

Item 10:**Consider and Take Appropriate Action on Proposed
Amendments to 19 TAC Chapter 229, Accountability System
for Educator Preparation Programs, §229.9, Fees for
Educator Preparation Program Approval and Accountability;
and Chapter 230, Professional Educator Preparation and
Certification, Subchapter G, Certificate Issuance Procedures,
§230.101, Schedule of Fees for Certification Services, and
§230.103, E-Pay Supplemental Fee****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss and propose amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, and §230.103, E-Pay Supplemental Fee. As part of its report to the 83rd Texas Legislature, Regular Session, 2013, the Sunset Advisory Commission recommended a management action that fees in rule for educator certification and educator preparation programs (EPPs) be evaluated and adjusted to cover costs and ensure equity. The proposed amendments to 19 TAC §§229.9, 230.101, and 230.103 would adjust certain fees to more adequately cover costs and increase the equity of fees across different types of fee payers.

STATUTORY AUTHORITY: The statutory authority for 19 TAC §§229.9, 230.101, and 230.103 is Texas Education Code (TEC), §21.041(c) and (d), and Texas Occupations Code, §53.105.

EFFECTIVE DATE: If approved for filing as proposed in March 2015 and if adopted, subject to State Board of Education (SBOE) review, at the June 2015 SBEC meeting, the proposed effective date of the proposed amendments to 19 TAC §§229.9, 230.101, and 230.103 would be September 1, 2015.

PREVIOUS BOARD ACTION: The SBEC adopted 19 TAC §229.9 effective April 18, 2010. As part of the reorganization of 19 TAC Chapter 230, the SBEC adopted 19 TAC §230.101 and §230.103 effective August 12, 2012. At the October 2014 meeting, the SBEC proposed amendments to 19 TAC §229.9 and §230.101 and withdrew the proposals at the January 2015 special meeting to prepare this improved and comprehensive package of proposed amendments, which includes an amendment to 19 TAC §230.103.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: As part of its report to the 83rd Texas Legislature, Regular Session, 2013, the Sunset Advisory Commission recommended an evaluation of the fee structure for educator certification and EPPs and that adjustments be made to ensure that the fees in rule more adequately cover costs and are equitable across fee payers.

The proposed amendments, shown on Attachments II and III, reflect discussions held during stakeholder meetings with the Educator Preparation Advisory Committee on August 22, 2014, December 2, 2014, and February 2, 2015. The proposed amendments also reflect discussions held with other stakeholders at meetings in September and October 2014. Following is a description of the recommended changes based on an analysis of the actual costs of services.

Fees for EPP Approval and Accountability

Section 229.9 would be amended to increase the fees for new EPP applications and new EPP approvals to more adequately provide for the administrative cost of approving new EPPs. The fees for application and approval would also be combined into one nonrefundable fee. The ten-year reapplication fee for an EPP would be removed because the ten-year renewal approval process was removed from rule when the SBEC adopted an amendment to 19 TAC §228.10, Approval Process, in August 2014. After August 31, 2016, the five-year continuing approval visit fee would be increased to more adequately provide for the administrative cost of renewing the approval of EPPs. A discretionary continuing approval review fee would be added so that the fee list more closely follows the related rules. The cost of a monitoring or technical visit would be removed because these costs are dependent on the extent of technical assistance and monitoring that is required. No adjustments to the fees for the addition of a new certification field, the addition of clinical teaching, or the addition of each new class of certificate are recommended.

Schedule of Fees for Certification Services

Section 230.101 would be amended to decrease the fee for a request for preliminary criminal history evaluation to more adequately cover the cost of performing this evaluation based on the number of evaluations that are currently requested. After August 31, 2016, the review of credentials fee for a credential issued by a jurisdiction other than Texas and for issuance of a temporary certificate would also be decreased to more adequately provide for the administrative cost of reviewing credentials and offset the increase in fees for EPP approval and accountability.

E-Pay Supplemental Fee

Section 230.103 would be amended to remove the exceptions from the supplemental fee that is assessed for the purpose of recovering the costs of the state electronic Internet portal.

