



AGENDA

State Board of Education

January 29, 2021

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

KEVEN ELLIS, Lufkin
Chair of the State Board of Education
District 9

**Vice Chair of the State Board
of Education**

GEORGINA PÉREZ, El Paso
Secretary of the State Board of Education
District 1

Board Members

RUBEN CORTEZ, JR., Brownsville
District 2

AUDREY YOUNG, Nacogdoches
District 8

MARISA PEREZ-DIAZ, Converse
District 3

TOM MAYNARD, Florence
District 10

LAWRENCE ALLEN, JR., Houston
District 4

PATRICIA HARDY, Fort Worth
District 11

REBECCA BELL-METEREAU
San Marcos, District 5

PAM LITTLE, Fairview
District 12

WILL HICKMAN, Houston
District 6

AICHA DAVIS, Dallas
District 13

MATT ROBINSON, Friendswood
District 7

SUE MELTON-MALONE, Robinson
District 14

JAY JOHNSON, Pampa
District 15

Committees of the State Board of Education

INSTRUCTION

Sue Melton-Malone, chair
Pam Little, vice chair
Aicha Davis
Georgina C. Pérez
Jay Johnson

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard, chair
Lawrence Allen, Jr., vice chair
Rebecca Bell-Metereau
Patricia Hardy
Will Hickman

SCHOOL INITIATIVES

Marisa Perez-Diaz, vice chair
Ruben Cortez, Jr.
Keven Ellis
Matt Robinson
Audrey Young

January 26, 2021

State Board of Education
Austin, Texas

I certify that this is the official agenda of the State Board of Education for its meeting on January 26-29, 2021. 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,

A handwritten signature in black ink, appearing to read 'Mike Morath', with a long horizontal flourish extending to the right.

Mike Morath
Commissioner of Education

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SCHEDULE AND AGENDAS

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

Meeting Times January 26-29, 2021	
<u>Tuesday, January 26, 2021</u>	
10:00 a.m.	General Meeting (Room 1-104)
12:00 p.m.	Committee of the Full Board (Room 1-104)
<u>Wednesday, January 27, 2021</u>	
9:00 a.m.	Committee of the Full Board (Room 1-104)
<u>Thursday, January 28, 2021</u>	
9:00 a.m.	Committee on School Instruction (Room 1-100)
9:00 a.m.	Committee on School Finance/Permanent School Fund (Room 1-104)
9:00 a.m.	Committee on School Initiatives (Room 1-111)
<u>Friday, January 29, 2021</u>	
9:00 a.m.	General Meeting (Room 1-104)

If the Committee of the Full Board does not complete its agenda Tuesday, it will resume its meeting on Wednesday, Thursday, or Friday. If the Committee of the Full Board does not complete its agenda Wednesday, it will resume its meeting on Thursday, or Friday. If the Committee on Instruction does not complete its agenda Thursday, it will resume its meeting on Friday. If the Committee on School Finance/Permanent School Fund does not complete its agenda Thursday, it will resume its meeting on Friday. If the Committee on School Initiatives does not complete its agenda Thursday, it will resume its meeting on Friday.

Current State Board of Education (SBOE) Operating Rules, §1.2, Committees of the Board, establish the standing committees of the SBOE as the Committee on Instruction, the Committee on School Finance/Permanent School Fund, and the Committee on School Initiatives.

Pursuant to the provisions of the Texas Education Code, §7.107, at the board's first regular meeting after the election and qualification of new members, the board shall organize and adopt rules of procedure. Adoption of SBOE Operating Rules may change the existing standing committees. However, due to deadlines for posting notices of open meetings with the *Texas Register*, it is necessary for the existing standing committees of the SBOE to meet during the January 26-29, 2021 board meeting.

<p>If the SBOE elects to retain the existing committee structure, newly-selected members of the Committee on Instruction, the Committee on School Finance/Permanent School Fund, and the Committee on School Initiatives will meet and will have the opportunity to elect new committee chairs.</p>	<p>If the SBOE elects to revise the committee structure, the prior standing committees of the SBOE must meet during this first meeting because of <i>Texas Register</i> requirements. New members of the SBOE would serve on the prior committees of former members who represented the districts to which the new members were elected. Election of new committee chairs would take place at the next scheduled 2021 SBOE meeting as the first item of business on each standing committee schedule.</p>
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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.

The agenda is online at <https://tea.texas.gov/sboe/agenda/> on the Texas Education Agency website. The posted information contains links to board action items including rule items and rule text, and selected 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 available at the board meeting.

TUESDAY
January 26, 2021

10:00 a.m.

GENERAL MEETING – Room 1-104

- 1. Swearing-in Ceremony for Members of the State Board of Education** **SBOE – ACTION**
(Board agenda page SBOE-1)

Oaths of office will be administered to the newly elected State Board of Education (SBOE) members during a ceremony. After the swearing-in ceremony, the State Board of Education may hold a reception in Room 1-104. No official SBOE business will be discussed if there is a reception. Statutory authority for this action is the Texas Education Code (TEC), §7.107(b).

- 2. Review and Adoption of State Board of Education Operating Rules** **SBOE – ACTION**
(Board agenda page SBOE-2)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new members, the board shall adopt rules of procedure. This item provides an opportunity for the board to review existing operating rules to determine if changes and revisions are needed.

- 3. Election of State Board of Education Officers** **SBOE – ACTION**
(Board agenda page SBOE-6)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new State Board of Education (SBOE) members, the board shall elect by separate votes, a vice chair and a secretary. The current operating rules establish the terms of office for the vice chair and secretary of the board as two years and until their successors are elected.

- 4. Announcement of Membership of Committees** **SBOE – ACTION**
(Board agenda page SBOE-7)

Pursuant to the provisions of the Texas Education Code, (TEC), §7.107(b), at the board's first regular meeting after the election and qualification of new members, the board shall organize. This item provides the opportunity to announce appointments to the committees of the State Board of Education (SBOE).

TUESDAY
January 26, 2021

12:00 p.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 <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

Public testimony is not taken on Work Session items.

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| <p>1. Work Session on Texas Essential Knowledge and Skills (TEKS) Review and Instructional Materials Adoption Cycle
(Board agenda page I-1)</p> | <p>COMMITTEE – DISCUSSION
SBOE – NO ACTION</p> |
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This item provides an opportunity for the board to discuss the schedule for review and revision of Texas Essential Knowledge and Skills (TEKS) and the review and adoption cycle for instructional materials aligned to revised TEKS. Statutory authority for this item is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), 28.025(a), and 31.003.

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| <p>2. Public Hearing on Proposed New 19 TAC Chapter 112, <u>Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47-112.51</u>
(Board agenda page I-4)</p> | <p>COMMITTEE – DISCUSSION
SBOE – NO ACTION</p> |
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A public hearing before the State Board of Education (SBOE) is scheduled for Tuesday, January 26, 2021. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47, Aquatic Science, Adopted 2021 (One Credit); 112.48, Astronomy, Adopted 2021 (One Credit); 112.49, Earth and Space Science, Adopted 2021 (One Credit); 112.50, Environmental Systems, Adopted 2021 (One Credit); and 112.51, Independent Study in Science, Adopted 2021 (One Credit). Due to the anticipated volume of testimony, oral testimony will be limited to two minutes per person. Statutory authority for this item is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (j), and (n); and 28.025(a).

**WEDNESDAY
January 27, 2021**

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 <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

**1. Commissioner’s Comments
(Board agenda page I-6)**

**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.

**2. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements (Second Reading and Final Adoption)
(Board agenda page I-7)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements. The proposed amendment would update the rule to align with the requirement in House Bill (HB) 3, 86th Texas Legislature, 2019, that students complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) as a requirement for high school graduation. The amendment would also specify when a student may demonstrate proficiency in certain communication skills required for graduation. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(4); 28.025(c), as amended by HB 3, 86th Texas Legislature, 2019; and 28.0256(a), (b), and (d), as added by HB 3, 86th Texas Legislature, 2019.

COMMITTEE OF THE FULL BOARD (continued)

3. **Consideration of Petition for Adoption of Rule in 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies (Board agenda page I-14)**

**COMMITTEE - ACTION
SBOE - ACTION**

A petition to adopt a new course in 19 Texas Administrative Code (TAC) Chapter 113, Texas Essential Knowledge and Skills for Social Studies, has been received from Jarwanza T. Norris. The petition requests that the State Board of Education (SBOE) adopt United States History Studies Before 1877 and offer the course to all high school students. This item provides an opportunity for the SBOE to consider the petition. Statutory authority for this action is the Texas Government Code (TGC), §2001.021; Texas Education Code (TEC) §28.002 and §28.025; and 19 TAC §30.1.

4. **Discussion of Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47-112.51 (Board agenda page I-17)**

**COMMITTEE – DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for the committee to discuss proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47, Aquatic Science, Adopted 2021 (One Credit); 112.48, Astronomy, Adopted 2021 (One Credit); 112.49, Earth and Space Science, Adopted 2021 (One Credit); 112.50, Environmental Systems, Adopted 2021 (One Credit); and 112.51, Independent Study in Science, Adopted 2021 (One Credit). The proposed new sections would update the standards to ensure they remain current. Statutory authority for this item is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (j), and (n); and 28.025(a).

5. **Discussion of *Proclamation 2023* of the State Board of Education Advertising for Bids on Instructional Materials (Board agenda page I-19)**

**COMMITTEE – DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for the State Board of Education to discuss the schedule of events and instructional materials to be included in *Proclamation 2023*. Instructional materials submitted in response to *Proclamation 2023* would be scheduled for adoption by the SBOE in November 2022. Statutory authority for this item is the Texas Education Code (TEC), §31.022.

COMMITTEE OF THE FULL BOARD (continued)

6. **Update on Texas Essential Knowledge and Skills (TEKS) Review**
(Board agenda page I-23)

COMMITTEE - ACTION
SBOE - ACTION

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS). The item also provides the opportunity for the board to provide additional guidance to TEKS and ELPS review work groups. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.025(a).

7. **Rule Review of 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, Subchapter B, Implementation of Assessments, and Subchapter C, Local Option**
(Board agenda page I-25)

COMMITTEE - DISCUSSION
SBOE – NO ACTION

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 101, Assessment, Subchapter A, General Provisions, Subchapter B, Implementation of Assessments, and Subchapter C, Local Option. The rules being reviewed address the development and administration of tests, voluntary assessment of private school students, the schedule for the release of tests, and administration and reporting of group-administered achievement tests. The statutory authority for the rule review is TGC, §2001.039. The statutory authority for 19 TAC Chapter 101, Subchapters A-C, is Texas Education Code (TEC), §§39.021, 39.022, 39.023, 39.025, 39.032, and 39.033.

COMMITTEE OF THE FULL BOARD (continued)

**8. Discussion of Pending Litigation
(Board agenda page I-31)**

**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.)*; and

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

**THURSDAY
January 28, 2021**

9:00 a.m.

COMMITTEE ON INSTRUCTION – Room 1-100

Members: Sue Melton-Malone, chair; Pam Little, vice chair; Aicha Davis; Jay Johnson; 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 <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

**1. Election of Chair
(Board agenda page II-1)**

**COMMITTEE - ACTION
SBOE - NO ACTION**

State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity for the Committee on Instruction to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only. Statutory authority for this action is the Texas Education Code, §7.107(b).

**2. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript) (First Reading and Filing Authorization)
(Board agenda page II-2)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript), to update the rule to require documentation of the new graduation requirement that a student complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA). Texas Education Code (TEC), §§7.102(c)(13); 28.025(e); and 28.0256(a), as added by House Bill (HB) 3, 86th Texas Legislature, 2019.

COMMITTEE ON INSTRUCTION (continued)

**3. Proposed Approval of Innovative Courses
(Board agenda page II-7)**

**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).

**4. Approval of Update to Instructional Materials for Learning A–Z
(Board agenda page II-10)**

**COMMITTEE - ACTION
SBOE - CONSENT**

Learning A–Z is requesting approval to update content in its adopted product *Raz Plus ELL Texas Edition*, grade 5. The updated content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003, and §31.022.

**5. Approval of Substitution of Instructional Materials for QuaverEd
(Board agenda page II-14)**

**COMMITTEE - ACTION
SBOE - CONSENT**

QuaverEd is requesting approval to substitute instructional materials in its adopted product *Quaver Pre-K Curriculum*. The substituted content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003 and §31.022.

COMMITTEE ON INSTRUCTION (continued)

6. **Discussion of Proposed Repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings**
(Board agenda page II-15)

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

This item provides an opportunity for the committee to discuss the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings. The proposed repeal would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to instructional arrangements in special education. Statutory authority for this item is the Texas Education Code (TEC), §48.102(e) and (g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019.

**THURSDAY
January 28, 2021**

9:00 a.m.

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

Members: Tom Maynard, chair; Lawrence A. Allen, Jr., vice chair; Rebecca Bell-Metereau; Patricia Hardy; Will Hickman. 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 <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

**1. Election of Chair
(Board agenda page III-1)**

**COMMITTEE - ACTION
SBOE - NO ACTION**

State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity the Committee on School Finance/Permanent School Fund to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only. Statutory authority for this action is the Texas Education Code, §7.107(b).

**2. Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide
(First Reading and Filing Authorization)
(Board agenda page III-2)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide. The proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG). Statutory authority for this action is the Texas Education Code (TEC), §§7.055(b)(32), 7.102(c)(32), 44.001(a) and (b), 44.007(a)-(d), and 44.008(b).

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

3. **Rule Review of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts, Subchapter B, Texas Education Agency Audit Functions, Subchapter C, Adoptions by Reference, and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract**
(Board agenda page III-8)

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts, Subchapter B, Texas Education Agency Audit Functions, Subchapter C, Adoptions by Reference, and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract. The rules being reviewed provide requirements for school districts relating to budgeting, accounting, financial reporting, and auditing; Texas Education Agency (TEA) financial review functions; adoption by reference of the *Financial Accountability System Resource Guide* (FASRG); and the bank bid and proposal forms and the depository contract and surety bond forms. The statutory authority for the rule review is TGC, §2001.039. The statutory authority for 19 TAC Chapter 109 is Texas Education Code (TEC), §§7.102(c)(32), 44.001, 44.002, 44.007, and 44.008, for Subchapter A; TEC, §§7.102(c)(32), 44.001, 44.007, 44.008, 44.010, and 48.104, for Subchapter B; TEC, §§7.055(b)(32), (36), and (37); 7.102(c)(32); 44.001; 44.007(a)-(d); and 44.008(b), for Subchapter C; and TEC, §§7.102(c)(34), 45.206, and 45.208, for Subchapter D.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

4. **Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts (Adoption of Review) (Board agenda page III-58)** COMMITTEE - ACTION
SBOE - ACTION

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts. The rules in Subchapter B address the historically underutilized business (HUB) program and procedures relating to protest for purchasing issues and dispute resolution, in accordance with TGC requirements. The statutory authority for the rule review is TGC, §2001.039. The statutory authority for 19 TAC Chapter 30, Subchapter B, is TGC, §§2161.003, 2155.076, and 2260.052.

