments; the name of the author; the name of the author's organizational affiliation, if any; and indicate whether the author is a lobbyist registered with the Texas Ethics Commission.
- (b) If the written testimony is submitted at the regular board or committee meeting, thirty-five (35) collated or stapled copies shall be provided for distribution to board members and agency executive staff. Written testimony will not be attached to the board minutes.
- (c) Persons who were unable to attend or to testify at a committee or board meeting due to time constraints may provide thirty-five (35) collated or stapled copies of their testimony to agency staff for distribution to board members and agency executive staff.

**§2.12. Public Hearings.**

- (a) Types of Public Hearings.
  - (1) Hearings regarding proposed board rules. The board shall conduct a public hearing on a substantive rule if a hearing is requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members. Testimony is restricted to comments regarding the proposed action. The hearing must be set to take place before any action is adopted. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules.

- (2) Other types of hearings. The board may also hold public hearings on proposed actions, such as those relating to instructional materials issues. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules. Public hearings regarding the instructional materials adoption process are governed by 19 TAC §66.60.
- (b) Speakers shall preregister in accordance with the procedures established by the agency office responsible for the subject matter.
- (c) The presiding chair shall establish the procedures for conducting the public hearing. These procedures shall include, but are not limited to, the following:
  - (1) Providing for presentations from invited persons or an introduction from staff;
  - (2) Providing that preregistered speakers are heard in order of registration times and dates, or requiring alternating points of view in order of registration times and dates;
  - (3) Establishing time limits for speakers, generally three minutes each;
  - (4) Adjourning the hearing at the end of the allotted time period listed in the agenda item or any extension granted by a vote of the majority of the board or appropriate committee.
- (d) Persons who testify at a public hearing shall bring thirty-five (35) collated or stapled copies of their testimony for distribution to board members and agency executive staff.
- (e) Persons who were unable to testify at a public hearing due to time constraints may provide thirty-five (35) collated or stapled copies of their testimony to agency staff for distribution to board members and agency executive staff.
- (f) Prior to the meeting, agency staff shall inform the presiding chair and shall attempt to inform any affected registered speakers if time constraints may not allow some registered speakers to testify.

**§2.13. Written Public Comments Regarding Proposed Rulemaking.**

All interested persons have a reasonable opportunity to submit data, views and arguments to the board in writing, prior to the board adoption of any rule. Written public comments regarding proposed board rules may be filed with the board as provided in the notice of proposed rulemaking contained in the *Texas Register*.

## CHAPTER 3. TRAVEL AND EXPENSES

*The statutory citations for this chapter are the Texas Education Code, §7.105, Texas Government Code, Chapter 660, and the General Appropriations Act.*

### **§3.1. Reimbursement of Expenses.**

- (a) Members of the State Board of Education receive no salary but are reimbursed for all expenses incurred for attending regular and special meetings of the board and of board committees.
- (b) All reimbursements for expenditures shall be in accordance with Texas Education Code, §7.105(b), Texas Government Code, Chapter 660, the General Appropriations Act, and these rules.
- (c) Only expenses of board members may be reimbursed. Expenses for spouses, family, or other persons traveling with board members are not reimbursable.
- (d) Board members must submit receipts for the following expenses:
  - (1) public transportation (excluding receipts for bus, taxi, or limousine);
  - (2) car rental;
  - (3) lodging; and
  - (4) conference registration fees (which may not include banquets, books, or materials).
- (e) Lodging receipts must show the rate for single occupancy plus tax which will be the maximum reimbursable amount per day for lodging.
- (f) Receipts are not required to claim expenses for meals; however, the General Appropriations Act provides that "none of the funds appropriated under this act for travel expenses may be expended for alcoholic beverages" and no such expenses may be claimed for reimbursement.
- (g) Other official travel expenses which board members may claim include the following when the expenses are required for the conduct of state business:
  - (1) telephone calls;
  - (2) parking fees (including personal vehicles);
  - (3) notary fees for official documents;
  - (4) fax fees; and
  - (5) wireless connection.

- (h) Board members may not claim reimbursement for expenses such as the following:
  - (1) laundry or other personal items;
  - (2) tips or gratuities of any kind; and
  - (3) alcoholic beverages.
- (i) All claims for reimbursement will be reviewed by agency accounting personnel to ensure compliance with the requirements of the appropriations act, and any appropriate adjustments to claims shall be made by staff.
- (j) A yearly budget shall be established for travel of board members. The budgeted amount would include an allotment of travel funds for board members to attend board meetings and committee meetings, and an allotment for in-district, out-of-district, and out-of-state meetings. An additional allotment shall be budgeted for travel of the chair when representing the State Board of Education at meetings. When there is a change in office during the fiscal year, the travel budget will be reassigned to the new board member.
- (k) A board member may be reimbursed for travel expenses for attending activities other than State Board of Education meetings and committee meetings provided that the board members are in compliance with the following procedures:
  - (1) In-District and Out-of-District Travel. In-district and out-of-district travel is at each member's discretion. Prior approval is not required; however, any travel for which reimbursement is requested must be directly related to the duties and responsibilities of the State Board of Education. Any requests for reimbursement, directly or indirectly related to seeking election to office, will not be allowed.
  - (2) Out-of-State Travel. Prior approval is required by the officers of the board (chair, vice chair, and secretary).
- (l) A board member may be reimbursed for travel expenses incurred while serving on any board, council, or commission or serving in any official board position as an appointee for specific administrative functions when appointed by the State Board of Education or its chair, or subject to approval of the board or its officers of the board.
- (m) None of the funds appropriated in the General Appropriations Act shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure.