FISCAL IMPACT: Texas Education Agency (TEA) staff has determined that there are fiscal implications as a result of the proposed amendments to 19 TAC §§229.9, 230.101, and 230.103. The following fiscal implications are based on costs for state government (education service centers, public universities, and state colleges), local government (public community colleges, counties, and school districts), persons (individuals), and small businesses and microbusinesses (EPPs) for fiscal years (FYs) 2015-2019. The effect on the TEA of the proposed increases in the fee structure in 19 TAC §229.9 would be offset by the effect of the proposed decreases in the fee structure in 19 TAC §230.101 so there is neither a projected increase nor a projected loss in revenue for the TEA.

The proposed amendment to 19 TAC §229.9 would increase EPP fees to more adequately cover TEA costs and more equitably distribute fees across fee payers. Currently, all EPPs pay a

\$1,500 fee every five years to maintain accreditation for their EPPs. The proposed amendment to 19 TAC §229.9 would increase the five-year continuing approval fee to \$4,500 after August 31, 2016. For FYs 2015 and 2016 there would be no anticipated fiscal implications because the proposed increase would not apply until after August 31, 2016. TEA staff estimates the total costs for state government-operated EPPs at \$33,000 in FY 2017, \$27,000 in FY 2018, and \$36,000 in FY 2019 for other operating costs. TEA staff estimates the total costs for local government-operated EPPs at \$9,000 in each year for FYs 2017-2019. TEA staff estimates the total costs for small businesses and microbusinesses that operate EPPs at \$30,000 in each year for FY 2017 and FY 2018 and \$12,000 in FY 2019.

There would be an anticipated economic impact for small businesses and microbusinesses that serve as approved EPPs. It is estimated that the proposed amendment to §229.9 would affect between 1-100 small businesses and 1-100 microbusinesses (businesses with 20 or fewer employees). The projected economic impact would consist of compliance costs such as an increase in continuing approval fees.

In accordance with Texas Government Code, §2006.002, TEA staff conducted a regulatory flexibility analysis and assessed alternatives to the proposed amendment to §229.9. Three alternatives that would minimize the adverse impacts on small and microbusinesses include:

1. EPPs in the bottom third of average number of completers would be assessed a fee of \$4,500, EPPs in the middle third of average number of completers would be assessed a fee of \$4,600, and EPPs in the top third of average number of completers would be assessed a fee of \$4,700.
2. EPPs in the bottom third of average number of completers would be assessed a fee of \$4,500, EPPs in the middle third of average number of completers would be assessed a fee of \$5,000, and EPPs in the top third of average number of completers would be assessed a fee of \$5,500.
3. EPPs in the bottom third of average number of completers would be assessed a fee of \$4,500, EPPs in the middle third of average number of completers would be assessed a fee of \$5,500, and EPPs in the top third of average number of completers would be assessed a fee of \$6,500.

TEA staff assessed alternatives, as described earlier, to the proposed amendment to §229.9 that would diminish the impact on small businesses and microbusinesses; however, it is not possible to provide regulatory flexibility on this matter for the reasons that follow.

The methods assessed for mitigating costs to small businesses and microbusinesses, if implemented, would result in fees for larger EPPs that would exceed what is required to adequately provide for the administrative cost of renewing the approval of EPPs.

In addition, the methods assessed for mitigating costs may increase the cost of administering the rule and, therefore, would increase the costs that must be covered by fees from EPPs, requiring an increase in fees to all EPPs, accordingly. Thus, efforts to mitigate costs to small businesses and microbusinesses would actually result in increased costs to all EPPs, including those operated by small businesses and microbusinesses. Moreover, these alternatives would further increase costs for local and state government-operated EPPs.

The proposed amendment to 19 TAC §230.101 would decrease fees for educator certification services to more adequately cover costs. TEA staff anticipates that the proposed amendment would create a cost savings for individuals who pay a fee for these services. For FY 2015 there would be no anticipated fiscal implications because the proposed amendment to 19 TAC §230.101(a)(20) would not take effect until September 1, 2015, and the proposed amendment to 19 TAC §230.101(a)(5) and (10) would not apply until after August 31, 2016. TEA staff estimates that total cost savings for individuals at \$6,850 for FY 2016 and \$83,545 in each year for FYs 2017-2019.