5. **Review of Permanent School Fund Securities Transactions and the Investment Portfolio (Board agenda page III-62)** COMMITTEE - DISCUSSION
SBOE - NO ACTION

Investment staff will report on the transactions executed during the months of October and November 2020 in the investment portfolio of the Texas Permanent School Fund. Statutory authority for this item is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

6. **Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of October and November 2020 (Board agenda page III-63)** COMMITTEE - ACTION
SBOE - CONSENT

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 October and November 2020. Statutory authority for this action is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

7. **Report on the Permanent School Fund Liquid Account** COMMITTEE - ACTION
(Board agenda page III-64) SBOE - CONSENT

This item provides an opportunity for the committee and board to receive a status update on the liquid account and take action to ratify transactions. Statutory authority for this action is the Texas Constitution, Article VII, §5 and §2; Natural Resources Code (NRC), §51.414, as added by HB 4388, 86th Texas Legislature, 2019; and 19 Texas Administrative Code (TAC), Chapter 33.

8. **Annual Reporting of the Internally Managed Permanent School Fund Investment Portfolio** COMMITTEE - DISCUSSION
(Board agenda page III-65) SBOE - NO ACTION

This item provides an opportunity for the Executive Administrator and Chief Investment Officer of the Permanent School Fund to report on various items required by 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund. Statutory authority for this item is Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

9. **Third Quarter 2020 Permanent School Fund Performance Report** COMMITTEE - DISCUSSION
(Board agenda page III-66) SBOE - NO ACTION

The performance measurement consultant to the Permanent School Fund, BNY Mellon Asset Servicing, will report on the investment performance during the third calendar quarter 2020 and cumulative investment performance of the various portfolios of the Fund. This item provides the opportunity for the committee to discuss in depth various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes. Statutory authority for this item is the Texas Constitution, Article VII, §2 and §5; 19 Texas Administrative Code (TAC), Chapter 33.

10. **Approval of an Extension of the Standard Contract with BNY Mellon and Authorization for Contract Execution by the Commissioner of Education** COMMITTEE - ACTION
(Board agenda page III-67) SBOE - CONSENT

This item provides an opportunity for the committee and board to extend the standard contract with BNY Mellon, and authorize contract execution by the commissioner of education. Statutory authority for this action is the Texas Constitution, Article VII, §2 and §5; Natural Resources Code (NRC), §51.414; 19 Texas Administrative Code (TAC), Chapter 33.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

- 11. Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules (Second Reading and Final Adoption) (Board agenda page III-68)** COMMITTEE - ACTION
SBOE - CONSENT

This item presents for second reading and final adoption proposed amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules. The proposed amendments would amend the asset allocation of the Permanent School Fund (PSF), update transactions and restrictions that apply to the PSF, and update cross references and a section title. No changes are recommended since approved for first reading. Statutory authority for this action is the Texas Constitution, Article VII, §5(a) and (f); Texas Education Code (TEC), §43.001; §43.0052, as added by House Bill (HB) 4388, 86th Texas Legislature, 2019; and Texas Natural Resources Code (NRC), §32.012, as amended by Senate Bill (SB) 608, 86th Texas Legislature, 2019; NRC, §32.0161, as added by SB 608, 86th Texas Legislature, 2019; and NRC, §32.068, and §51.414, as added by HB 4388, 86th Texas Legislature, 2019.

- 12. Review of the Private Equity Asset Class for the Permanent School Fund (Board agenda page III-76)** COMMITTEE - DISCUSSION
SBOE - NO ACTION

This item provides an opportunity for the board to review the private equity asset class. Statutory authority for this item is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

- 13. Review of Real Return Asset Class for the Permanent School Fund (Board agenda page III-77)** COMMITTEE - ACTION
SBOE - CONSENT

This item provides an opportunity for the committee and board to review the real return asset class for the Permanent School Fund (PSF). Statutory authority for this action is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

**14. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer
(Board agenda page III-78)**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF 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 PSF. Statutory authority for this item is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

**THURSDAY
January 28, 2021**

9:00 a.m.

COMMITTEE ON SCHOOL INITIATIVES – Room 1-111

Members: Marisa B. Perez-Diaz, vice chair; Ruben Cortez, Jr; Keven Ellis; Matt Robinson; Audrey Young. 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 <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

**1. Election of Chair
(Board agenda page IV-1)**

**COMMITTEE – ACTION
SBOE – NO ACTION**

State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity for the Committee on School Initiatives to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only. Statutory authority for this action is the Texas Education Code, §7.107(b).

**2. Open-Enrollment Charter School Generation 26
Application Updates
(Board agenda page IV-2)**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

The director of the Division of Charter School Authorizing and Administration will discuss updates regarding the Generation Twenty-Six Open-Enrollment Charter Application cycle. Statutory authority for this item is the Texas Education Code (TEC), §12.101.

COMMITTEE ON SCHOOL INITIATIVES (continued)

3. **Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions (Adoption of Review) (Board agenda page IV-3)**

**COMMITTEE – ACTION
SBOE - ACTION**

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions. Subchapter A establishes the SBOE process for petitioning the adoption of changes to SBOE rules, as required by TGC, §2001.021. The statutory authority for the rule review is TGC, §2001.039. The statutory authority for 19 TAC Chapter 30, Subchapter A, is TGC, §2001.021.

4. **Proposed Amendment to 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes (First Reading and Filing Authorization) (Board agenda page IV-8)**

**COMMITTEE – ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes. The proposed amendment would update the State Board of Education (SBOE) petition procedures to allow for electronic submission of a petition authorized under Texas Government Code (TGC), §2001.021. Statutory authority for this action is the Texas Government Code (TGC), §2001.021.

COMMITTEE ON SCHOOL INITIATIVES (continued)

5. **Proposed New 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District
(First Reading and Filing Authorization)
(Board agenda page IV-13)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District. The proposed new rule would identify provisions of the Texas Education Code (TEC) that are not applicable to Boys Ranch Independent School District. Statutory authority for this action is the Texas Education Code (TEC), §11.351 and §11.352.

Information Materials

1. **State Board of Education Operating Rules, September 13, 2019**
Public testimony information begins on page V-8.
(Board agenda page V-1)

2. **Current Status of the Permanent School Fund**
(Board agenda page V-24)

3. **2017-2021 Rule Review Plan for State Board of Education Rules**
(Board agenda page V-25)

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. **Annual Report of the Division of Financial Compliance**
(Board agenda page V-32)

This item provides the board with an annual review of the work accomplished by the division responsible for state financial reviews. The report describes the division's organization and legal responsibilities, deviations from the 2019-2020 audit plan, and the status of reports on the division's reviews.

OFFICIAL AGENDA

**STATE BOARD OF EDUCATION
AUSTIN, TEXAS**

**January 26, 2021
10:00 a.m.**

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

Pledge of Allegiance

Roll Call

Invocation

1. Swearing-in Ceremony for Members of the State Board of Education

Oaths of office will be administered to the newly elected State Board of Education (SBOE) members during a ceremony. After the swearing-in ceremony, the State Board of Education may hold a reception in Room 1-104. No official SBOE business will be discussed if there is a reception. Statutory authority for this action is the Texas Education Code (TEC), §7.107(b).

(Agenda Exhibit) SBOE-1

2. Review and Adoption of State Board of Education Operating Rules

Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new members, the board shall adopt rules of procedure. This item provides an opportunity for the board to review existing operating rules to determine if changes and revisions are needed.

(Agenda Exhibit) SBOE-2

3. Election of State Board of Education Officers

Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new State Board of Education (SBOE) members, the board shall elect by separate votes, a vice chair and a secretary. The current operating rules establish the terms of office for the vice chair and secretary of the board as two years and until their successors are elected.

(Agenda Exhibit) SBOE-6

4. Announcement of Membership of Committees

Pursuant to the provisions of the Texas Education Code, (TEC), §7.107(b), at the board's first regular meeting after the election and qualification of new members, the board shall organize. This item provides the opportunity to announce appointments to the committees of the State Board of Education (SBOE).

[\(Agenda Exhibit\)](#) SBOE-7

OFFICIAL AGENDA

**STATE BOARD OF EDUCATION
AUSTIN, TEXAS**

**January 29, 2021
9:00 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, November 20, 2020

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 <https://tea.texas.gov/about-tea/leadership/state-board-education/sboe-meetings/sboe-operating-rules-amended-9-13-19> or in the information section of the agenda.

1. Resolutions

Resolutions and presentations of the Presidential Awards for Excellence in Mathematics and Science Teaching
(No Exhibit)

Resolution regarding Career and Technical Education Month
(No Exhibit)

Resolution honoring the recipient of the Employers for Education Excellence Award
(No Exhibit)

2. Approval of Consent Agenda

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

[\(Agenda Exhibit\)](#) 28

COMMITTEE OF THE FULL BOARD

3. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements (Second Reading and Final Adoption)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements. The proposed amendment would update the rule to align with the requirement in House Bill (HB) 3, 86th Texas Legislature, 2019, that students complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) as a requirement for high school graduation. The amendment would also specify when a student may demonstrate proficiency in certain communication skills required for graduation. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(4); 28.025(c), as amended by HB 3, 86th Texas Legislature, 2019; and 28.0256(a), (b), and (d), as added by HB 3, 86th Texas Legislature, 2019.

(Agenda Exhibit) I-7

4. Consideration of Petition for Adoption of Rule in 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies

A petition to adopt a new course in 19 Texas Administrative Code (TAC) Chapter 113, Texas Essential Knowledge and Skills for Social Studies, has been received from Jarwanza T. Norris. The petition requests that the State Board of Education (SBOE) adopt United States History Studies Before 1877 and offer the course to all high school students. This item provides an opportunity for the SBOE to consider the petition. Statutory authority for this action is the Texas Government Code (TGC), §2001.021; Texas Education Code (TEC) §28.002 and §28.025; and 19 TAC §30.1.

(Agenda Exhibit) I-14

5. Update on Texas Essential Knowledge and Skills (TEKS) Review

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS). The item also provides the opportunity for the board to provide additional guidance to TEKS and ELPS review work groups. Statutory authority for this action is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.025(a).

(Agenda Exhibit) I-23

COMMITTEE ON INSTRUCTION

- 6. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript) (First Reading and Filing Authorization)**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript), to update the rule to require documentation of the new graduation requirement that a student complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA). Statutory authority for this action is the Texas Education Code (TEC), §7.102(c)(13), and §28.025(e).

(Agenda Exhibit) II-2

- 7. **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-7

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND

- 8. **Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide (First Reading and Filing Authorization)**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide. The proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG). Statutory authority for this action is the Texas Education Code (TEC), §§7.055(b)(32), 7.102(c)(32), 44.001(a) and (b), 44.007(a)-(d), and 44.008(b).

(Agenda Exhibit) III-2

9. **Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts**
(Adoption of Review)

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts. The rules in Subchapter B address the historically underutilized business (HUB) program and procedures relating to protest for purchasing issues and dispute resolution, in accordance with TGC requirements. The statutory authority for the rule review is TGC, §2001.039. The statutory authority for 19 TAC Chapter 30, Subchapter B, is TGC, §§2161.003, 2155.076, and 2260.052.

(Agenda Exhibit) III-58

COMMITTEE ON SCHOOL INITIATIVES

10. **Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions**
(Adoption of Review)

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions. Subchapter A establishes the SBOE process for petitioning the adoption of changes to SBOE rules, as required by TGC, §2001.021. Statutory authority for the rule review is TGC, §2001.039. Statutory authority for 19 TAC Chapter 30, Subchapter A, is TGC, §2001.021.

(Agenda Exhibit) IV-3

11. **Proposed Amendment to 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes**
(First Reading and Filing Authorization)

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes. The proposed amendment would update the State Board of Education (SBOE) petition procedures to allow for electronic submission of a petition authorized under Texas Government Code (TGC), §2001.021. Statutory authority for this action is the Texas Government Code (TGC), §2001.021.

(Agenda Exhibit) IV-8

12. **Proposed New 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District (First Reading and Filing Authorization)**

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District. The proposed new rule would identify provisions of the Texas Education Code (TEC) that are not applicable to Boys Ranch Independent School District. Statutory authority for this action is the Texas Education Code (TEC), §11.351 and §11.352.

(Agenda Exhibit) IV-13

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, September 13, 2019**
Public testimony information begins on page V-8.
(Board agenda page V-1)
2. **Current Status of the Permanent School Fund**
(Board agenda page V-24)
3. **2017-2021 Rule Review Plan for State Board of Education Rules**
(Board agenda page V-25)

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. **Annual Report of the Division of Financial Compliance**
(Board agenda page V-32)

This item provides the board with an annual review of the work accomplished by the division responsible for state financial reviews. The report describes the division's organization and legal responsibilities, deviations from the 2019-2020 audit plan, and the status of reports on the division's reviews.

**CONSENT AGENDA
STATE BOARD OF EDUCATION
January 29, 2021**

(1) Approval of Update to Instructional Materials for Learning A–Z

Learning A–Z is requesting approval to update content in its adopted product *Raz Plus ELL Texas Edition*, grade 5. The updated content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003, and §31.022.

[\(Agenda Exhibit\)](#) II-10

(2) Approval of Substitution of Instructional Materials for QuaverEd

QuaverEd is requesting approval to substitute instructional materials in its adopted product *Quaver Pre-K Curriculum*. The substituted content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority for this action is the Texas Education Code (TEC), §31.003 and §31.022.