**§3.2. Travel Arrangements and Hotel Reservations for State Board of Education Meetings.**

- (a) Board members shall be responsible for making their own arrangements for travel to and from board meetings. Agency travel coordinators are available for assistance.
- (b) The senior executive assistant to the board or his/her designee will make guaranteed hotel reservations for each board member upon request.
- (c) Any change in or cancellation of reservations shall be the responsibility of the individual board member in whose name the reservations were made. Board members who wish to change or cancel their reservations must contact the hotel directly or call the State Board of Education support office. All bills received by the agency for unused or uncanceled reservations will be forwarded for payment to the board member in whose name the reservations were made.

**§3.3. Acceptance of Gifts and/or Grants for Charter School Evaluation.**

- (a) Purpose. The State Board of Education (SBOE) may accept a gift and/or grant for the limited purpose of expenses associated with evaluating an applicant for an open-enrollment charter school.
  - (1) An entity making a gift and/or grant under this section may not:
    - (A) limit the use of the funds to any individual applicant, cycle or class of applicants;
    - (B) be a charter operator in this or any other state, a management company, service provider or vendor of any kind to charter schools in this or any other state;
    - (C) have common board members or corporate members with any entity operating a charter in Texas or applying to operate a charter in Texas;
    - (D) be an individual required to register as a lobbyist under Chapter 305, Government Code; or
    - (E) be an employee, attorney, contractor or other agent of any kind to charter schools in this or any other state.
  - (2) An entity making a gift and/or grant under this section may not do so if the source of funds used for the gift and/or grant were received from an entity that could not make a gift and/or grant under this section.
  - (3) For purposes of this section, a spouse or dependent child of an individual prohibited from making a gift and/or grant is also prohibited.
  - (4) For purposes of this section, an entity includes any legal entity such as corporations, individuals and other business associations. An individual is limited to a natural person.

- (5) An entity making a gift and/or grant shall certify that it has complied with all requirements of this section in a format approved by the board chair.
- (b) Procedure. The SBOE may accept a gift and/or grant under this section only by an affirmative vote of the board.
- (1) A charter may not be evaluated using funds under this section unless the commissioner has:
    - (A) proposed to award a charter to that applicant pursuant to Section 12.101(b); or
    - (B) requested the participation of individual board members in the agency's preliminary evaluation of an applicant.
  - (2) The commissioner shall receive, disburse and account for funds accepted by the board.
  - (3) Funds accepted under this section may be used solely to pay reasonable travel expenses, including meals and accommodations, for SBOE members and TEA staff as necessary to evaluate applicants for open-enrollment under this section. Unless approved by the board chair and the commissioner, travel expenses are limited to those available for travel by SBOE members or state employees.
  - (4) In making decisions under this section, the board chair will consult with the board member acting as a liaison under Section 12.101(b). The board chair will also consult with the chair of the Committee on School Initiatives, unless doing so would create a quorum of a committee of the board. A decision by the board chair under this section is final.
  - (5) Board members evaluating a charter applicant under this section shall be selected by the board chair. The board chair will, to the extent possible, give preference to board members whose districts include proposed locations at which the charter would operate. Under no circumstances will a quorum of the board or a committee of the board participate in an evaluation under this section.
  - (6) The board chair may request that relevant TEA employees accompany board members in evaluating charter applicants under this section. The commissioner must approve participation of agency employees.
  - (7) Except as provided by this subsection, board members and TEA staff may not accept anything of value from an applicant and shall limit contact with the applicant and its employees and representatives to the actual investigation of the charter. The board chair may authorize acceptance of reasonable local transportation and meals from the applicant as necessary to facilitate the evaluation.
  - (8) In addition to board members and TEA staff, the board chair may authorize other professionals to participate in an evaluation under this section. Such a professional may not be an individual or entity unable to donate funds under subsection (a) and is subject to all conditions and limits imposed by this section on board members.



- (c) Evaluation. Each board member will individually report to the Committee on School Initiatives regarding his/her evaluation of a proposed charter prior to consideration of the charter by the board under Section 12.101(b-0). The Committee on School Initiatives will develop a standard form for use by board members in evaluating a charter under this section.
- (d) Reporting. Expenses reimbursed for each board member, TEA staff or other professionals shall be made publicly available and reported as appropriate on a board member's personal financial statement.