The proposed amendment to 19 TAC §230.103 would remove the exceptions from the supplemental fee that is assessed for the purpose of recovering the costs of the state electronic Internet portal. TEA staff anticipates that the proposed amendment would create a cost for individuals who pay a fee for these services. For FY 2015 there would be no anticipated fiscal implications because the proposed amendment to 19 TAC §230.103 would not take effect until September 1, 2015. However, TEA staff estimates the total cost for individuals at \$144,558 in each year for FYs 2016-2019 and the total increase in revenue for state government at \$144,558 in each year for FYs 2016-2019.

PUBLIC AND STUDENT BENEFIT: The public and student benefit anticipated as a result of the proposed amendments would be an increased equity of fees across the different types of fee payers.

PROCEDURAL AND REPORTING IMPLICATIONS: The proposed amendments would have no procedural and reporting implications.

LOCALLY MAINTAINED PAPERWORK REQUIREMENTS: The proposed amendments would have no locally maintained paperwork requirements.

PUBLIC COMMENTS: The public comment period on the proposal begins April 24, 2015, and ends May 26, 2015. The SBEC will take registered oral and written comments on this item at the June 12, 2015 meeting in accordance with the SBEC board operating policies and procedures.

ALTERNATIVES: None.

OTHER COMMENTS AND RELATED ISSUES: None.

ASSOCIATE COMMISSIONER'S RECOMMENDATION: I recommend that the State Board for Educator Certification:

Approve the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, and §230.103, E-Pay Supplemental Fee, to be published as proposed with the *Texas Register*.

Respectfully submitted,

Ryan Franklin
Associate Commissioner
Educator Leadership and Quality

Staff Members Responsible: Tim Miller, Director
Educator Preparation Programs

Marilyn Cook, Director
Educator Certification

Doug Phillips, Director
Educator Investigations

- Attachments:**
- I. Statutory Citations
 - II. Text of Proposed Amendment to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability
 - III. Text of Proposed Amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, and §230.103, E-Pay Supplemental Fee

ATTACHMENT I**Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, and §230.103, E-Pay Supplemental Fee****Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that, when combined with any fees imposed under Subsection (d), is adequate to cover the cost of administration of this subchapter.
- (d) The board may propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program, or for the addition of a certificate or field of certification to the scope of a program's approval. A fee imposed under this subsection may not exceed the amount necessary, as determined by the board, to provide for the administrative cost of approving, renewing the approval of, and appropriately ensuring the accountability of educator preparation programs under this subchapter.

Texas Occupations Code, §53.105, Fees:

A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

Texas Government Code, §2054.1115, Electronic Payments on State Electronic Internet Portal:

- (a) A state agency or local government that uses the state electronic Internet portal may use electronic payment methods, including the acceptance of credit and debit cards, for:
 - (1) point-of-sale transactions, including:
 - (A) person-to-person transactions;
 - (B) transactions that use an automated process to facilitate a person-to-person transaction; and
 - (C) transactions completed by a person at an unattended self-standing computer station using an automated process;
 - (2) telephone transactions; or
 - (3) mail transactions.
- (b) The state agency or local government may charge a reasonable fee, as provided by Section 2054.111 or Subchapter I, to recover costs incurred through electronic payment methods used under this section.

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 229. Accountability System for Educator Preparation Programs

§229.9. Fees for Educator Preparation Program Approval and Accountability.

An educator preparation program requesting approval and continuation of accreditation status shall pay the applicable fee from the following list.