[\(Agenda Exhibit\)](#) II-14

(3) Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of October and November 2020

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 October and November 2020. Statutory authority for this action is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

[\(Agenda Exhibit\)](#) III-63

(4) Report on the Permanent School Fund Liquid Account

This item provides an opportunity for the committee and board to receive a status update on the liquid account and take action to ratify transactions. Statutory authority for this action is the Texas Constitution, Article VII, §5 and §2; Natural Resources Code (NRC), §51.414, as added by HB 4388, 86th Texas Legislature, 2019; and 19 Texas Administrative Code (TAC), Chapter 33.

[\(Agenda Exhibit\)](#) III-64

(5) Approval of an Extension of the Standard Contract with BNY Mellon and Authorization for Contract Execution by the Commissioner of Education

This item provides an opportunity for the committee and board to extend the standard contract with BNY Mellon, and authorize contract execution by the commissioner of education. Statutory authority for this action is the Texas Constitution, Article VII, §2 and §5; Natural Resources Code (NRC), §51.414; 19 Texas Administrative Code (TAC), Chapter 33.

[\(Agenda Exhibit\)](#) III-67

(6) Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules (Second Reading and Final Adoption)

This item presents for second reading and final adoption proposed amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules. The proposed amendments would amend the asset allocation of the Permanent School Fund (PSF), update transactions and restrictions that apply to the PSF, and update cross references and a section title. No changes are recommended since approved for first reading. Statutory authority for this action is the Texas Constitution, Article VII, §5(a) and (f); Texas Education Code (TEC), §43.001; §43.0052, as added by House Bill (HB) 4388, 86th Texas Legislature, 2019; and Texas Natural Resources Code (NRC), §32.012, as amended by Senate Bill (SB) 608, 86th Texas Legislature, 2019; NRC, §32.0161, as added by SB 608, 86th Texas Legislature, 2019; and NRC, §32.068 and §51.414, as added by HB 4388, 86th Texas Legislature, 2019.

[\(Agenda Exhibit\)](#) III-68

(7) Review of Real Return Asset Class for the Permanent School Fund

This item provides an opportunity for the committee and board to review the real return asset class for the Permanent School Fund (PSF). Statutory authority for this action is the Texas Constitution, Article VII, §5 and §2; and 19 Texas Administrative Code (TAC), Chapter 33.

[\(Agenda Exhibit\)](#) III-77

STATE BOARD OF EDUCATION

Swearing-in Ceremony for Members of the State Board of Education

January 26, 2021

STATE BOARD OF EDUCATION: ACTION

SUMMARY: Oaths of office will be administered to the newly elected State Board of Education (SBOE) members during a ceremony. After the swearing-in ceremony, the State Board of Education may hold a reception in Room 1-104. No official SBOE business will be discussed if there is a reception.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§7.107\(b\)](#).

TEC, §7.107(b) requires the SBOE to organize, adopt operating rules, and elect a vice chair and secretary at the first meeting after an election and qualification of new members.

PREVIOUS BOARD ACTION: A swearing-in ceremony for SBOE members was last held on January 28, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: SBOE members are elected from single-member districts and serve two-year terms of office. Board members for districts 1, 5, 6, 8, 9, 10, 14, and 15 were elected on November 3, 2020.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Review and Adoption of State Board of Education Operating Rules

January 26, 2021

STATE BOARD OF EDUCATION: ACTION

SUMMARY: Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new members, the board shall adopt rules of procedure. This item provides an opportunity for the board to review existing operating rules to determine if changes and revisions are needed.

STATUTORY AUTHORITY: Texas Education Code (TEC), [§7.107\(b\)](#).

TEC, §7.107(b) requires the State Board of Education (SBOE) to organize, adopt operating rules, and elect a vice chair and secretary at the first regular meeting after an election and qualification of new members.

PREVIOUS BOARD ACTION: SBOE operating rules were approved on January 28, 2019 and amended on September 13, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: The board is required by state law to adopt rules of procedures at its first regular meeting after the election and qualification of new members. Current board operating rules and the areas of jurisdiction are shown in the information section of this agenda. The board's current operating rules contain a resolution which defines committees of the SBOE and their assignments.

MOTION TO BE CONSIDERED: The State Board of Education:

Review and adopt operating rules as amended.

Staff Member Responsible:

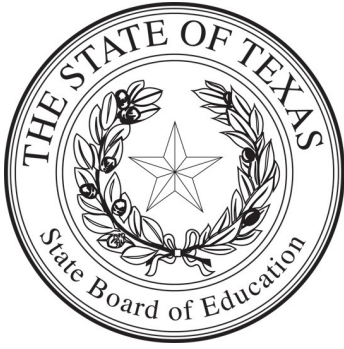
Monica Martinez, Associate Commissioner, Standards and Support Services

Separate Exhibit:

State Board of Education Operating Rules
(Proposed for Amendment January 26, 2021)

Attachment:

Registration Form for Public Testimony



Texas State Board of Education

Registration Form for Public Testimony

Name *

First Name

Last Name

Address *

Street Address

City

State

Zip Code

Phone Number *

Email *

example@example.com

I wish to speak

- as a private individual
- on behalf of an organization

Name of Organization

Are you a registered lobbyist?

- Yes
- No

Name of Client

For complete agenda information: <https://tea.texas.gov/sboe/agenda/>

If you wish to testify on multiple agenda items, complete a registration form for each item.

I want to testify before this body. Please select from these options:

- Committee of the Full Board
- Committee on Instruction
- Committee on School Finance/Permanent School Fund
- Committee on School Initiatives
- General Meeting

Agenda Item Number to be presented

- | | |
|-------------------------------|-------------------------------|
| <input type="radio"/> Item 1 | <input type="radio"/> Item 11 |
| <input type="radio"/> Item 2 | <input type="radio"/> Item 12 |
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| <input type="radio"/> Item 9 | <input type="radio"/> Item 19 |
| <input type="radio"/> Item 10 | <input type="radio"/> Item 20 |

Agenda Item Title to be presented *

Please verify that agenda title is correct.

Date Agenda Item is to be presented

Month Day Year

General Meeting (Only topics not covered on the agenda items may be addressed. *

Your Position

- For
- Against
- Comment On

Date of Submission

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Month Day Year

Signature _____

Election of State Board of Education Officers

January 26, 2021

STATE BOARD OF EDUCATION: ACTION

SUMMARY: Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the first regular meeting after the election and qualification of new State Board of Education (SBOE) members, the board shall elect by separate votes, a vice chair and a secretary. The current operating rules establish the terms of office for the vice chair and secretary of the board as two years and until their successors are elected.

STATUTORY AUTHORITY: Texas Education Code (TEC), [§7.107\(b\)](#).

TEC, §7.107(b) requires the SBOE to organize, adopt operating rules, and elect a vice chair and secretary at the first meeting after an election and qualification of new members.

PREVIOUS BOARD ACTION: At the January 2019 meeting, Marty Rowley was re-elected vice chair and Georgina C. Pérez was elected secretary.

BACKGROUND INFORMATION AND JUSTIFICATION: The chair of the board is appointed by the governor, with the advice and consent of the Texas Senate, for a two-year term of office. The chair holds over in the position until a new chair is appointed and confirmed by the Texas Senate.

The other officers of the board – the vice chair and secretary – are elected by the board in separate votes. The duties of these two officers are listed in Section 1.1(b) of the board’s operating rules. The vice chair and secretary serve two-year terms and continue to serve until their successors are elected.

MOTION TO BE CONSIDERED: The State Board of Education:

Elect a vice chair and a secretary as required by the TEC, §7.107(b).

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Announcement of Membership of Committees

January 26, 2021

STATE BOARD OF EDUCATION: ACTION

SUMMARY: Pursuant to the provisions of the Texas Education Code (TEC), §7.107(b), at the board's first regular meeting after the election and qualification of new members, the board shall organize. This item provides the opportunity for the chair to announce appointments to the committees of the State Board of Education (SBOE).

BACKGROUND INFORMATION AND JUSTIFICATION: Current SBOE operating rules, §1.2(d), specify that 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 adoption of rules and election of officers. 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, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

COMMITTEE OF THE FULL BOARD

Work Session on Texas Essential Knowledge and Skills (TEKS) Review and Instructional Materials Adoption Cycle

January 26, 2021

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

SUMMARY: This item provides an opportunity for the board to discuss the schedule for review and revision of Texas Essential Knowledge and Skills (TEKS) and the review and adoption cycle for instructional materials aligned to revised TEKS.

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

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

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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(a), 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 TEC, §28.002.

TEC, §31.003, grants the SBOE authority to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

The full text of statutory citations can be found in the statutory authority section of this agenda.

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

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for all subjects effective September 1, 1998. The English language arts and reading TEKS were amended effective September 4, 2008. The Spanish language arts and reading TEKS were amended effective November 26, 2008. The TEKS for high school English elective courses were amended effective August 23, 2010. The English and Spanish language arts and reading TEKS for Kindergarten-Grade 8 were amended effective September 25, 2017, and the English language arts and reading and English as a second language (ESL) TEKS for high school were amended effective November 12, 2017. The K-12 TEKS for English and Spanish language arts and reading were again amended effective August 1, 2019, to make technical adjustments to the standards. The mathematics TEKS were amended effective August 1, 2006. The secondary mathematics TEKS were amended effective February 22, 2009. The mathematics TEKS were again amended effective September 12, 2012. The science TEKS were amended effective August 4, 2009 and were amended again to streamline the science TEKS effective August 27, 2018. The social studies TEKS were amended effective August 23, 2010 and were amended again to streamline the social studies TEKS in 2018. The streamlined social studies TEKS for middle and high school social studies were effective August 1, 2019 for implementation beginning with the 2019-2020 school year. The streamlined Kindergarten-Grade 5 social studies TEKS are scheduled for implementation in the 2020-2021 school year. The career and technical

education (CTE) TEKS were amended effective August 23, 2010. The CTE TEKS were again amended effective August 28, 2017 and implemented in the 2017-2018 school year. The fine arts TEKS were amended effective August 24, 2015. The TEKS for languages other than English (LOTE) were amended effective July 15, 2014, and December 31, 2014, and were implemented in the 2017-2018 school year. The technology applications TEKS were amended effective September 26, 2011. At the November 2020 meeting, the board gave final approval to the health education TEKS and the physical education TEKS, which are scheduled to be effective August 1, 2022. The board also gave final approval in November 2020 to TEKS for four high school science courses to be implemented beginning with the 2023-2024 school year.

Proclamation 2010 was issued by the SBOE in November 2007. *Proclamation 2011* was issued by the SBOE in May 2008. In May 2010, the board voted to postpone *Proclamation 2012* indefinitely. In its place, the board issued a Request for Supplemental Science Materials for science, grades 5-8, Biology, Chemistry, Integrated Physics and Chemistry (IPC), and Physics. *Proclamation 2014* was issued by the SBOE in April 2012. *Proclamation 2015* was issued by the SBOE in April 2013. At the July 2014 meeting, the board took action to delay the effective date of *Proclamation 2016* for one calendar year and to combine the subject areas that were scheduled to be included in *Proclamation 2016* with those that were scheduled to be included in *Proclamation 2017*. *Proclamation 2017* was issued by the SBOE in April 2015. *Proclamation 2018* was issued by the SBOE in November 2016. In April 2017, the SBOE issued *Proclamation 2019*. The SBOE issued *Proclamation 2020* in April 2018 and in June 2019 the SBOE issued *Proclamation 2021* calling for prekindergarten systems. In April 2020, the SBOE issued *Proclamation 2022* calling for materials for health education and physical education.

BACKGROUND INFORMATION AND JUSTIFICATION: A revised adoption cycle for instructional materials was approved by the SBOE in January 2012. In July 2014, House Bill 188, 80th Texas Legislature, 2007, required the SBOE to designate each proclamation by the school year in which the instructional materials are intended to be made available in classrooms. Following a work session in 2017, the SBOE approved a revised TEKS and instructional materials review and adoption schedule. The schedule included review of courses for two to three career and technical education (CTE) clusters each year rather than review and revision of all CTE courses at one time.

At the June 2019 SBOE meeting, the board held a work session to discuss updating the TEKS and instructional materials review and adoption schedule. At the September 2019 meeting, the board approved a revised schedule through the 2030-2031 school year. In accordance with the SBOE's approved TEKS and instructional materials review schedule, the SBOE began the review of the English Language Proficiency Standards (ELPS) in early 2019 and the review of the science TEKS in late 2019.

At the September 2019 meeting, SBOE members were asked to designate content advisors for the review and revision of the science TEKS. In December 2019, applications to serve on science TEKS review work groups were posted on the Texas Education Agency (TEA) website. Additionally, in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for the science review work groups to SBOE members on a monthly basis from December 2019 to June 2020 and in September, October, and December 2020. At the recommendation of the content advisors and Work Group A, the SBOE directed work groups to use a backward design approach to the science TEKS revision. Consequently, the work groups began with recommendations for revisions to four key high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics.

In November 2020, the SBOE approved for second reading and final adoption revised TEKS for the four high school science courses for implementation beginning in the 2023-2024 school year. Work groups are in the process of finalizing recommendations for the Kindergarten-Grade 8 science TEKS. Discussion of

proposed new TEKS for the remaining four high school science courses and a new Independent Study in Science course are presented 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

Melissa Lautenschlager, Director, Instructional Materials and Implementation

Public Hearing on Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47-112.51

January 26, 2021

**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, January 26, 2021. Testimony will be presented regarding proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47, Aquatic Science, Adopted 2021 (One Credit); 112.48, Astronomy, Adopted 2021 (One Credit); 112.49, Earth and Space Science, Adopted 2021 (One Credit); 112.50, Environmental Systems, Adopted 2021 (One Credit); and 112.51, Independent Study in Science, Adopted 2021 (One Credit). Due to the anticipated volume of testimony, oral testimony will be limited to two minutes per person.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (j), and (n); and 28.025(a).

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

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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, §28.002(j), allows the SBOE to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.

TEC, §28.002(n), allows the SBOE to by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technical education curriculum required in TEC, §28.002.

TEC, §28.025(a), 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 TEC, §28.002.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: 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 September 2019 meeting, SBOE members were asked to designate content advisors for the review and revision of the science Texas Essential Knowledge and Skills (TEKS). In December 2019, applications to serve on science TEKS review work groups were posted on the Texas Education Agency

(TEA) website. Additionally in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for the science review work groups to SBOE members on a monthly basis from December 2019 to June 2020 and in September, October, and December 2020. At the January 2020 SBOE meeting, the SBOE provided specific guidance for the TEKS review work groups.