## CHAPTER 4. CONDUCT AND PUBLIC RELATIONS

*The statutory citations for this chapter are the Texas Education Code, §7.108; the Texas Government Code, §305.006, and Chapter 572, Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest; and the Texas Election Code, Chapter 251, General Provisions.*

### **§4.1. Standards of Conduct and Conflicts of Interest.**

- (a) Personal interest in board actions. Whenever a board member has a financial interest in any matter to be voted upon by the board, such a member shall state at an open meeting that he or she has such an interest in the matter and shall abstain from voting and discussion concerning the matter.
- (b) The Permanent School Fund ethics policy governs the conduct of State Board of Education members with respect to the investment and management of the Permanent School Fund.

### **§4.2. Press and Public Relations.**

- (a) Prior to each State Board of Education meeting, the agenda shall be made available by agency staff to the capitol press corps; governor's office; Legislative Budget Board; Legislative Reference Library; Texas Higher Education Coordinating Board; regional education service centers; and state offices of professional education organizations which have requested the agenda.
- (b) A press table shall be provided at meetings of the State Board of Education and press representatives shall be supplied with copies of the official agenda for the meeting and other materials relating to specific agenda items.
- (c) The State Board of Education shall seek to maintain open relations with the press by answering reporters' questions frankly and by providing official statements through press releases and answers to follow-up inquiries.

### **§4.3. Disclosure of Campaign Contributions and Gifts.**

- (a) Any person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose whether, at any time in the preceding four years, the person, corporation, or other legal entity has made a campaign contribution to a candidate for or member of the State Board of Education. Disclosure shall be made in writing to the commissioner of education 14 calendar days prior to consideration by the board or any committee of a contract, grant, or charter.

- (b) A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose in the same manner any benefit conferred on a candidate for or member of the State Board of Education during the preceding four years. A benefit need not be disclosed if the aggregate value of benefits conferred on a candidate for or a member of the State Board of Education during the preceding four years does not exceed \$250, or a different limit set by §572.023(b)(7), Texas Government Code. This requirement applies whether or not the person, corporation, or other legal entity is required to report the expenditure to the Texas Ethics Commission. For purposes of this section, a benefit is not conferred if the candidate for or a member of the State Board of Education has paid for the member's own participation, as well as any participation by other persons for the direct benefit of any business in which the member has a substantial interest as defined under Texas Government Code §572.005 (1) - (7).
- (c) In this section:
- (1) "person, corporation, or other legal entity" includes:
    - (A) any individual who would have a "substantial interest" in the person, corporation, or other legal entity as that term is defined in Texas Government Code, §572.005 (1) - (6);
    - (B) an attorney, representative, registered lobbyist, employee, or other agent who receives payment for representing the interests of the person, firm, or corporation before the board or to board members, or whose duties are directly related to the contract, grant, or charter; or
    - (C) an individual related within the first degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to the person covered by (c)(1).
  - (2) "contract, grant, or charter" means any application to enter into a contractual relationship with or otherwise receive funding from the State Board of Education, including without limitation contracts for investment advisors, consultants, or investment managers for the Permanent School Fund and applicants for charters to operate open enrollment charter schools.
  - (3) "campaign contribution" has the meaning defined in Texas Election Code, §251.001.
  - (4) "benefit" has the meaning defined in Texas Penal Code, §36.01.
  - (5) "candidate for or a member of the State Board of Education" includes a person related within the first degree of affinity or consanguinity, as determined under Chapter 573, Government Code, to a candidate for or a member of the State Board of Education.
- (d) A person, corporation, or other legal entity has a continuing duty to report contributions or expenditures made through the term of a contract, grant, or charter and shall within 21 calendar days notify the commissioner of education and the board chair upon making a contribution or expenditure covered by this section.

- (e) Failure to disclose a contribution or expenditure under this section shall be grounds for canceling or revoking the contract, grant, or charter in the discretion of the board. Only those contributions or expenditures made after the effective date of this rule are required to be disclosed.
- (f) This section does not affect the validity of contracts, grants, or charters existing on its effective date but does apply to the renewal or extension of any contract, grant, or charter.
- (g) Before distributing bids or applications for a contract with the board, staff will provide any disclosure made under subsection (a) or (b) to a board member to whom the disclosure applies. A board member shall have 10 calendar days to provide a written statement relating to the disclosure for distribution along with all disclosures.
- (h) An SBOE member shall on April 15 of each year submit a list of businesses that the SBOE member has a substantial interest in as defined in Texas Government Code §572.005 (1) - (7) and all DBAs or assumed names of any such businesses. If any change occurs in the identities of businesses that an SBOE member has a substantial interest in, the SBOE member shall submit an amendment within 30 calendar days of the date of such change. A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter that may be granted by the State Board of Education shall be provided the combined list of all board members and shall disclose any campaign contribution or benefit under subsections (a) or (b) on behalf of any business in which an SBOE member has a substantial interest.

