

The State Board of Education (SBOE) proposes an amendment to §74.27, concerning innovative courses and programs. The proposed amendment would update the process for review and approval of proposed innovative courses and sunset of existing courses and would update requirements for implementation of approved innovative courses.

**BACKGROUND INFORMATION AND JUSTIFICATION:** After the SBOE adopted new rules concerning graduation requirements, the previously approved experimental courses were phased out as of August 31, 1998. Following the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process outlined in §74.27 provides authority for the SBOE to approve innovative courses. Each year, the Texas Education Agency (TEA) provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. TEA staff works with applicants to fine tune their applications, which are then submitted to the SBOE Committee on Instruction for consideration.

At the June 2023 meeting, the Committee on Instruction discussed an amendment to §74.27 to add a provision for the sunset of innovative courses that meet certain criteria. The board approved for first reading and filing authorization the proposed amendment to §74.27 at its August-September 2023 meeting. At the November 2023 SBOE meeting, the board approved for second reading and final adoption the proposed amendment to §74.27, which included as a criteria for consideration for sunset a provision that a course must have been approved for at least three years and meet at least one additional criteria. When TEA staff filed the rule as adopted with the Texas Register, the filing did not include the provision that a course must have been approved for at least three years and meet at least one additional criteria to be considered for sunset. The amendment became effective February 18, 2024. In order to correct the error made by TEA, the board adopted an additional amendment effective November 10, 2024.

At the September 2025 meeting, the Committee on Instruction discussed the innovative course approval process and asked TEA staff to prepare a possible amendment to the rule for the committee to consider. At the November 2025 SBOE meeting, a proposed amendment to §74.27 was presented for first reading and filing authorization to the Committee on Instruction and recommended for SBOE approval. Due to a procedural error, the item was not approved by the SBOE at its general meeting.

The proposed amendment would set more specific criteria for a course to be considered by the board as an innovative course; establish new timelines for SBOE action related to innovative courses; clarify requirements related to instructional materials for innovative courses; and adjust requirements for implementation of approved innovative courses.

The SBOE approved the proposed amendment for first reading and filing authorization at its January 30, 2026 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and programs, has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has 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.

**COST INCREASE TO REGULATED PERSONS:** The proposal 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.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

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 expand an existing regulation by setting more specific criteria for a course to be considered by the board as an innovative course, establishing new timelines for SBOE action related to innovative courses, and further clarifying other components of the rule.

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 create a new regulation; would not 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 BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to update the process for review and approval of proposed innovative courses and sunset of existing courses and to update requirements for implementation of approved innovative courses. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data or reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The SBOE requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins February 27, 2026, and ends at 5:00 p.m. on March 30, 2026. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2026 in accordance with the SBOE board operating policies and procedures. 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 on February 27, 2026.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code, §28.002(f), which 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 to be flexible in approving a course for credit for high school graduation.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.002(f).

<rule>

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

- (a) 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. After the State Board of Education (SBOE) approves an application for a new course or a renewal, a district shall obtain local board approval prior to offering the course.
  - (1) The SBOE [~~State Board of Education (SBOE)~~] may approve discipline-based courses in the foundation or enrichment curriculum and courses that do not fall within any of the subject areas listed in the foundation and enrichment curricula when the applying school district or organization demonstrates at least one of the following: [that the proposed course is academically rigorous and addresses documented student needs.]

- (A) is academically rigorous and addresses documented student needs;
  - (B) applies to a specialized group of students such as students with disabilities or gifted/talented students;
  - (C) is content agnostic and supports generalized skills that prepare students for career and/or college; or
  - (D) a need is identified in an emerging career and technical education (CTE) field or related to a regional program of study for a course that does not already exist as a Texas Essential Knowledge and Skills (TEKS)-based course.
- (2) The SBOE shall take action related to innovative courses on the following timelines.
- (A) An application window shall be made available every two years for new courses.
  - (B) For existing courses, at the appropriate three-year or four-year mark as described by paragraph (8) of this subsection, the SBOE shall:
    - (i) invite the applicant to submit updates to be considered as part of a renewal;
    - (ii) set the course for expiration; or
    - (iii) initiate a process for the course to become a TEKS-based course.
  - (C) Notice of an upcoming application opportunity shall be published on the SBOE website at least six months in advance of the start of the application window.
  - (D) Applications for new courses and renewals shall be posted on the Texas Education Agency (TEA) website for public comment at least 30 days prior to SBOE action.
  - (E) Applications for new courses and renewals shall be approved not later than the January SBOE meeting for implementation of a course in the subsequent school year.
- (3) ~~(2)~~ Applications shall not be approved if the proposed course significantly duplicates the content of a TEKS-based [Texas Essential Knowledge and Skills (TEKS)-based] course or can reasonably be taught within an existing TEKS-based course.
- (4) ~~(3)~~ To request approval from the SBOE, the applying school district or organization must submit a request for approval , including the following information, within the window designated by the SBOE [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) data that demonstrates successful piloting of the course in Texas;
  - ~~(D) a description of activities, major resources, and materials to be used;~~
  - (D) ~~(E)~~ the methods of evaluating student outcomes;
  - (E) ~~(F)~~ the qualifications of the teacher;
  - (F) ~~(G)~~ any training required in order to teach the course and any associated costs;
  - (G) ~~(H)~~ the amount of credit requested; and
  - (H) ~~(I)~~ a copy of or electronic access to any teacher resources and student-facing instructional materials required to teach [recommended instructional resources for] the course.
- (5) ~~(4)~~ To request approval for a career and technical education innovative course, the applying school district or organization must submit with its request for approval evidence that the course is aligned with state and/or regional labor market data.
- (6) ~~(5)~~ To request approval of a new innovative course, the applying school district or organization must submit with its request for approval evidence that the course has been successfully piloted in its entirety in at least one school in the state of Texas.

- (7) ~~(6)~~ The requirements of paragraphs (4)(C) ~~(3)(C)~~ and (6) ~~(5)~~ of this subsection do not apply to the consideration of a course developed to support a program of study in career and technical education.
- (8) ~~(7)~~ Newly approved innovative courses shall be approved for a period of three years, and courses approved for renewal shall be approved for a period of four ~~five~~ years.
- (9) ~~(8)~~ Following SBOE approval, with ~~With~~ the approval of the local board of trustees, a school district may offer, without changes or deletions to the approved standards and instructional materials ~~content~~, any state-approved innovative course.
- (10) ~~(9)~~ TEA ~~Texas Education Agency~~ shall review all approved innovative courses once every year ~~two years~~ and provide for consideration for sunset a list of innovative courses that have been approved as an innovative course for at least three years and meet at least one of the following criteria:
- (A) zero enrollment for the previous two years;
  - (B) average enrollment of less than 100 students statewide for the previous three years;
  - (C) student enrollment at an average of fewer than 20 districts or charter schools statewide for the previous three years;
  - (D) duplicative of another innovative or TEKS-based course; or
  - (E) approved for implementation as a TEKS-based course.
- (b) An ethnic studies course that has been approved by the SBOE as an innovative course shall be considered by the SBOE at a subsequent meeting for inclusion in the TEKS.
- (1) Only comprehensive ethnic studies courses in Native American studies, Latino studies, African American studies, and/or Asian Pacific Islander studies, inclusive of history, government, economics, civic engagement, culture, and science and technology, shall be considered by the SBOE.
  - (2) The chair of the Committee on Instruction, in accordance with SBOE Operating Rule 2.5(b), shall collaborate with the board chair to place the item on the next available Committee on Instruction agenda following SBOE approval of the innovative course.