Also in January 2020, science TEKS review content advisors met in a face-to-face meeting to develop consensus recommendations regarding revisions to the science TEKS to share with future work groups. At that time, the content advisors met with representatives from Work Group A to discuss the consensus recommendations. Work Group A convened in February 2020 to review survey results, content advisor consensus recommendations, and the SBOE's guidance to work groups to develop recommendations for how science TEKS review work groups can address these areas. Work Group B was convened virtually in June 2020 to develop recommendations for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics. In November 2020, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45 for implementation beginning in the 2023-2024 school year.

Work Group C convened for a series of virtual meetings between August and November 2020 to develop recommendations for the middle school science TEKS. Work Group D was convened for monthly meetings in November and December 2020 and January 2021 to develop recommendations for TEKS for five high school science courses: Aquatic Science, Astronomy, Earth and Space Science, Environmental Systems, and a new course in Independent Study in Science.

Proposed new 19 TAC §§112.47-112.51 is presented for discussion 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

Commissioner's Comments

January 27, 2021

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.

BOARD RESPONSE: Review and comment.

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

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements
(Second Reading and Final Adoption)

January 29, 2021

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

SUMMARY: This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements. The proposed amendment would update the rule to align with the requirement in House Bill (HB) 3, 86th Texas Legislature, 2019, that students complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) as a requirement for high school graduation. The amendment would also specify when a student may demonstrate proficiency in certain communication skills required for graduation.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.025(c), as amended by HB 3, 86th Texas Legislature, 2019; and 28.0256(a), (b), and (d), as added by HB 3, 86th Texas Legislature, 2019.

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

TEC, §28.025(c), as amended by HB 3, 86th Texas Legislature, 2019, requires that, in order to receive a high school diploma, a student must complete the curriculum requirements identified by the SBOE and comply with the financial aid application requirement in accordance with TEC, §28.0256.

TEC, §28.0256(a), as added by HB 3, 86th Texas Legislature, 2019, requires each student to complete and submit a FAFSA or a TASFA before graduating from high school.

TEC, §28.0256(b), as added by HB 3, 86th Texas Legislature, 2019, provides an exception to students to opt out of the financial aid application requirement under TEC, §28.0256(a), by submitting a form signed by a parent, guardian, or student aged 18 years old or older, that authorizes the student to decline to comply with the financial aid application graduation requirement. A high school counselor may also authorize a student to decline to comply with the financial aid application graduation requirement for good cause.

TEC, §28.0256(d), as added by HB 3, 86th Texas Legislature, 2019, specifies that if a school counselor notifies a school district whether a student has complied with the requirement under TEC, §28.0256(a) or (b), the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is August 1, 2021. 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 2021-2022 school

year. The earlier effective date will allow districts of innovation that begin school prior to the statutorily required start date to implement the proposed rulemaking when they begin their school year.

PREVIOUS BOARD ACTION: The SBOE adopted rules in 19 TAC Chapter 74, Subchapter B, to implement the Foundation High School Program effective July 8, 2014. The SBOE adopted amendments to 19 TAC §74.11 effective August 22, 2016; August 28, 2017; August 27, 2018, and November 24, 2019. The SBOE last adopted an amendment effective August 1, 2020. The SBOE approved for first reading and filing authorization a proposed amendment to 19 TAC §74.11 at the November 2020 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The 86th Texas Legislature, 2019, passed HB 3, amending TEC, §28.025(c), and adding new TEC, §28.0256, to require a student to complete a financial aid application, FAFSA or TASFA, in order to graduate. In accordance with TEC, §28.0256(b), a student is not required to comply with the financial aid application requirement if the student's parent or guardian submits a signed opt-out form authorizing the student to decline to complete and submit a financial aid application. The student may submit the opt-out form on the student's own behalf if the student is 18 years of age or older or is an emancipated youth under Texas Family Code, Chapter 31. A school counselor may also authorize the student to decline to complete and submit a financial aid application for good cause, as determined by the school counselor. The opt-out form must be approved by the Texas Education Agency (TEA).

The attachment to this item reflects the text of proposed amendment to 19 TAC §74.11 for consideration by the SBOE for second reading and final adoption. The proposed amendment would update the rule to align with the financial aid application requirement and include options by which a student may opt out of the requirement. Since approved for first reading, a change is recommended to §74.11(b) to clarify that the new requirement applies to students enrolled in Grade 12 during the 2021-2022 school year.

Additionally, the proposed amendment would establish in subsection (a)(3) that students may satisfy the graduation requirement to demonstrate proficiency in certain speech skills in Grade 8 or higher.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

TEA has determined that the proposal would have no fiscal impact to state or local government beyond what is required by the authorizing statute. HB 3 requires school districts and charter schools to monitor and report the completion of the financial aid application requirement, which will have a cost to the state. The 86th Texas Legislature, 2019, appropriated \$1.5 million for the creation of a database to track TASFA completion electronically.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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 requiring students to either submit a financial aid application or to opt out of the graduation requirement.

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: No changes have been made to this section since published as proposed.

The proposal would promote students' completion of financial aid applications and eligibility to receive financial aid. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have data and reporting implications. TEC, §28.026(e)(2), requires each school district to report to the agency the number of students who complete and submit a financial aid application and the number of students who opted out of the financial aid requirement.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

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: Following the November 2020 meeting, notice of the proposed amendment to 19 TAC §74.11 was filed with the Texas Register, initiating the public comment period. The public comment period began December 18, 2020, and ended January 22, 2021. No comments had been received

at the time this item was prepared. A summary of public comments received will be provided to the SBOE prior to and during the January 2021 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements; and

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements, is necessary and shall have an effective date of August 1, 2021. *(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:

Text of Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 74. Curriculum Requirements

Subchapter B. Graduation Requirements

§74.11. High School Graduation Requirements.

- (a) To receive a high school diploma, a student entering Grade 9 in the 2014-2015 school year and thereafter must complete the following:
- (1) in accordance with subsection (d) ~~(e)~~ of this section, requirements of the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program);
 - (2) testing requirements for graduation as specified in Chapter 101 of this title (relating to Assessment); and
 - (3) demonstrated proficiency, in Grade 8 or higher, as determined by the district in which the student is enrolled, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.
- (b) Beginning with students enrolled in Grade 12 during the 2021-2022 school year ~~Before graduating from high school~~, each student in Grade 12 must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) before graduating from high school. A student may graduate under the Foundation High School Program without completing a financial aid application if:
- (1) the student's parent or other person standing in parental relation submits a signed form, approved by the Texas Education Agency (TEA), indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
 - (2) the student signs and submits the form described by paragraph (1) of this subsection on the student's own behalf if the student is 18 years of age or older or has been emancipated under Texas Family Code, Chapter 31; or
 - (3) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor. If a school counselor notifies a school district that a student has declined to complete and submit a financial aid application for good cause, the school counselor may not indicate details regarding what constitutes good cause.
- (c) ~~(b)~~ A school district shall clearly indicate the distinguished level of achievement under the Foundation High School Program, an endorsement, and a performance acknowledgment on the transcript or academic achievement record (AAR) of a student who satisfies the applicable requirements.
- (d) ~~(e)~~ A student entering Grade 9 in the 2014-2015 school year and thereafter shall enroll in the courses necessary to complete the curriculum requirements for the Foundation High School Program specified in §74.12 of this title and the curriculum requirements for at least one endorsement specified in §74.13 of this title (relating to Endorsements).
- (e) ~~(d)~~ A student may graduate under the Foundation High School Program without earning an endorsement if, after the student's sophomore year:
- (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the TEA [Texas Education Agency (TEA)],

allowing the student to graduate under the Foundation High School Program without earning an endorsement.

(f) ~~(e)~~ A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the Foundation High School Program and the curriculum requirements for at least one endorsement required by the Texas Education Code (TEC), §28.025(b-15), including four credits in science and four credits in mathematics to include Algebra II.

(g) ~~(f)~~ An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Texas diploma but must complete all requirements of this section to satisfy state graduation requirements. Any course credit required in this section that is not completed by the student before he or she enrolls in a Texas school district may be satisfied through the provisions of §74.23 of this title (relating to Correspondence Courses and Distance Learning) and §74.24 of this title (relating to Credit by Examination) or by completing the course or courses according to the provisions of §74.26 of this title (relating to Award of Credit).

(h) ~~(g)~~ Elective credits may be selected from the following:

- (1) high school courses not required for graduation that are listed in the following chapters of this title:
 - (A) Chapter 110 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading);
 - (B) Chapter 111 of this title (relating to Texas Essential Knowledge and Skills for Mathematics);
 - (C) Chapter 112 of this title (relating to Texas Essential Knowledge and Skills for Science);
 - (D) Chapter 113 of this title (relating to Texas Essential Knowledge and Skills for Social Studies);
 - (E) Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English);
 - (F) Chapter 115 of this title (relating to Texas Essential Knowledge and Skills for Health Education);
 - (G) Chapter 116 of this title (relating to Texas Essential Knowledge and Skills for Physical Education);
 - (H) Chapter 117 of this title (relating to Texas Essential Knowledge and Skills for Fine Arts);
 - (I) Chapter 127 of this title (relating to Texas Essential Knowledge and Skills for Career Development); and
 - (J) Chapter 130 of this title (relating to Texas Essential Knowledge and Skills for Career and Technical Education);
- (2) state-approved innovative courses as specified in §74.27 of this title (relating to Innovative Courses and Programs);
- (3) Junior Reserve Officer Training Corps (JROTC)--one to four credits; and
- (4) Driver Education--one-half credit.

(i) ~~(h)~~ Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements.

(j) ~~(i)~~ A student may not be enrolled in a course that has a required prerequisite unless:

- (1) the student has successfully completed the prerequisite course(s);

- (2) the student has demonstrated equivalent knowledge as determined by the school district; or
 - (3) the student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.
- (k) ~~(f)~~ A district may award credit for a course a student completed without meeting the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.
- (l) ~~(k)~~ A district shall allow a student who successfully completes AP Computer Science A or IB Computer Science Higher Level to satisfy both one advanced mathematics requirement and one languages other than English requirement for graduation.
- (m) ~~(h)~~ Each school district shall annually report to the TEA the names of the locally developed courses, programs, institutions of higher education, and internships in which the district's students have enrolled as authorized by the TEC, §28.002(g-1). The TEA shall make available information provided under this subsection to other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.
- (n) ~~(m)~~ Each school district shall annually report to the TEA the names of cybersecurity courses approved by the board of trustees for credit and the institutions of higher education in which the district's students have enrolled as authorized by the TEC, §28.002(g-3). The TEA shall make available information provided under this subsection to other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.
- (o) ~~(n)~~ A school district shall permit a student to comply with the curriculum requirements under the Foundation High School Program by successfully completing appropriate courses in the core curriculum of an institution of higher education (IHE). A student who has completed the core curriculum of an IHE in accordance with TEC, §61.822, as certified by the IHE in accordance with §4.28 of this title (relating to Core Curriculum):
- (1) is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
 - (2) is considered to have earned a distinguished level of achievement under the Foundation High School Program; and
 - (3) is entitled to receive a high school diploma.

**Consideration of Petition for Adoption of Rule in 19 TAC Chapter 113,
Texas Essential Knowledge and Skills for Social Studies**

January 29, 2021

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

SUMMARY: A petition to adopt a new course in 19 Texas Administrative Code (TAC) Chapter 113, Texas Essential Knowledge and Skills for Social Studies, has been received from Jarwanza T. Norris. The petition requests that the State Board of Education (SBOE) adopt United States History Studies Before 1877 and offer the course to all high school students. This item provides an opportunity for the SBOE to consider the petition.

STATUTORY AUTHORITY: Texas Government Code (TGC), §2001.021; Texas Education Code (TEC) §28.002 and §28.025; 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.

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.

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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Jarwanza T. Norris submitted to the SBOE a petition requesting that the board adopt United States History Studies Before 1877 and offer the course to all high school students. The petitioner indicated that adoption of United States History Studies Before 1877 is necessary because the SBOE deprived millions of past and current students their unalienable rights. The petitioner further stated that adoption of United States History Studies Before 1877 is desirable to affect peaceable change in the world and advance the common knowledge of the people. The petition, which provides the petitioner's rationale and justification, is presented in the attachment to this item.

State law 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.

The Texas Essential Knowledge and Skills adopted by the SBOE for Grade 8 social studies cover the history of the United States from the early colonial period through Reconstruction. The content in Grade 8 builds upon that from Grade 5 but provides more depth and breadth. Historical content focuses on the

political, economic, religious, and social events and issues related to the colonial and revolutionary eras, the creation and ratification of the U.S. Constitution, challenges of the early republic, the Age of Jackson, westward expansion, sectionalism, the Civil War, and Reconstruction. Students describe the physical characteristics of the United States and their impact on population distribution and settlement patterns in the past and present. Students analyze the various economic factors that influenced the development of colonial America and the early years of the republic and identify the origins of the free enterprise system. Students examine the American beliefs and principles, including limited government, checks and balances, federalism, separation of powers, and individual rights, reflected in the U.S. Constitution and other historical documents. Students evaluate the impact of Supreme Court cases and major reform movements of the 19th century and examine the rights and responsibilities of citizens of the United States as well as the importance of effective leadership in a constitutional republic. All Grade 8 students are required to receive instruction in United States History through 1877. Therefore, TEA staff recommends that the SBOE deny the petition.

MOTION TO BE CONSIDERED: The State Board of Education:

Deny the petition to adopt United States History Studies Before 1877 and offer the course to all high school students because all Grade 8 students are required to receive instruction in United States History through 1877.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Attachment:

Petition for Adoption of Rule Concerning United States History Studies Before 1877

Figure: 19 TAC §30.1(a)

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: Norris, Jarwanza T.

Affiliation/Organization (if applicable):

Address: 4121 Clover St. Houston, Tx. 77051

Telephone: (409)519-6956

Date: 30 October 2020

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):

I formally petition the State Board of Education to adopt United States History Studies Before 1877, accredit United States History Studies before 1877 one credit under Chapter 113. Texas Essential Knowledge and Skills for Social Studies Subchapter C. High School, and offer United States History Studies Before 1877 to all students.

Statutory authority for the proposed rule action:

The provisions of this Subchapter C issued under the Texas Education Code, §§7.102

(2)(A) 29.002, 29.008, and 29.025, unless otherwise noted.

Why is this rule action necessary or desirable?