## CHAPTER 5. RULES AND THE RULEMAKING PROCESS

*The statutory citation for this chapter is the Texas Government Code, Chapter 2001, Subchapter B; Texas Government Code, Chapter 2002, Subchapter B; Texas Education Code, §7.102(e)-(f).*

### **§5.1. State Board of Education Rules.**

- (a) An action of the board to adopt a rule under the Texas Education Code is effective only if the rule's preamble published in the *Texas Register* includes a statement of the specified statutory authority contained in the Texas Education Code to adopt the rule.
- (b) Rules submitted to the Office of the Secretary of State for publication in the *Texas Register* shall conform to requirements promulgated by the Secretary of State.

### **§5.2. Adoption, Amendment, and Repeal of State Board of Education Rules.**

- (a) Proposed new rules, amendments, and repeals must appear on the agenda for discussion at one board meeting and for action at two subsequent board meetings as First Reading and Second Reading, unless a departure from this rulemaking process is approved by the board.
- (b) Each member of the board shall receive copies of the preliminary and official board meeting agendas containing all proposed new rules, amendments, or repeals to be considered.
- (c) The board can take action only if the rule is posted for action in the official notice of the meeting that is published in the *Texas Register*. The commissioner is authorized to file information with the Secretary of State to comply with the requirements of Texas Government Code, Chapter 2001, Subchapter B; and Texas Government Code, Chapter 2002, Subchapter B, regarding adoption of rules.
  - (1) **First Reading and Filing Authorization.** The board can authorize the commissioner to file a proposed new rule, amendment, or repeal with the Secretary of State for publication in the *Texas Register* as it appears in the agenda or with changes to the material presented in the agenda.
  - (2) **Second Reading and Final Adoption.** If the mandatory 30-day public comment period after filing the proposal with the Secretary of State has elapsed, the board can adopt a new rule, amendment, or repeal. If a board committee determines that a substantial revision of the material presented in the agenda shall be considered, the board shall not take final action before the next board meeting.
  - (3) **Withdrawal.** The board can authorize the commissioner to withdraw a proposed new rule, amendment, or repeal that was previously filed with the Secretary of State.
  - (4) **Refiling.** The board can authorize the commissioner to withdraw and refile a proposed new rule or amendment that was previously filed with the Secretary of State if there are substantive changes from the original filing.

- (d) The board can authorize the commissioner to conduct a public hearing on behalf of the State Board of Education concerning board rules. The public hearing shall be transcribed and the transcript made available for review by board members.
- (e) Except as otherwise provided by law, a rule does not take effect until the beginning of the school year that begins at least 90 days after the date of the rule adoption.
- (f) A rule may take effect earlier than the date set forth in subsection (e) if the rule's preamble specified an earlier date with the reason for the earlier date and:
  - (1) the earlier effective date is a requirement of:
    - (A) a federal law, or
    - (B) a state law that specifically refers to Texas Education Code §7.102 and expressly requires the adoption of an earlier effective date; or
  - (2) on an affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

**§5.3. Emergency Rules.**

The board may adopt emergency rules without prior notice or hearing. Conditions under which emergency rules can be adopted and the periods for which they are effective are governed by Texas Government Code §2001.034. The board shall also comply with the requirements of Section 5.2(f) of these rules and the notice of emergency meeting requirements in Texas Government Code, §551.045. Emergency rules will be placed on a board agenda for adoption as a permanent rule.

**§5.4. Filing Non-Substantive Rule Corrections with the Secretary of State.**

The commissioner may approve and file with the Secretary of State non-substantive corrections to State Board of Education rules. Non-substantive rule corrections may only include typographical, grammatical, referencing, or spelling errors and technical edits to comply with *Texas Register* style and format requirements.

**§5.5. Rulemaking Authority.**

Except for rules adopted under §5.4 of these rules (relating to Filing Non-Substantive Rule Corrections with the Secretary of State), or other exceptions specifically authorized by the board, all rules of the State Board of Education shall be approved by the State Board of Education.

**§5.6. Review of the State Board of Education Rules.**

In accordance with Texas Government Code, §2001.039, the State Board of Education shall review its rules every four years to assure that statutory authority for the rules continues to exist. If necessary, proposed amendments will be brought to the board following the procedure described in §5.2 of these rules.

**§5.7. Filing of Amendments.**

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for second reading and final adoption shall submit the amendment in writing to the staff no later than 5 p.m. or two hours following the adjournment of the Committee of the Full Board, whichever is later, on the day prior to the amendment being considered by the board in accordance with rules adopted by the board relating to the TEKS adoption process. All amendments shall be made available to the public to the extent possible. This rule may be suspended by a two-thirds vote.