- (1) New educator preparation program application and approval (nonrefundable [~~includes pre-approval visit~~])-- \$9,000 [~~\$1,000~~].
- ~~[(2) New educator preparation program approval (includes post-approval visit) --\$1,000.]~~
- ~~[(3) Ten year reapplication for an educator preparation program approved after August 31, 2008 (includes approval visit) --\$2,000.]~~
- (2) [(4)] Five-year continuing approval review [visit] pursuant to §228.10(b) [~~§228.10(c)~~] of this title (relating to Approval Process) : [~~-\$1,500.~~]
 - (A) prior to September 1, 2016--\$1,500; and
 - (B) after August 31, 2016--\$4,500.
- ~~(3) Discretionary continuing approval review pursuant to §228.10(b) of this title--\$4,500.~~
- ~~[(5) Monitoring or technical assistance visit --\$1,500.]~~
- (4) [(6)] Addition of new certification field or addition of clinical teaching--\$500.
- (5) [(7)] Addition of each new class of certificate--\$1,000.

ATTACHMENT III
Text of Proposed Amendments to 19 TAC

Chapter 230. Professional Educator Preparation and Certification

Subchapter G. Certificate Issuance Procedures

§230.101. Schedule of Fees for Certification Services.

- (a) An applicant for a certificate or a school district requesting a permit shall pay the applicable fee from the following list.
- (1) Standard educational aide certificate--\$30.
 - (2) Standard certificate--\$75.
 - (3) Probationary certificate--\$50.
 - (4) Addition of certification based on completion of appropriate examination--\$75.
 - (5) Review of a credential issued by a jurisdiction other than Texas (nonrefundable) : [~~-\$175.~~]
 - (A) prior to September 1, 2016--\$175; and
 - (B) after August 31, 2016--\$160.
 - (6) Temporary credential based on a credential issued by a jurisdiction other than Texas--\$50.
 - (7) Emergency permit (nonrefundable)--\$55.
 - (8) National criminal history check (nonrefundable)--The fee, posted on the Texas Education Agency website, shall vary according to the current cost of fingerprint processing and obtaining national criminal history record information from the Texas Department of Public Safety, its contractors, and the Federal Bureau of Investigation. The same fee will be paid by current certified educators who are subject to a national criminal history check pursuant to the Texas Education Code, §§22.082, 22.0831, and 22.0836.
 - (9) Temporary teacher certificate based on recommendation by an approved Texas school district--\$50.
 - (10) Review of credentials requiring analysis and research of college or university transcript and degrees for issuance of a temporary certificate (nonrefundable) : [~~-\$175.~~]
 - (A) prior to September 1, 2016--\$175; and
 - (B) after August 31, 2016--\$160.
 - (11) On-time renewal of standard educational aide certificate--\$10.
 - (12) Additional fee for late renewal of standard educational aide certificate--\$5.
 - (13) Reactivation of an inactive standard educational aide certificate--\$15.
 - (14) Reinstatement following restitution of child support or student loan repayment for standard educational aide certificate--\$20.
 - (15) On-time renewal of a standard certificate (to include any educational aide certificate if held)--\$20.
 - (16) Additional fee for late renewal of a standard certificate--\$10.
 - (17) Reactivation of an inactive standard certificate--\$40; except for an inactivation pursuant to §232.9 of this title (relating to Inactive Status and Late Renewal).
 - (18) Reinstatement following restitution of child support or student loan repayment--\$50.
 - (19) Visiting international teacher certificate--\$50.

- (20) Request for preliminary criminal history evaluation (nonrefundable)-- \$50 [~~\$150~~] .
- (b) The fee for correcting a certificate or permit when the error is not made by the Texas Education Agency shall be equal to the fee for the original certificate or permit.

§230.103. E-Pay Supplemental Fee.

An applicant for a certificate or a school district requesting a permit shall pay a supplemental fee in addition to the fees outlined in §230.101 of this title (relating to Schedule of Fees for Certification Services), for the purpose of recovering the costs of the state electronic Internet portal . [~~with the exception of the following fees for certification services set forth in §230.101 of this title:~~]

[~~(1) — on time renewal of standard educational aide certificate;~~]

[~~(2) — additional fee for late renewal of standard educational aide certificate;~~]

[~~(3) — reactivation of an inactive standard educational aide certificate;~~]

[~~(4) — on time renewal of a standard certificate (to include any educational aide certificate if held);~~]

[~~(5) — additional fee for late renewal of a standard certificate; and~~]

[~~(6) — reinstatement following restitution of child support or student loan repayment.~~]