The adoption of United States History Studies Before 1877 is necessary because the State Board of Education deprived millions of past and current student of their unalienable right. The adoption of United States History Studies Before 1877 is desirable to affect peaceable change in the world by helping to reduce racial through knowledge. The adoption of United States History Studies Before 1877 is desirable to advance the common knowledge of the people and extent the scope of mandatory to include all US History, Before 1877 and Since 1877.

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



Petitioner's Signature

Discussion of Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47-112.51

January 27, 2021

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

SUMMARY: This item provides an opportunity for the committee to discuss proposed new 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.47, Aquatic Science, Adopted 2021 (One Credit); 112.48, Astronomy, Adopted 2021 (One Credit); 112.49, Earth and Space Science, Adopted 2021 (One Credit); 112.50, Environmental Systems, Adopted 2021 (One Credit); and 112.51, Independent Study in Science, Adopted 2021 (One Credit). The proposed new sections would update the standards to ensure they remain current.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), (c), (j), and (n); and 28.025(a).

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

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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, §28.002(j), allows the SBOE to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.

TEC, §28.002(n), allows the SBOE to by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technical education curriculum required in TEC, §28.002.

TEC, §28.025(a), 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 TEC, §28.002.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Proposed new 19 TAC §§112.47-112.51 will be presented for first reading and filing authorization at a future SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: 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 September 2019 meeting, SBOE members were asked to designate content advisors for the review and revision of the science Texas Essential Knowledge and Skills (TEKS). In December 2019, applications to serve on science TEKS review work groups were posted on the Texas Education Agency (TEA) website. Additionally, in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for the science review work groups to SBOE members on a monthly basis from December 2019 to June 2020 and in September, October, and December 2020. At the January 2020 SBOE meeting, the SBOE provided specific guidance for the TEKS review work groups.

Also in January 2020, science TEKS review content advisors met in a face-to-face meeting to develop consensus recommendations regarding revisions to the science TEKS to share with future work groups. At that time, the content advisors met with representatives from Work Group A to discuss the consensus recommendations. Work Group A convened in February 2020 to review survey results, content advisor consensus recommendations, and the SBOE's guidance to work groups to develop recommendations for how science TEKS review work groups can address these areas. Work Group B was convened virtually in June 2020 to develop recommendations for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics. In November 2020, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45 for implementation beginning in the 2023-2024 school year.

Work Group C convened for a series of virtual meetings between August and November 2020 to develop recommendations for the middle school science TEKS. Work Group D was convened for monthly meetings in November and December 2020 and January 2021 to develop recommendations for TEKS for five high school science courses: Aquatic Science, Astronomy, Earth and Space Science, Environmental Systems, and a new course in Independent Study in Science.

A public hearing on proposed new 19 TAC §§112.47-112.51 is presented 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

Discussion of *Proclamation 2023* of the State Board of Education Advertising for Bids on Instructional Materials

January 27, 2021

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

SUMMARY: This item provides an opportunity for the State Board of Education to discuss the schedule of events and instructional materials to be included in *Proclamation 2023*. Instructional materials submitted in response to *Proclamation 2023* would be scheduled for adoption by the SBOE in November 2022.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§31.022](#).

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 and for each subject in the enrichment curriculum.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: *Proclamation 2010* was issued by the SBOE in November 2007. *Proclamation 2011* was issued by the SBOE in May 2008. In May 2010, the board voted to postpone *Proclamation 2012* indefinitely. In its place, the board issued a Request for Supplemental Science Materials for science, grades 5–8, Biology, Chemistry, Integrated Physics and Chemistry (IPC), and Physics. *Proclamation 2014* was issued by the SBOE in April 2012. *Proclamation 2015* was issued by the SBOE in April 2013. At the July 2014 meeting, the board took action to delay the effective date of *Proclamation 2016* for one calendar year and to combine the subject areas that were scheduled to be included in *Proclamation 2016* with those that were scheduled to be included in *Proclamation 2017*. *Proclamation 2017* was issued by the SBOE in April 2015. *Proclamation 2018* was issued by the SBOE in November 2016. *Proclamation 2019* was issued by the SBOE in April 2017. *Proclamation 2020* was issued by the SBOE in April 2018. *Proclamation 2021* was issued by the SBOE in June 2019. *Proclamation 2022* was issued by the SBOE in April 2020.

BACKGROUND INFORMATION AND JUSTIFICATION: A revised adoption cycle for instructional materials was approved by the SBOE in January 2012. The cycle was adjusted in July 2017. The SBOE most recently revised the adoption cycle in September 2019.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation
Amie Williams, Director, Review and Adoption

Attachment:

Text of 19 TAC Chapter 66, [State Adoption and Distribution of Instructional Materials](#), Subchapter B, [State Adoption of Instructional Materials](#), §66.27, [Proclamation, Public Notice, and Schedule for Adopting Instructional Materials](#)

Separate Exhibit:

Draft of *Proclamation 2023* of the State Board of Education Advertising for Bids on Instructional Materials

ATTACHMENT
Text of 19 TAC

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter B. State Adoption of Instructional Materials

§66.27. Proclamation, Public Notice, and Schedule for Adopting Instructional Materials.

- (a) Texas Education Code (TEC), §31.002, defines instructional materials as content that conveys the essential knowledge and skills of a subject in the public-school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book; supplementary materials; a combination of a book, workbook, and supplementary materials; computer software; magnetic media; DVD; CD-ROM; computer courseware; online services; or an electronic medium or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.
- (b) Upon the adoption of revised Texas essential knowledge and skills (TEKS) or Texas Prekindergarten Guidelines (TPG), the State Board of Education (SBOE) shall conduct an investigation to determine the extent of the revisions and whether revisions have created a need for new instructional materials.
- (c) The SBOE shall issue a proclamation calling for instructional materials according to the review and adoption cycle adopted by the SBOE if the investigation required in subsection (b) of this section results in the determination that a proclamation is necessary. The proclamation shall serve as notice to all publishers and to the public that bids to furnish new materials to the state are being invited and shall call for:
 - (1) new instructional materials aligned to all of the TEKS for a specific subject and grade level or course(s) or to the TPG and to TEC, §28.002(h), as it relates to that specific subject in understanding the importance of patriotism and functioning productively in a free-enterprise society with appreciation for the basic democratic values of our state and national heritage;
 - (2) supplemental material aligned to new or expanded TEKS for a specific subject and grade level or course(s) or to new or expanded TPG and to TEC, §28.002(h), as it relates to that specific subject in understanding the importance of patriotism and functioning productively in a free-enterprise society with appreciation for the basic democratic values of our state and national heritage;
 - (3) new information demonstrating alignment of current instructional materials to the revised TEKS for a specific subject and grade level or course(s) or the revised TPG and to TEC, §28.002(h), as it relates to that specific subject in understanding the importance of patriotism and functioning productively in a free-enterprise society with appreciation for the basic democratic values of our state and national heritage; or
 - (4) any combination of the calls described by paragraphs (1)-(3) of this subsection.
- (d) The essential knowledge and skills adopted in this title effective in the year in which instructional materials are intended to be made available in classrooms are the SBOE's official rule governing essential knowledge and skills that shall be used to evaluate instructional materials submitted for consideration under the corresponding proclamation.
- (e) The essential knowledge and skills that will be used to evaluate instructional materials submitted for consideration under a proclamation and a copy of each proclamation issued by the SBOE may be accessed from the Texas Education Agency website and are available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.
- (f) Proclamations calling for supplemental materials or new information only shall be issued at least 12 months before the scheduled adoption of instructional materials. Proclamations that include a call for complete new

materials to cover all of the TEKS or TPG shall be issued at least 18 months before the scheduled adoption of the new instructional materials.

- (g) Each proclamation shall contain the following:
- (1) information about and reference to essential knowledge and skills in each subject for which bids are being invited;
 - (2) the requirement that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic pre-adoption sample of the instructional materials as required by the TEC, §31.027(a) and (b), and may not submit a print sample copy;
 - (3) the requirement that electronic samples include a word search feature;
 - (4) the requirement that publishers file with the Texas Education Agency (TEA) print samples, electronic samples in an open file format or closed format, or galley proofs for use by state review panels;
 - (5) the student enrollment of the courses or grade levels called for, to the extent that it is available, for the school year prior to the year in which the proclamation is issued;
 - (6) specifications for providing computerized files to produce braille versions of adopted instructional materials;
 - (7) specifications for ensuring that electronic instructional materials are fully accessible to students with disabilities;
 - (8) a schedule of adoption procedures; and
 - (9) an option for the submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (h) The proclamation shall require the instructional materials submissions to cover:
- (1) content essential knowledge and skills for the subject area and grade level or course for which the materials are intended:
 - (A) at least once in the student text narrative; and
 - (B) once in an end-of-section review exercise, an end-of-chapter activity, or a unit test; and
 - (2) process essential knowledge and skills:
 - (A) at least once in the student text narrative and once in an end-of-section review exercise, an end-of-chapter activity, or a unit test; or
 - (B) twice in an end-of-section review exercise, an end-of-chapter activity, or a unit test.
- (i) A proclamation for prekindergarten materials shall require the instructional materials submissions to cover the end-of-year outcomes at least twice in the teacher materials and as deemed developmentally appropriate in the student materials. The coverage must include both an opportunity for the teacher to teach and the student to practice or demonstrate the knowledge or skill.
- (j) A draft copy of the proclamation shall be provided to each member of the SBOE and posted on the TEA website, and the TEA shall solicit input regarding the draft proclamation prior to its scheduled adoption by the SBOE. Any revisions recommended as a result of input from publishers shall be presented to the SBOE along with the subsequent draft of the proclamation.
- (k) If the SBOE determines that good cause as defined by the SBOE exists, the SBOE may adopt an emergency, supplementary, or revised proclamation without complying with the timelines and other requirements of this section.
- (l) The SBOE may issue a proclamation for instructional materials eligible for midcycle review. The midcycle adoption process shall follow the same procedures as the regular adoption except to the extent specified in this subsection.

- (1) The midcycle proclamation shall include a fee not to exceed \$10,000 for each program or system of instructional materials intended for a certain subject area and grade level or course submitted for midcycle review. Publishers participating in the midcycle review process are responsible for all expenses incurred by their participation.
- (2) A publisher that intends to offer instructional materials for midcycle review shall commit to provide the instructional materials to school districts in the manner specified by the publisher. The manner in which instructional materials are provided may include:
 - (A) providing the instructional materials to any district in a regional education service center area identified by the publisher; or
 - (B) providing a certain maximum number of instructional materials specified by the publisher.
- (3) The publisher of instructional materials submitted for midcycle review shall enter into a contract with the SBOE for a term that ends at the same time as any contract entered into by the SBOE for instructional materials for the same subject and grade level.
- (4) The publisher of instructional materials submitted for midcycle review is not required to provide samples to education service centers or school districts as specified in the TEC, §31.027.
- (5) The publisher of instructional materials submitted for midcycle review shall make available one electronic examination copy of each submitted instructional materials product, including materials intended for teacher use and ancillaries, to each SBOE member upon that member's request, beginning on the date in the adoption schedule when publishers file their samples at the TEA. The state does not guarantee return of these SBOE-requested materials.

Update on Texas Essential Knowledge and Skills (TEKS) Review

January 29, 2021

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

SUMMARY: This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS). The item also provides the opportunity for the board to provide additional guidance to TEKS and ELPS review work groups.

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

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

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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(a), 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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for all subjects effective September 1, 1998. The English language arts and reading TEKS were amended effective September 4, 2008. The Spanish language arts and reading TEKS were amended effective November 26, 2008. The TEKS for high school English elective courses were amended effective August 23, 2010. The English and Spanish language arts and reading TEKS for Kindergarten-Grade 8 were amended effective September 25, 2017, and the English language arts and reading and English as a second language (ESL) TEKS for high school were amended effective November 12, 2017. The K-12 TEKS for English and Spanish language arts and reading were again amended effective August 1, 2019, to make technical adjustments to the standards. The mathematics TEKS were amended effective August 1, 2006. The secondary mathematics TEKS were amended effective February 22, 2009. The mathematics TEKS were again amended effective September 12, 2012. The science TEKS were amended effective August 4, 2009 and were amended again to streamline the science TEKS effective August 27, 2018. The social studies TEKS were amended effective August 23, 2010 and were amended again to streamline the social studies TEKS in 2018. The streamlined social studies TEKS for middle and high school social studies were effective August 1, 2019 for implementation beginning with the 2019-2020 school year. The streamlined Kindergarten-Grade 5 social studies TEKS are scheduled for implementation in the 2020-2021 school year. The career and technical education (CTE) TEKS were amended effective August 23, 2010. The CTE TEKS were again amended effective August 28, 2017 and implemented in the 2017-2018 school year. The fine arts TEKS were amended effective August 24, 2015. The TEKS for languages other than English (LOTE) were amended effective July 15, 2014, and December 31, 2014, and were implemented in the 2017-2018 school year. The technology applications TEKS were amended effective September 26, 2011. At the November 2020 meeting, the board gave final approval to the health education TEKS and the physical education TEKS,

which are scheduled to be effective August 1, 2022. The board also gave final approval in November 2020 to TEKS for four high school science courses to be implemented beginning with the 2023-2024 school year.

At the June 2019 SBOE meeting, the board held a work session to discuss updating the TEKS and instructional materials review and adoption schedule. At the September 2019 meeting, the board approved the schedule through the 2030-2031 school year.

BACKGROUND INFORMATION AND JUSTIFICATION: The board received training from a standards writing advisor at the July 2014 meeting. The standards writing advisor provided additional training to Texas Education Agency (TEA) staff in October 2014 to support future facilitation of the TEKS review committees.

The 2017 TEKS review and revision process was used for the streamlining of the social studies TEKS. At the November 2018 meeting, the SBOE approved updates to the 2017 TEKS review and revision process to better clarify the process. The complete updated process will be used for the review of the physical education, health education, and science TEKS.

The SBOE began the review of the English Language Proficiency Standards (ELPS) in early 2019, in accordance with the SBOE's approved TEKS and instructional materials review schedule. Applications to serve on ELPS review work groups were posted on the TEA website in December 2018. Also in December 2018, TEA distributed a survey to collect information from educators regarding the review and revision of the ELPS.