## CHAPTER 6. ADVISORY GROUPS

*The statutory citations for this chapter are the Texas Education Code, §§7.102(b), 29.254, 32.034, and 61.077.*

### **§6.1. General Provisions.**

- (a) The State Board of Education may appoint advisory committees where specific authority is granted in statute.
  - (1) The State Board of Education may establish an adult education advisory committee composed of not more than 21 members representing public and private education, business, labor, minority groups, and the public to advise the board on needs, priorities, and standards of adult education programs conducted in accordance with the Texas Education Code, Chapter 29, Subchapter H, Adult and Community Education Programs.
- (b) The State Board of Education may establish a Committee of Investment Advisors (CIA) to the Permanent School Fund and approve all selected appointments. The CIA shall be composed of not more than 15 members, one appointed by each State Board of Education member, who each have considerable institutional investment expertise and are free from conflicts of interest. The CIA member will closely advise the individual State Board of Education member who appointed the member on all matters relative to the management of the Permanent School Fund as necessary. The CIA may meet in person or via conference call or telephone conference as needed. Duties and responsibilities of the CIA are within the *Texas Permanent School Fund - Investment Procedures Manual*, Section A.2.
- (c) If the board does not establish a CIA, nothing shall prevent a board member from selecting and working with an investment advisor in a manner consistent with federal and state laws and the Investment Procedures Manual.



## **RESOLUTION**

As specified in the operating rules of the State Board of Education, “the board may from time to time define by resolution the areas of oversight of each committee as may be necessary.” This resolution specifies the areas of oversight for each board committee currently delineated in the board’s operating rules.

### **Committee of the Full Board**

1. Public testimony
2. Establishment of essential knowledge and skills (TEKS)
3. Adopt instructional materials

### **Committee on Instruction**

1. Establishment of curriculum and graduation requirements
2. Curriculum implementation (including procedures concerning dyslexia and related disorders)
3. Instructional materials proclamations
4. Student assessment program implementation
5. General education
6. Education of individuals with disabilities
7. Gifted and talented education
8. Adult education
9. Library standards
10. Texas School for the Blind and Visually Handicapped/Texas School for the Deaf

### **Committee on School Finance/Permanent School Fund**

1. State and federal funding issues
2. Financial budgeting, reporting, and regulation
3. Contract and grant approval
4. Instructional materials financing and operations
5. Review commissioner’s annual FSP budget
6. Community education funding
7. Permanent School Fund management oversight, including audit responsibility, investment objectives, and investment decisions

### **Committee on School Initiatives**

1. Long-range plans required by statute
2. Educational technology and telecommunications
3. Review and evaluation of charter school applications the commissioner of education proposes to grant
4. State Board for Educator Certification rules review
5. School board member training policy
6. Hearing examiners
7. Military reservation and special school districts
8. Extracurricular activities
9. Home-rule school district probation and revocation

This page has been intentionally left blank.

**Texas Permanent School Fund  
Asset Allocation Mix - SBOE  
July 31, 2018**

<u>Asset Class</u>	<u>Portfolio</u>	<u>Book Value</u>	<u>Mix</u>	<u>Fair Value</u>	<u>Mix</u>
Equity	Domestic Small-Mid Cap	\$ 1,026,024,894	3.90%	\$ 1,710,192,786	5.04%
	Domestic Large Cap	2,425,743,273	9.23%	5,699,303,464	16.79%
	Total Domestic Equity	3,451,768,167	13.13%	7,409,496,250	21.83%
	International Equity - Blackrock	4,018,853,382	15.29%	5,364,045,934	15.80%
	QMA Emerging Market Equity	404,099,888	1.54%	474,356,660	1.40%
	Navarro Emerging Market Equity	330,737,541	1.26%	476,453,127	1.40%
	Total Emerging Market Equity	734,837,429	2.80%	950,809,787	2.80%
Total Public Market Equity		8,205,458,978	31.22%	13,724,351,971	40.43%
Fixed Income	Domestic Fixed Income	4,621,417,990	17.58%	4,471,419,680	13.17%
	Investec Emerging Market Debt	784,028,723	2.98%	759,193,071	2.24%
	Ashmore Emerging Market Debt	829,550,141	3.16%	798,473,206	2.35%
	Stone Harbor Emerging Market Debt	801,476,798	3.05%	717,166,407	2.11%
	Total Emerging Market Debt	2,415,055,662	9.19%	2,274,832,684	6.70%
Total Fixed Income		7,036,473,652	26.77%	6,746,252,364	19.87%
Absolute Return	Raven 1	800,000,000	3.04%	1,091,311,565	3.22%
	Raven 2	37,362,180	0.14%	49,563,936	0.15%
	Raven 4	600,000,000	2.28%	968,662,254	2.85%
	Raven 6	353,884,155	1.35%	458,052,291	1.35%
	Raven 7	412,711,614	1.57%	540,705,963	1.59%
	Raven 8	350,502,604	1.33%	401,732,573	1.18%
	Total Absolute Return		2,554,460,553	9.71%	3,510,028,582
Private Equity	Columbia NB Crossroads Fund L.P.	288,165,774	1.10%	404,003,736	1.19%
	Columbia NB Crossroads Fund II L.P.	401,860,711	1.53%	639,087,942	1.88%
	Columbia NB Crossroads Fund II Tranche C	428,685,837	1.63%	453,705,553	1.34%
	TPSF NB PE Program	629,917,308	2.40%	796,476,968	2.35%
	Private Equity Direct	204,030,616	0.78%	203,615,962	0.60%
	Columbia CS Fund, L.P.	339,838,842	1.29%	455,448,574	1.34%
Total Private Equity		2,292,499,088	8.73%	2,952,338,735	8.70%
Real Estate	Direct Real Estate Investments	2,051,991,939	7.80%	2,511,044,236	7.40%
Total Real Estate		2,051,991,939	7.80%	2,511,044,236	7.40%
Risk Parity	AQR Capital Management	846,664,411	3.22%	1,170,732,213	3.45%
	Bridgewater	764,790,629	2.91%	1,149,398,995	3.39%
	Total Risk Parity Strategies	1,611,455,040	6.13%	2,320,131,208	6.84%
Real Return	Real Return - TIPS	1,058,857,961	4.03%	1,041,519,223	3.07%
	Real Return Commodities - Terlingua 1	587,500,000	2.23%	419,527,251	1.24%
	Real Return Commodities - Terlingua 2	575,000,000	2.19%	403,268,135	1.19%
	Real Return Commodities - Terlingua 3	174,790,851	0.66%	169,211,439	0.50%
	Total Real Return	2,396,148,813	9.11%	2,033,526,047	6.00%
Total Unallocated Cash		143,126,300	0.53%	143,126,300	0.42%
Fund Total		26,291,614,362	100.00%	33,940,799,443	100.00%