In preparation for the review of the science TEKS, SBOE members were asked at the September 2019 meeting to designate science content advisors. Applications to serve on the science TEKS review work groups were posted on the TEA website in November 2019, and in December 2019, TEA distributed a survey to collect information from educators regarding the review and revision of the science TEKS. TEA staff provided applications for approval by SBOE members in January, February, March, May, July, October, and December 2020. At the November 2020 meeting, the board gave final approval to revised TEKS for four high school science courses: Biology, Chemistry, Integrated Physics and Chemistry, and Physics.

PUBLIC BENEFIT AND COST TO PERSONS: Benefits include better alignment of the ELPS and TEKS and coordination of the standards with the adoption of instructional materials.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

**Rule Review of 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions,
Subchapter B, Implementation of Assessments, and Subchapter C, Local Option**

January 27, 2021

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

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 101, Assessment, Subchapter A, General Provisions, Subchapter B, Implementation of Assessments, and Subchapter C, Local Option. The rules being reviewed address the development and administration of tests, voluntary assessment of private school students, the schedule for the release of tests, and administration and reporting of group-administered achievement tests.

STATUTORY AUTHORITY: The statutory authority for the rule review is [TGC, §2001.039](#). The statutory authority for 19 TAC Chapter 101, Subchapters A-C, is Texas Education Code ([TEC](#)), [§§39.021, 39.022, 39.023, 39.025, 39.032, and 39.033](#).

TGC, §2001.039, requires a state agency to review and consider for reoption each of its rules.

TEC, §39.021, requires that the SBOE by rule establish the Texas Essential Knowledge and Skills (TEKS) that all students should learn.

TEC, §39.022, requires that the SBOE by rule create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement.

TEC, §39.023, requires school districts to administer the Grades 3-8 state-developed assessments and the end-of-course assessments to all eligible students.

TEC, §39.025, requires a student to pass each end-of-course assessment listed in TEC, §39.023(c), only for a course in which the student is enrolled and for which an end-of-course assessment is administered in order to receive a Texas diploma.

TEC, §39.032, requires the SBOE to adopt rules to implement assessment instrument standards for group-administered achievement tests.

TEC, §39.033, allows for the voluntary assessment of private school students and requires the SBOE to determine the cost of administering the assessment instrument.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The review of 19 TAC Chapter 101, Subchapters A-C, will be presented to the SBOE for adoption at the April 2021 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The goal of the Texas assessment program is to measure and support student progress toward achieving academic success. The primary

purpose of the state student assessment program is to provide an accurate measure of student achievement in the areas of reading, writing, mathematics, social studies, and science. Based on the requirements of the TEC, the assessment program evaluates the degree to which students have mastered the state-mandated curriculum, the Texas Essential Knowledge and Skills (TEKS).

In 2007, the 80th Texas Legislature enacted Senate Bill (SB) 1031, and in 2009, the 81st Texas Legislature enacted House Bill (HB) 3, both of which made significant changes to the Texas student assessment program and required the development and implementation of the State of Texas Assessments of Academic Readiness (STAAR®) program. With HB 2135 in 2011, the 82nd Texas Legislature further modified assessment requirements for students who test above grade level. HB 5, passed by the 83rd Texas Legislature in 2013, and HB 2349, passed by the 84th Texas Legislature in 2015, amended state assessment graduation requirements. In the 2016–2017 school year, to meet the legislative requirements of HB 743, 84th Texas Legislature, 2015, the total length of each STAAR® Grades 3–8 assessment was reduced. In response to these changes, the commissioner of education has adopted and amended rules as necessary to implement the legislative requirements for the STAAR® assessment program. The commissioner rules include student testing requirements, grade advancement requirements, testing requirements for graduation, released test requirements, and accelerated instruction requirements.

According to the TEC, the SBOE is responsible for adopting rules related to the general establishment of the assessment program for purposes of accountability. This SBOE requirement is met through the following rules in 19 TAC Chapter 101.

- In Subchapter A, §101.1, Scope of Rules, §101.3, Policy, and §101.5, Student Testing Requirements, establish the assessment program and require all students receiving instruction in the TEKS to be assessed.
- In Subchapter B, §101.25, Schedule, and §101.27, Administrative Procedures, specify that the commissioner will adopt a schedule for administering the assessments and require uniform administrative procedures. Section 101.31, Private Schools, establishes provisions for the voluntary assessment of private school students. As provided by TEC, §39.033(c), the SBOE approves the per-student costs for private schools that administer state assessments. Section 101.33, Release of Tests, establishes a release test schedule in accordance with TEC, §39.023(e).
- In Subchapter C, §101.101, Group-Administered Tests, governs the administration and renorming of local option group-administered assessments as authorized under TEC, §39.026 and §39.032.

ANTICIPATED REVISIONS TO RULES: At a future meeting, Texas Education Agency (TEA) staff plans to present an amendment to 19 TAC Chapter 101, Assessment, Subchapter B, Implementation of Assessments, §101.25, Schedule, to remove the reference to TEC, §39.023(c-3)(1) and (2), as those provisions were removed as a result of HB 3906, 86th Texas Legislature, 2019.

PUBLIC COMMENTS: TEA will file the notice of proposed review of 19 TAC Chapter 101, Subchapters A-C, with the *Texas Register* following the January 2021 SBOE meeting. TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 101, Subchapters A-C, continue to exist. The public comment period on the proposed rule review begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on this item at the appropriate committee meeting in April 2021 in accordance with the SBOE operating policies and procedures.

The filing of the notice of proposed review soliciting comments as to whether the reasons for adoption continue to exist would not preclude any amendments that may be proposed at different dates through a separate rulemaking process.

Staff Members Responsible:

Iris Tian, Director, Student Assessment

Julie Cole, Director of Policy and Publications, Student Assessment

Spencer Barr, Senior Policy Analyst, Student Assessment

Attachment:

Text of 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, Subchapter B, Implementation of Assessments, and Subchapter C, Local Option

ATTACHMENT

Chapter 101. Assessment

Subchapter A. General Provisions

§101.1. Scope of Rules.

- (a) The State Board of Education (SBOE) shall:
 - (1) create and implement the statewide assessment program to ensure the program supports the goals of education as specified in the Texas Education Code (TEC); and
 - (2) establish goals for the statewide assessment program.
- (b) When adopting rules, the SBOE shall maintain the stability of the statewide assessment program to the greatest extent possible in accordance with the TEC, Chapter 39, Subchapter B.
- (c) The statewide assessment program consists of the following criterion-referenced tests:
 - (1) the assessments of academic readiness in English and Spanish for the grades and subjects as specified in the TEC, Chapter 39, Subchapter B;
 - (2) the alternative assessments of academic readiness for eligible students receiving special education services as specified in the TEC, Chapter 39, Subchapter B;
 - (3) the assessments required for graduation as specified in the TEC, Chapter 39, Subchapter B; and
 - (4) the reading proficiency tests in English for eligible limited English proficient students as specified in the TEC, Chapter 39, Subchapter B.

Statutory Authority: The provisions of this §101.1 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.1 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.3. Policy.

- (a) The goal of the statewide assessment program is to provide all eligible Texas students an appropriate statewide assessment that measures and supports their achievement of the essential knowledge and skills of the state-mandated curriculum.
- (b) To maximize its effectiveness for educators and students, the statewide assessment program shall be based on the following quality standards.
 - (1) Tests shall be aligned to the essential knowledge and skills of the state-mandated curriculum in all subject areas tested.
 - (2) Tests shall be reliable and valid measures of the essential knowledge and skills and shall be administered in a standardized manner.
 - (3) Test results at the student, campus, district, regional, and state levels shall be reported in a timely and accurate manner.

Statutory Authority: The provisions of this §101.3 issued under the Texas Education Code, Chapter 39, Subchapter B.

Source: The provisions of this §101.3 adopted to be effective August 15, 2002, 27 TexReg 7106.

§101.5. Student Testing Requirements.

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by the Texas Education Code (TEC), Chapter 39, Subchapter B.

Statutory Authority: The provisions of this §101.5 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.5 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 23, 2005, 30 TexReg 1632; amended to be effective December 23, 2009, 34 TexReg 9200; amended to be effective March 14, 2013, 38 TexReg 1676.

Subchapter B. Implementation of Assessments

§101.25. Schedule.

- (a) The commissioner of education shall specify the schedule for testing and field testing that is in compliance with the Texas Education Code (TEC), §39.023(c-3)(1) and (2), and supports reliable and valid assessments.
- (b) The superintendent of each school district or chief administrative officer of each charter school and any private school administering the tests as allowed under the TEC, §39.033, shall be responsible for administering tests.
- (c) The commissioner of education may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children, as defined in the TEC, §39.029, and who are out of the state.
- (d) Participation in University Interscholastic League area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments under the TEC, §39.023(a), (c), or (l), occurs.

Statutory Authority: The provisions of this §101.25 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.25 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective May 28, 2006, 31 TexReg 4196; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.27. Administrative Procedures.

A school district, charter school, or private school administering the tests required by the Texas Education Code (TEC), Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials.

Statutory Authority: The provisions of this §101.27 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.27 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective March 14, 2013, 38 TexReg 1676.

§101.31. Private Schools.

- (a) A private school administering the assessments under the Texas Education Code (TEC), Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials. Each private school shall maintain test security and confidentiality as delineated in the TEC, §39.030.
- (b) A private school administering the assessments under the TEC, Chapter 39, Subchapter B, shall reimburse the Texas Education Agency for each assessment administered. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a school district.
- (c) A private school administering the assessments under the TEC, Chapter 39, Subchapter B, shall provide to the commissioner of education, as required by law and determined appropriate by the commissioner, academic excellence indicator information described in the TEC, §39.053(c) and §39.301(c). For indicator information defined and collected through the Public Education Information Management System (PEIMS), private schools shall follow the PEIMS Data Standards.

Statutory Authority: The provisions of this §101.31 issued under the Texas Education Code, Chapter 39, Subchapter B.

Source: The provisions of this §101.31 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective December 23, 2009, 34 TexReg 9200.

§101.33. Release of Tests.

Beginning in 2009 with the 2008-2009 school year and each subsequent third school year, the Texas Education Agency shall release all test items and answer keys only for primary administration assessment instruments administered under the Texas Education Code, §39.023(a), (b), (c), (d), and (l), and field test items that are at least four years old and that are no longer eligible for inclusion on a subsequent test form.

Statutory Authority: The provisions of this §101.33 issued under the Texas Education Code, §39.023 and §39.025.

Source: The provisions of this §101.33 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective October 12, 2003, 28 TexReg 8607; amended to be effective June 6, 2004, 29 TexReg 5343; amended to be effective December 25, 2005, 30 TexReg 8682; amended to be effective October 21, 2008, 33 TexReg 8643; amended to be effective December 23, 2009, 34 TexReg 9200; amended to be effective March 14, 2013, 38 TexReg 1676.

Subchapter C. Local Option

§101.101. Group-Administered Tests.

- (a) An assessment instrument to which this section is applicable under the Texas Education Code (TEC), §39.032, is defined as any district-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (e.g., to the local board of trustees) in the aggregate. A test given for a special purpose such as program placement or individual evaluation (e.g., a spelling test, a diagnostic test such as a reading inventory or interim benchmark assessment, or a released statewide assessment instrument) is not included in this definition. The commissioner of education shall provide annually to school districts and charter schools a list of state-approved, norm-referenced group-administered achievement tests that test publishers certify meet the requirements of the TEC, §39.032.
- (b) A company or organization scoring a test defined in subsection (a) of this section shall send test results to the school district for verification. The school district shall have 90 days to verify the accuracy of the data and report the results to the school district board of trustees.
- (c) State and national averages for an assessment instrument under this section must be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered. This eight-year limitation does not apply if only data older than eight years are available for an assessment instrument.
- (d) To maintain the security and confidentiality of group-administered achievement tests, school districts and charter schools shall follow the applicable procedures for test security and confidentiality delineated in §101.3031 of this title (relating to Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments).

Statutory Authority: The provisions of this §101.101 issued under the Texas Education Code, §39.032.

Source: The provisions of this §101.101 adopted to be effective November 15, 2001, 26 TexReg 9091; amended to be effective December 7, 2003, 28 TexReg 10940; amended to be effective April 21, 2010, 35 TexReg 3030; amended to be effective March 14, 2013, 38 TexReg 1676.

Discussion of Pending Litigation

January 27, 2021

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

SUMMARY: The State Board of Education (SBOE) 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.)*; 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.

BACKGROUND INFORMATION AND JUSTIFICATION: At every regularly scheduled meeting, the SBOE has the opportunity to be apprised of pending litigation as the need arises. The SBOE may also receive continued briefing on procedural developments.

Staff Member Responsible:

Von Byer, General Counsel, Legal Services

COMMITTEE ON INSTRUCTION

Election of Chair

January 28, 2021

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

SUMMARY: State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity for the Committee on Instruction to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only.

STATUTORY AUTHORITY: Statutory authority for this action is the Texas Education Code, [§7.107\(b\)](#).

TEC, §7.107(b) requires the SBOE to organize and adopt operating rules at the first meeting after an election and qualification of new members.

The full text of statutory citation can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: A committee chair was last elected on January 31, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: The board is required to organize at the first meeting after the election and qualification of new members. Section 1.2(d) of the board's operating rules require each standing committee to 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.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

**Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A,
Required Curriculum, §74.5, Academic Achievement Record (Transcript)
(First Reading and Filing Authorization)**

January 29, 2021

COMMITTEE ON INSTRUCTION: ACTION
STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript), to update the rule to require documentation of the new graduation requirement that a student complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA).

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(13); 28.025(e); and 28.0256(a), as added by House Bill (HB) 3, 86th Texas Legislature, 2019.

TEC, §7.102(c)(13), requires the SBOE to adopt transcript forms and standards for differentiating high school performance for purposes of reporting academic achievement under TEC, §28.025.

TEC, §28.025(e), requires each school district to report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the State Board of Education.

TEC, §28.0256(a), as added by HB 3, 86th Texas Legislature, 2019, requires each student to complete and submit a FAFSA or a TASFA before graduating from high school.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is August 1, 2021. 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 2021-2022 school year. The earlier effective date will allow districts of innovation that begin school prior to the statutorily required start date to implement the proposed rulemaking when they begin their school year.

PREVIOUS BOARD ACTION: The SBOE adopted 19 TAC §74.5 effective June 18, 2014, to align with legislation passed by the 83rd Texas Legislature, Regular Session, 2013. In April 2016, the SBOE gave final approval to a proposed amendment to 19 TAC §74.5 to align with legislation passed by the 84th Texas Legislature, 2015. In April 2018, the SBOE gave final approval to a proposed amendment to 19 TAC §74.5 to align with legislation passed by the 83rd Texas Legislature, Regular Session, 2013, and 85th Texas Legislature, 2017.

BACKGROUND INFORMATION AND JUSTIFICATION: The 86th Texas Legislature, 2019, passed HB 3, amending the TEC, §28.025(c), and adding new TEC, §28.0256, to require a student to complete a financial aid application, FAFSA or TAFSA, in order to graduate. In accordance with TEC, §28.0256(b), a student is not required to comply with the requirement to complete and submit a financial aid application if the student's parent or guardian submits a signed opt-out form authorizing the student to decline. The student may submit the opt-out form on the student's own behalf if the student is 18 years of age or older or is an emancipated youth under Texas Family Code, Chapter 31. A school counselor may

also authorize the student to decline to complete and submit a financial aid application for good cause, as determined by the school counselor. The opt-out form must be approved by the Texas Education Agency (TEA). Each school district must report to the agency the number of students who meet the financial aid application requirement by either completing and submitting a financial aid application or opting out.

At the November 2020 SBOE meeting, the SBOE approved for first reading and filing authorization a proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements, to update the rule with the new financial aid application graduation requirement. The proposed amendment to the graduation requirements is presented for second reading and final adoption as a separate item in this agenda.

The attachment to this item reflects the text of the proposed amendment to 19 TAC §74.5 for consideration by the SBOE for first reading and filing authorization. The proposed amendment would update the rule for the academic achievement record to document the completion of the new financial aid application graduation requirement.

The proposed amendment was not presented as a separate discussion item. However, the topic was addressed during the discussion of the proposed amendment to 19 TAC §74.11 at the November 2020 SBOE meeting. The SBOE may wish to consider this item for first reading and filing authorization as authorized under its operating procedures. Therefore, this item is presented for consideration for first reading and filing authorization at this meeting. It is recommended the SBOE consider this item for first reading and filing authorization to ensure sufficient time is provided to update student information systems used to transmit the academic achievement record between school districts and Texas colleges and universities, the Texas Records Exchange (TREx) system, and local student information systems.

FISCAL IMPACT: TEA has determined that the proposal would have no additional costs to state or local government beyond what is required by the authorizing statute. HB 3, 86th Texas Legislature, 2019, required school districts and charter schools to monitor and report the completion of the financial aid application requirement, which will have a cost to the state. However, the 86th Texas Legislature, 2019, appropriated \$1.5 million to TEA for the creation of a database to track TASFA completion electronically.

In addition, there may be costs to school districts and charter schools associated with required updates to local student information systems in order to implement the requirements of statute. These may include the need for professional development and amendments to district-developed databases. Since the design and format of and data collection for the academic achievement record (high school transcript) are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

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 requiring school districts and charter schools to report the completion of the financial aid application requirement on the academic achievement record.

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: The proposal would improve documentation of requirements on the academic achievement record and the ability to more effectively transmit that information between school districts. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have data and reporting implications. The proposed amendment would require school districts and charters schools to report the completion of the financial aid application requirement on the academic achievement record.

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 public comment period on the proposal begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2021 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 March 5, 2021.

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 A, Required Curriculum, §74.5, Academic Achievement Record (Transcript).

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript)

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 74. Curriculum Requirements

Subchapter A. Required Curriculum

§74.5. Academic Achievement Record (Transcript).

- (a) The commissioner of education shall develop and distribute to each school district and institution of higher education the state guidelines for a common academic achievement record and coding system for courses and instructions for recording information on the academic achievement record. Each school district must use the coding system provided by the commissioner.
- (b) Following guidelines developed by the commissioner, each school district must use an academic achievement record (transcript) form that includes the following:
 - (1) student demographics;
 - (2) school data;
 - (3) student data; and
 - (4) the record of courses and credits earned.
- (c) The academic achievement record shall serve as the academic record for each student and must be maintained permanently by the district. Each district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must respond promptly to each request for student records from a receiving school district.
- (d) Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.
- (e) A student who completes high school graduation requirements shall have attached to the academic achievement record a seal approved by the State Board of Education [~~SBOE~~].
- (f) A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record.
- (g) A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record.
- (h) A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record.
- (i) A student who demonstrates proficiency in speech as specified in §74.11(a)(3) of this title (relating to High School Graduation Requirements) shall have completion of the speech requirement clearly indicated on the academic achievement record.
- (j) A student who completes the required instruction in cardiopulmonary resuscitation (CPR) as specified in §74.38 of this title (relating to Requirements for Instruction in Cardiopulmonary Resuscitation (CPR)) in Grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record.
- (k) A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record.
- (l) A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record.

(m) [~~(l)~~] A student who satisfies a languages other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with §74.12(b)(5)(F) of this title (relating to Foundation High School Program) shall have the credit clearly indicated on the academic achievement record.

(n) [~~(m)~~] A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record will include a notation of the date such a certificate was issued to the student.

Proposed Approval of Innovative Courses

January 29, 2021

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\(f\)](#).

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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

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, and December 25, 2007. In November 2019, the SBOE adopted additional amendments to 19 TAC §74.27 to be effective December 25, 2019.

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 2018 SBOE meeting, the SBOE approved one new course for a period of five years. At the January-February 2019 SBOE meeting, the SBOE renewed one course for a period of three years and granted one course a one-year extension. At the April 2019 SBOE meeting, the board approved for renewal two courses for a period of three years and one course for a period of five years. At the June 2019 SBOE meeting, the board approved renewal of one course for a period of three years and one new course for a period of two years. The board approved renewal of eight innovative courses for a period of five years at the January 2020 SBOE meeting. At the June-July 2020 SBOE meeting, the SBOE renewed ten courses for a period of five years and granted one new course a two-year approval.

BACKGROUND INFORMATION AND JUSTIFICATION: 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 January 2021 meeting. If approved, the recommended effective date for the courses would be August 1, 2021. With the approval of the local board of trustees, the courses would be available for school districts' use beginning with the 2021-2022 school year.

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:

Text of 19 TAC §74.27, Innovative Courses and Programs

Separate Exhibit:

Innovative Courses Recommended for Approval
(to be provided at the January 2021 SBOE meeting)

ATTACHMENT

Text of 19 TAC

Chapter 74. Curriculum Requirements

Subchapter C. Other Provisions

§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.
 - (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) Applications shall not be approved if the proposed course significantly duplicates the content of a Texas Essential Knowledge and Skills (TEKS)-based course or can reasonably be taught within an existing TEKS-based course.
 - (4) 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) data that demonstrates successful implementation or piloting of the course;
 - (D) a description of activities, major resources, and materials to be used;
 - (E) the methods of evaluating student outcomes;
 - (F) the qualifications of the teacher;
 - (G) any training required in order to teach the course and any associated costs; and
 - (H) the amount of credit requested.
 - (5) To request approval from the commissioner 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) With the approval of the local board of trustees, a school district may offer, without modifications, any state-approved innovative course.
- (b) An ethnic studies course that has been approved by the commissioner as an innovative course shall be presented to the SBOE for discussion and consideration 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 presented to the SBOE for consideration.
 - (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 commissioner approval of the innovative course.

Approval of Update to Instructional Materials for Learning A–Z

January 29, 2021

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: Learning A–Z is requesting approval to update content in its adopted product *Raz Plus ELL Texas Edition*, grade 5. The updated content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel.

STATUTORY AUTHORITY: Texas Education Code (TEC), §31.003, and §31.022.

TEC, §31.003, permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

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

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: English language arts and reading materials from Learning A–Z were adopted in November 2018.

BACKGROUND INFORMATION AND JUSTIFICATION: 19 Texas Administrative Code §66.75 permits a publisher to submit a request for approval to substitute an updated edition of state-adopted instructional materials. This section also requires that all requests for updates involving content in state-adopted instructional materials be approved by the SBOE prior to their introduction into state-adopted instructional materials.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the request from Learning A–Z to update content in its adopted product *Raz Plus ELL Texas Edition*, grade 5.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation
Amie Williams, Director, Review and Adoption

Attachment:

Learning A–Z Update Request

Request to Update Content Reviewed and Accepted by the State Review Panel (SRP)

Proclamation Year:	2019
Publisher:	Learning A-Z, LLC
Subject Area /Course:	English Language Arts and Reading K-5

Indicate if the changes in your update involve content reviewed and accepted by the state review panel to determine coverage of the Texas Essential Knowledge and Skills (TEKS), English Language Proficiency Standards (ELPS), or Texas Prekindergarten Guidelines (TPG) by selecting a box below.

- TEKS
 ELPS
 TPG
 TEKS and ELPS

Program Information:

Program Title:	Raz Plus ELL Texas Edition												
Program Title:	9	7	8	0	6	9	2	1	9	6	5	4	0
Identical Program Title:	Raz Plus ELL Texas Edition												
Identical Program ISBN:	9	7	8	0	6	9	2	1	9	6	5	4	0

Component Information:

You must submit a separate form for each component title and ISBN.

Component Title:	Raz Plus ELL Texas Edition												
Component ISBN:	9	7	8	0	6	9	2	1	9	6	5	4	0
Identical component Title:	Raz Plus ELL Texas Edition												
Identical Component ISBN:	9	7	8	0	6	9	2	1	9	6	5	4	0

Request to Update Content Reviewed and Accepted by the State Review Panel (SRP)

Access Information

Use the table below to provide access information to the adopted version of the instructional materials and the proposed new content.

	URL	Username	Password
Adopted content:	www.razplus.com	TXREV2	RAZPLUS2
Proposed new content:	See google drive links in side-by-side comparisons.	Click here to enter username.	Click here to enter the password.

Side-by-side comparison:

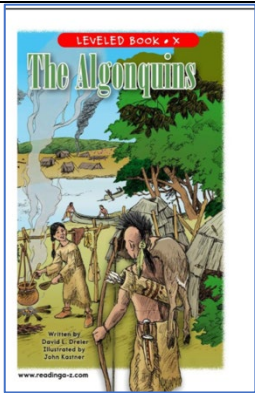
Any content that has been changed in the component listed on the previous page should be documented in this side-by-side comparison. You must submit a separate request for each component.

SE Breakout Citation Type	Description of the specific location and hyperlink to the exact location of adopted content	Description of the specific location and hyperlink to the exact location of the proposed new content
6, C, i, Narrative/Activity 6, C, ii, Narrative/Activity 6, C, iii, Narrative/Activity 6, C, iv, Narrative/Activity 6, C, v, Narrative/Activity 6, C, vi, Narrative/Activity	<u>The Algonquins, X Leveled Book</u> Link is to the landing page, which houses the adopted content: The Single-Sided Book, on the left-hand side of the page under “Book Resources”, and the Literature Circles Journal PDF under Literature Circle Resources heading. Changes to: Book and associated resources removed from site due to cultural competency concerns	<u>Narrative: Albert Einstein, W, Leveled Book</u> Activity: <u>Literature Circle Journal</u> Link is to the proposed new content: The Single-Sided Book and the Literature Circle Journal
Publisher’s rationale for the change		
Removed book due to issues of cultural competence; replaced with new title		
Publisher’s description of the change		

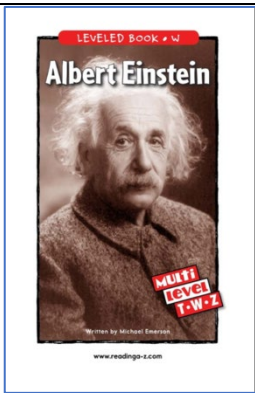
Request to Update Content Reviewed and Accepted by the State Review Panel (SRP)

Book PDF/eBooks, page 2: Replace all with different title

Insert a screenshot of your **currently** adopted content. (Click on the blue plus sign at the bottom right corner to add another content change.)



Insert a screenshot of your proposed **new** content.



Approval of Substitution of Instructional Materials for QuaverEd

January 29, 2021

COMMITTEE ON INSTRUCTION: ACTION
STATE BOARD OF EDUCATION: CONSENT

SUMMARY: QuaverEd is requesting approval to substitute instructional materials in its adopted product *Quaver Pre-K Curriculum*. The substituted content has been reviewed by curriculum subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§31.003](#), and [§31.022](#).

TEC, §31.003, permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

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

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: Prekindergarten materials from QuaverEd were adopted in November 2020.

BACKGROUND INFORMATION AND JUSTIFICATION: 19 Texas Administrative Code §66.76 permits a publisher to submit a request for approve to substitute a new edition of state-adopted instructional materials. This section also requires that all requests for updates involving content used in determining the product's eligibility for adoption must be approved by the State Board of Education prior to their introduction into state-adopted instructional materials.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the request from QuaverEd to substitute updated versions of *Quaver Pre-K Curriculum* products adopted November 2020 under *Proclamation 2021*.

Staff Members Responsible:

Melissa Lautenschlager, Director, Instructional Materials and Implementation
Amie Williams, Director, Review and Adoption

Attachment:

[QuaverEd Substitution Request](#)

Discussion of Proposed Repeal of 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings

January 28, 2021

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

SUMMARY: This item provides an opportunity for the committee to discuss the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 89, Adaptations for Special Populations, Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings. The proposed repeal would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to instructional arrangements in special education.

STATUTORY AUTHORITY: Texas Education Code (TEC), §48.102(e) and (g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019.

TEC, §48.102(e), as amended and redesignated by HB 3, 86th Texas Legislature, 2019, requires the commissioner of education by rule to prescribe the qualifications and instructional arrangements that must be met in order to be funded as a particular instructional arrangement under TEC, §48.102.

TEC, §48.102(g), as amended and redesignated by HB 3, 86th Texas Legislature, 2019, requires the commissioner of education to adopt rules governing contracts for residential placement of special education students.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The proposed repeal of 19 TAC §89.61 and §89.63 will be presented for first reading and filing authorization at the April 2021 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 89.61 allows a school district to contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education. Section 89.63 allows a school district to provide services through special education personnel to students with disabilities in order to meet the special needs of those students, defines the regular school day as the period of time determined appropriate by the ARD committee, defines special education instructional arrangements/settings, and requires that the instructional arrangements/settings be based on the individual needs and individualized education programs of eligible students receiving special education.

HB 3, 86th Texas Legislature, 2019, redesignated TEC, §42.151, as TEC, §48.102, and amended the statute to transfer rulemaking authority related to residential placements and instructional arrangements from the SBOE to the commissioner of education. The repeal of 19 TAC §89.61 and §89.63 is necessary as statutory authority for the rules no longer exists.