Notes: The asset classes include cash that has been allocated to the investment portfolios.  
Exposure includes fair value of funded investments plus unfunded commitments.

Exposure: Total Private Equity Exposure and Percentage of Fund Total Fair Value 4,672,246,832 13.77%  
Total Real Estate Exposure and Percentage of Fund Total Fair Value 3,995,626,843 11.77%

Current State Board of Education approved Strategic Asset Allocation Mix (approved June 15, 2018)

Large Cap U.S. Equity	13.00%	Real Estate	10.00%
Small/Mid Cap U.S. Equity	5.00%	Risk Parity	7.00%
Developed and Emerging Market International Large Cap Equity	14.00%	Real Return-Commodities	3.00%
Emerging Market Equity	3.00%	Real Return-TIPS	3.00%
Domestic Investment Grade Fixed Income	12.00%	Absolute Return	10.00%
Emerging Market Debt (LC)	7.00%	Private Equity	13.00%
			<u>100.00%</u>

This page has been intentionally left blank.

## 2017-2021 Rule Review Plan for State Board of Education Rules

September 14, 2018

### STATE BOARD OF EDUCATION: INFORMATION

**SUMMARY:** This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2017 through August 2021. Texas Government Code, §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Senate Bill (SB) 178, 76th Texas Legislature, 1999, amended the Texas Government Code by adding §2001.039, which requires the review of existing state agency rules. The rule review requirement in Texas Government Code, §2001.039, is designed to ensure that the reason for adopting or readopting the rule continues to exist.

The 2017-2021 SBOE rule review plan reflected in Attachment I repeats the cycle of review that was conducted during the 2013-2017 SBOE rule review with the addition of new rules that took effect subsequent to the adoption of that plan. The 2017-2021 plan is the sixth rule review cycle of SBOE rules.

In accordance with Texas Education Code, §28.002(m), the Texas Essential Knowledge and Skills (TEKS) are exempt from the rule review requirement and are not included in the 2017-2021 rule review plan. The TEKS were also exempt from previous rule review plans. Although the TEKS will not be reviewed as part of the rule review process, the SBOE conducts a review of the curriculum content on a schedule determined by the SBOE designed to align the adoption of textbook proclamations with amendments to the TEKS.

*Revisions to Rule Review Plan.* The 2017-2021 SBOE rule review plan was approved at the November 2016 SBOE meeting and will appear on an ongoing basis in the information pages of each SBOE agenda until completion. Any necessary modifications to the plan will appear in the information pages of the SBOE agenda along with the ongoing report.

*Rule Review Procedures.* Secretary of State rules specify the following two-step review process to implement the rule review requirement in the Texas Government Code, §2001.039:

1. a Notice of Proposed Review (Intention to review) that announces a public comment period for comments on whether the reason for adopting or readopting the rules continues to exist (see example in Attachment II); and
2. a Notice of Adopted Review (Readoption) that summarizes the public comments received, if any, in response to the notice of proposed review and provides a response to each comment (see examples in Attachment II).

The rule review process for SBOE rules is illustrated in this item using three examples. These examples present the following points: (1) if no amendments are recommended to rules under review, the item presenting the adoption of the review will complete the rule review process and no further action will be necessary; and (2) if amendments are recommended to rules under review, the item presenting the

adoption of the review will complete the rule review process and the amendments will be presented as a separate item under the standard rulemaking process.

**Example 1. Rule Review with No Changes**

January SBOE Meeting	SBOE Committee (discussion)	Discussion item that briefly describes the rule and specifies that no changes are being recommended.
	Texas Register	After the SBOE meeting, staff files Notice of Proposed Review (see Attachment II).
April SBOE Meeting	SBOE Committee and Full SBOE	Action item that presents a summary of comments received, if any, from Notice of Proposed Review. The SBOE authorizes filing the Notice of Adopted Review, noting that no changes are being proposed to the rule as a result of the review.
	Texas Register	After the SBOE meeting, staff files Notice of Adopted Review that states the rule will continue to exist without changes (see Attachment II).
<b>END OF REVIEW PROCESS</b> (no item at June SBOE Meeting)		

**Example 2. Rule Review with Changes**

January SBOE Meeting	SBOE Committee (discussion)	Discussion item that briefly describes the rule, outlines issues to be considered, and specifies anticipated changes to the rule.
	Texas Register	After the SBOE meeting, staff files Notice of Proposed Review (see Attachment II).
April SBOE Meeting	SBOE Committee and Full SBOE (first reading)	Separate action items are included in the agenda: one that presents comments received, if any, from Notice of Proposed Review and one that provides the SBOE the opportunity to propose amendments. The SBOE authorizes filing the Notice of Adopted Review and approves the proposed amendments for first reading and filing authorization.
	Texas Register	After the SBOE meeting, staff files proposed amendments and the Notice of Adopted Review that states the rule will continue to exist and changes are being proposed (see Attachment II).
<b>END OF REVIEW PROCESS</b>		
June SBOE Meeting	SBOE Committee and Full SBOE (second reading)	Action item that presents the proposed amendments for second reading and final adoption. Item includes a summary of comments, if any, on proposed amendments.
	Texas Register	After the SBOE meeting, staff files adopted amendments.
<b>END OF AMENDMENT PROCESS</b>		

**Example 3. Repeal of Rule under Review**

January SBOE Meeting	SBOE Committee (first reading)	Action item that presents the proposed repeal of rule. SBOE approves proposed repeal for first reading and filing authorization.
	Texas Register	After the SBOE meeting, staff files proposed repeal. No Notice of Proposed Review required for repeals.
April SBOE Meeting	SBOE Committee and Full SBOE (second reading)	Action item that presents the proposed repeal of rule for second reading and final adoption.
	Texas Register	After the SBOE meeting, staff files adopted repeal.
END OF REPEAL PROCESS		

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Member Responsible:** Cristina De La Fuente-Valadez, Director  
Rulemaking  
Amanda Gunter, Program Specialist  
Rulemaking

**Attachment I:** 2017-2021 Rule Review Plan for State Board of Education Rules  
**Attachment II:** Sample Notices of Proposed Review and Adopted Review

This page has been intentionally left blank.



## Attachment I

### 2017-2021 Rule Review Plan for State Board of Education Rules

Texas Government Code, §2001.039, requires a four-year rule review cycle for all state agency rules, including State Board of Education rules. The rule review is designed to ensure that the reason for adopting or readopting the rule continues to exist. It only includes rules currently in effect at the time the plan is adopted.

Texas Education Code, §28.002(m), exempts the Texas Essential Knowledge and Skills (TEKS) from the rule review requirement; accordingly, this rule review plan does not include the rule chapters for the TEKS. Although the rules will not be reviewed as part of the rule review process, the SBOE conducts a review of the TEKS on a schedule determined by the SBOE. This review of the curriculum content is designed to align the adoption of textbook proclamations with the amendments to the TEKS.

<b>Review Period: September 2017 - August 2018</b>			
<b>Chapter Title</b>	<b>Subchapter Title</b>	<b>Topic</b>	<b>Begin Review</b>
<b>Chapter 74. Curriculum Requirements</b>	<i>Subchapter A. Required Curriculum</i>	Curriculum	September 2017
	<i>Subchapter B. Graduation Requirements</i>		
	<i>Subchapter C. Other Provisions</i>		
	<i>Subchapter D. Graduation Requirements, Beginning with School Year 2001-2002</i>		
	<i>Subchapter E. Graduation Requirements, Beginning with School Year 2004-2005</i>		
	<i>Subchapter F. Graduation Requirements, Beginning with School Year 2007-2008</i>		
	<i>Subchapter G. Graduation Requirements, Beginning with School Year 2012-2013</i>		
<b>Chapter 105. Foundation School Program</b>	<i>Subchapter A. Definitions</i>	Finance	November 2017
	<i>Subchapter B. Use of State Funds</i>		
<b>Chapter 89. Adaptations for Special Populations</b>	<i>Subchapter A. Gifted/Talented Education</i>	Special Populations	January 2018
	<i>Subchapter C. Texas Certificate of High School Equivalency</i>		
	<i>Subchapter D. Special Education Services and Settings</i>		
<b>Chapter 61. School Districts</b>	<i>Subchapter A. Board of Trustees Relationship</i>	Administration	April 2018

<b>Review Period: September 2018 – August 2019</b>			
<b>Chapter Title</b>	<b>Subchapter Title</b>	<b>Topic</b>	<b>Begin Review</b>
<b>Chapter 157. Hearings and Appeals</b>	<i>Subchapter A. General Provisions for Hearings Before the State Board of Education</i>	Personnel	September 2018
	<i>Subchapter D. Independent Hearing Examiners</i>		
<b>Chapter 129. Student Attendance</b>	<i>Subchapter A. Student Attendance Allowed</i>	Finance	January 2019
	<i>Subchapter B. Student Attendance Accounting</i>		

<b>Review Period: September 2019 – August 2020</b>			
<b>Chapter Title</b>	<b>Subchapter Title</b>	<b>Topic</b>	<b>Begin Review</b>
<b>Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund</b>	<i>Subchapter A. State Board of Education Rules</i>	Finance	September 2019
<b>Chapter 66. State Adoption and Distribution of Instructional Materials</b>	<i>Subchapter A. General Provisions</i>	Instructional Materials	November 2019
	<i>Subchapter B. State Adoption of Instructional Materials</i>		
	<i>Subchapter C. Local Operations</i>		
<b>Chapter 100. Charters</b>	<i>Subchapter A. Open-Enrollment Charter Schools</i>	Charter Schools	January 2020
	<i>Subchapter B. Home-Rule School District Charters</i>		

<b>Review Period: September 2020 – August 2021</b>			
<b>Chapter Title</b>	<b>Subchapter Title</b>	<b>Topic</b>	<b>Begin Review</b>
<b>Chapter 30. Administration</b>	<i>Subchapter A. State Board of Education: General Provisions</i>	Administration	November 2020
	<i>Subchapter B. State Board of Education: Purchasing and Contracts</i>		
<b>Chapter 101. Assessment</b>	<i>Subchapter A. General Provisions</i>	Assessment	January 2021
	<i>Subchapter B. Implementation of Assessments</i>		
	<i>Subchapter C. Local Option</i>		
<b>Chapter 109. Budgeting, Accounting, and Auditing</b>	<i>Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts</i>	Finance	January 2021
	<i>Subchapter B. Texas Education Agency Audit Functions</i>		
	<i>Subchapter C. Adoptions by Reference</i>		
	<i>Subchapter D. Uniform Bank Bid or Request for Proposal and Depository Contract</i>		

This page has been intentionally left blank.

# SAMPLES

## Attachment II

### **Notice of Proposed Review (Intention to review)**

The State Board of Education (SBOE) proposes the review of 19 TAC Chapter 129, Student Attendance, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 129 are organized under the following subchapters: Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 129, Subchapters A and B, continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494. Comments may also be submitted electronically to rules@tea.texas.gov.

---

### **Notice of Adopted Review (with no changes to rule) (Readoption)**

The State Board of Education (SBOE) adopts the review of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting, pursuant to the Texas Government Code, §2001.039. The SBOE proposed the review of 19 TAC Chapter 129, Subchapters A and B, in the February 12, 2016 issue of the Texas Register (41 TexReg 1131).

The SBOE finds that the reasons for adopting 19 TAC Chapter 129, Subchapters A and B, continue to exist and readopts the rules. The SBOE received no comments related to the review.

No changes are necessary as a result of the review.

---

### **Notice of Adopted Review (with changes to rule) (Readoption with changes)**

The State Board of Education (SBOE) adopts the review of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting, pursuant to the Texas Government Code, §2001.039. The SBOE proposed the review of 19 TAC Chapter 129, Subchapters A and B, in the February 12, 2016 issue of the Texas Register (41 TexReg 1131).

The SBOE finds that the reasons for adopting 19 TAC Chapter 129, Subchapters A and B, continue to exist and readopts the rules. The SBOE received no comments related to the review. As part of the review, the SBOE is proposing an amendment to 19 TAC §129.21, which may be found in the Proposed Rules section of this *Texas Register* issue.

This page has been intentionally left blank.

## State Board of Education Meeting Schedule for 2019

**September 14, 2018**

### **STATE BOARD OF EDUCATION: INFORMATION**

**SUMMARY:** According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2019.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Advance notice of future SBOE meetings will provide an opportunity for the SBOE, agency staff, and the public to be informed of upcoming meetings and to plan activities accordingly. The following dates for SBOE meetings in 2019 have been scheduled by the SBOE chair:

January 28-February 1, 2019

April 2-5, 2019

June 11-14, 2019

September 10-13, 2019

November 12-15, 2019

**FISCAL IMPACT:** None.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**PUBLIC COMMENTS:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**Staff Members Responsible:** Debbie Ratcliffe, Executive Director  
Division of State Board of Education Support

This page has been intentionally left blank.