Staff Members Responsible:

Justin Porter, Director, Special Education Programs

Tebbi Bowman, Manager, Dispute Resolution and Strategic Supports

Attachment:

Text of Proposed Repeal of 19 TAC Chapter 89, Adaptations for Special Populations,
Subchapter D, Special Education Services and Settings, §89.61, Contracting for Residential Educational
Placements for Students with Disabilities, and §89.63, Instructional Arrangements and Settings

ATTACHMENT
Text of Proposed Repeal of 19 TAC

Chapter 89. Adaptations for Special Populations

Subchapter D. Special Education Services and Settings

§89.61. Contracting for Residential Educational Placements for Students with Disabilities.

- ~~(a) Residential placement. A school district may contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education (FAPE).~~
- ~~(1) A school district may contract for a residential placement of a student only with either public or private residential facilities which maintain current and valid licensure by the Texas Department of Aging and Disability Services, Texas Department of Family and Protective Services, or Department of State Health Services for the particular disabling condition and age of the student. A school district may contract for an out-of-state residential placement in accordance with the provisions of subsection (c)(3) of this section.~~
- ~~(2) Subject to subsections (b) and (c) of this section, the district may contract with a residential facility to provide some or all of the special education services listed in the contracted student's individualized education program (IEP). If the facility provides any educational services listed in the student's IEP, the facility's education program must be approved by the commissioner of education in accordance with subsection (c) of this section.~~
- ~~(3) A school district which intends to contract for residential placement of a student with a residential facility under this section shall notify the Texas Education Agency (TEA) of its intent to contract for the residential placement through the residential application process described in subsection (b) of this section.~~
- ~~(4) The school district has the following responsibilities when making a residential placement.~~
- ~~(A) Before the school district places a student with a disability in, or refers a student to, a residential facility, the district shall initiate and conduct a meeting of the student's ARD committee to develop an IEP for the student in accordance with 34 Code of Federal Regulations, §§300.320-300.325, state statutes, and commissioner of education rules.~~
- ~~(B) For each student, the services which the school district is unable to provide and which the facility will provide shall be listed in the student's IEP.~~
- ~~(C) For each student, the ARD committee shall establish, in writing, criteria and estimated timelines for the student's return to the school district.~~
- ~~(D) The appropriateness of the facility for each student residentially placed shall be documented in the IEP. General screening by a regional education service center is not sufficient to meet the requirements of this subsection.~~
- ~~(E) The school district shall make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the student's IEP which the facility has agreed to provide to the student.~~
- ~~(F) For each student placed in a residential facility (both initial and continuing placements), the school district shall verify, during the initial residential placement ARD committee meeting and each subsequent annual ARD committee meeting, that:~~
- ~~(i) the facility meets minimum standards for health and safety;~~
- ~~(ii) residential placement is needed and is documented in the IEP; and~~
- ~~(iii) the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the student.~~

- ~~(G) — The placement of more than one student, in the same residential facility, may be considered in the same on-site visit to a facility; however, the IEP of each student must be individually reviewed and a determination of appropriateness of placement and service must be made for each student.~~
- ~~(H) — When a student who is residentially placed by a school district changes his residence to another Texas school district, and the student continues in the contracted placement, the school district which negotiated the contract shall be responsible for the residential contract for the remainder of the school year.~~
- ~~(b) — Application approval process. Requests for approval of state and federal funding for residentially placed students shall be negotiated on an individual student basis through a residential application submitted by the school district to the TEA.~~
- ~~(1) — A residential application may be submitted for educational purposes only. The residential application shall not be approved if the application indicates that the:~~
- ~~(A) — placement is due primarily to the student's medical problems;~~
- ~~(B) — placement is due primarily to problems in the student's home;~~
- ~~(C) — district does not have a plan, including timelines and criteria, for the student's return to the local school program;~~
- ~~(D) — district did not attempt to implement lesser restrictive placements prior to residential placement (except in emergency situations as documented by the student's ARD committee);~~
- ~~(E) — placement is not cost effective when compared with other alternative placements; and/or~~
- ~~(F) — residential facility provides unfundable/unapprovable services.~~
- ~~(2) — The residential placement, if approved by the TEA, shall be funded as follows:~~
- ~~(A) — the education cost of residential contracts shall be funded with state funds on the same basis as nonpublic day school contract costs according to Texas Education Code, §42.151;~~
- ~~(B) — related services and residential costs for residential contract students shall be funded from a combination of fund sources. After expending any other available funds, the district must expend its local tax share per average daily attendance and 25% of its Individuals with Disabilities Education Act, Part B, (IDEA B) formula tentative entitlement (or an equivalent amount of state and/or local funds) for related services and residential costs. If this is not sufficient to cover all costs of the residential placement, the district through the residential application process may receive additional IDEA B discretionary funds to pay the balance of the residential contract placement(s) costs; and~~
- ~~(C) — funds generated by the formula for residential costs described in subsection (b)(2)(B) of this section shall not exceed the daily rate recommended by the Texas Department of Family and Protective Services for the specific level of care in which the student is placed.~~
- ~~(c) — Approval of the education program for facilities which provide educational services. Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education.~~
- ~~(1) — If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by a local school district, the school district should notify the TEA in writing of its intent to place a student at the facility. The TEA shall begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the local school district. Approval of the education program of a residential facility may be for one, two, or three years.~~

- ~~(2) — The commissioner of education shall renew approvals and issue new approvals only for those facilities which have contract students already placed or which have a pending request for residential placement from a school district. This approval does not apply to residential facilities which only provide related services or residential facilities in which the local accredited school district where the facility is located provides the educational program.~~
- ~~(3) — School districts which contract for out of state residential placement shall do so in accordance with the rules for in state residential placement in this section, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.]~~

§89.63. Instructional Arrangements and Settings.

- ~~(a) — Each local school district shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.114-300.118.~~
- ~~(b) — Subject to §89.1075(e) of this title (relating to General Program Requirements and Local District Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.~~
- ~~(c) — Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services and shall include the following:~~
- ~~(1) — Mainstream. This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.~~
- ~~(2) — Homebound. This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.~~
- ~~(A) — Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by local district policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (b) of this section.~~
- ~~(B) — Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD committee. This arrangement/setting also applies to school districts described in Texas Education Code, §29.014.~~

- ~~(3) Hospital class. This instructional arrangement/setting is for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class.~~
- ~~(4) Speech therapy. This instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.~~
- ~~(5) Resource room/services. This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.~~
- ~~(6) Self-contained (mild, moderate, or severe) regular campus. This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.~~
- ~~(7) Off home campus. This instructional arrangement/setting is for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School District and Windham Independent School District:~~
- ~~(A) a student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;~~
- ~~(B) a student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or~~
- ~~(C) a student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.~~
- ~~(8) Nonpublic day school. This instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.~~
- ~~(9) Vocational adjustment class/program. This instructional arrangement/setting is for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition goals and only after the school district's career and technical education classes have been considered and determined inappropriate for the student.~~
- ~~(10) Residential care and treatment facility (not school district resident). This instructional arrangement/setting is for providing special education instruction and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.~~

- ~~(11) State supported living center. This instructional arrangement/setting is for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.~~
- ~~(d) The appropriate instructional arrangement for students from birth through the age of two with visual and/or auditory impairments shall be determined in accordance with the IFSP, current attendance guidelines, and the agreement memorandum between the Texas Education Agency (TEA) and the Department of Assistive and Rehabilitative Services (DARS) Early Childhood Intervention (ECI) Services.~~
- ~~(e) For nonpublic day school placements, the school district or shared service arrangement shall submit information to the TEA indicating the students' identification numbers, initial dates of placement, and the names of the facilities with which the school district or shared service arrangement is contracting. The school district or shared service arrangement shall not count contract students' average daily attendance as eligible. The TEA shall determine the number of contract students reported in full-time equivalents and pay state funds to the district according to the formula prescribed in law.~~
- ~~(f) Other program options which may be considered for the delivery of special education and related services to a student may include the following:~~
- ~~(1) contracts with other school districts; and~~
 - ~~(2) other program options as approved by the TEA.]~~

**COMMITTEE ON SCHOOL FINANCE/
PERMANENT SCHOOL FUND**

Election of Chair

January 28, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION
STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity for the Committee on School Finance/Permanent School Fund to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only.

STATUTORY AUTHORITY: Statutory authority for this action is the Texas Education Code, [§7.107\(b\)](#).

TEC, §7.107(b) requires the SBOE to organize and adopt operating rules at the first meeting after an election and qualification of new members.

The full text of the statutory citation can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: A committee chair was last elected on January 31, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: The board is required to organize at the first meeting after the election and qualification of new members. Section 1.2(d) of the board's operating rules require each standing committee to 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.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

**Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing,
Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide
(First Reading and Filing Authorization)**

January 29, 2021

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

SUMMARY: This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide. The proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG).

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.055(b)(32), 7.102(c)(32), 44.001(a) and (b), 44.007(a)-(d), and 44.008(b).

TEC, §7.055(b)(32), requires the commissioner to perform duties in connection with the public school accountability system as prescribed by TEC, Chapters 39 and 39A.

TEC, §7.102(c)(32), requires the State Board of Education (SBOE) to adopt rules concerning school district budgets and audits of school district fiscal accounts as required under TEC, Chapter 44, Subchapter A.

TEC, §44.001(a), requires the commissioner to establish advisory guidelines relating to the fiscal management of a school district. TEC, §44.001(b), requires the commissioner to report annually to the SBOE the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements.

TEC, §44.007(a), requires the board of trustees of each school district to adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles. TEC, §44.007(b), requires the accounting system to meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor. TEC, §44.007(c), requires a record to be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year is required to be filed with the agency on or before the date set by the SBOE. TEC, §44.007(d), requires each district, as part of the report required by TEC, §44.007, to include management, cost accounting, and financial information in a format prescribed by the SBOE in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program.

TEC, §44.008(b), requires the independent audit to meet at least the minimum requirements and be in the format prescribed by the SBOE, subject to review and comment by the state auditor. The audit must include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System (PEIMS).

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment 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 adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2021-2022 school year. The earlier effective date will ensure the provisions of the FASRG align with current governmental accounting and auditing standards for school districts and charter schools as soon as possible.

PREVIOUS BOARD ACTION: The current FASRG, dated June 2019, was adopted by reference in §109.41 effective August 19, 2019. At the November 2020 SBOE meeting, the committee discussed the proposed amendment to §109.41 and the proposed updates to the FASRG modules to be adopted by reference in the rule.

BACKGROUND INFORMATION AND JUSTIFICATION: The FASRG describes the rules of financial accounting for school districts, charter schools, and education service centers and is adopted by reference under §109.41. Revisions to the FASRG would align the content with current governmental accounting and auditing standards, remove obsolete requirements, and remove descriptions and discussions of best practices and other non-mandatory elements.

Requirements for financial accounting and reporting are derived from generally accepted accounting principles (GAAP). School districts and charter schools are required to adhere to GAAP. Legal and contractual considerations typical of the government environment are reflected in the fund structure basis of accounting.

An important function of governmental accounting systems is to enable administrators to assure and report on compliance with finance-related legal provisions. This assurance and reporting means that the accounting system and its terminology, fund structure, and procedures must be adapted to satisfy finance-related legal requirements. However, the basic financial statements of school districts and charter schools should be prepared in conformity with GAAP.

School district and charter school accounting systems shall use the accounting code structure presented in the Account Code section of the FASRG (Module 1). Funds shall be classified and identified on required financial statements by the same code number and terminology provided in the Account Code section of the FASRG (Module 1).

The following changes would be made to Modules 1-6 of the FASRG.

Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices

Module 1 would align with current governmental accounting standards. Proposed Module 1 would include the following significant changes. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. In addition, school districts would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the Governmental Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

Module 2, Special Supplement - Charter Schools

Module 2 would align with current financial and accounting reporting standards. Proposed Module 2 would include the following significant changes. The proposed module would establish financial and accounting requirements for Texas public charter schools to ensure uniformity in accounting in conformity with GAAP. The proposed module would also include current guidance that complements the American Institute of Certified Public Accountants (AICPA) *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States

Government Accountability Office (GAO). These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts

Module 3 would align with current governmental accounting standards. Proposed Module 3 would include the following significant changes. Charter schools would be required to maintain proper budgeting and financial accounting and reporting systems that are in conformity with Texas Education Data Standards (TEDS) in the Texas Student Data Systems (TSDS) PEIMS. In addition, charter schools would be required to establish principles and policies to ensure uniformity in accounting in conformity with GAAP established by the FASB. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the FASB.

Module 4, Auditing

Module 4 would align with current governmental auditing standards. Proposed Module 4 would include the following significant changes. The proposed module would establish auditing requirements for Texas public school districts and charter schools and include current requirements from TEC, §44.008, as well as Title 2, Code of Federal Regulations, Part 200, Subpart F, Audit Requirements, that implement the federal Single Audit Act. The proposed module would also include current auditing guidance that complements the AICPA *Audit and Accounting Guide, State and Local Governments* and supplements the *Government Auditing Standards* of the United States GAO. These requirements facilitate preparation of financial statements that conform to GAAP established by the GASB.

Module 5, Purchasing

Module 5 would align with current purchasing laws and standards. Proposed Module 5 would include the following significant changes. School districts and charter schools would be required to establish procurement policies and procedures that align with their unique operating environment and ensure compliance with relevant statutes and policies.

Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System

Module 6 would align with current governmental accounting standards. Proposed Module 6 would include the following significant changes. School districts and charter schools would be required to maintain proper budgeting and financial accounting and reporting systems. The module would provide current information to assist local school officials' understanding of the numerous options for use of the state compensatory education allotment and provide current guidance for compliance.

A separate item in this agenda presents for discussion the statutorily required rule review of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts; Subchapter B, Texas Education Agency Audit Functions; Subchapter C, Adoptions by Reference; and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract.

FISCAL IMPACT: Texas Education Agency (TEA) has determined that there are no additional costs to state or local government 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 and limit an existing regulation. The proposal would amend requirements and provide updated governmental accounting and auditing standards. In some instances, the proposed changes would add information, and in some instances, information would be removed.

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 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: The proposal would ensure that the provisions of the FASRG align with current governmental accounting and auditing standards for school districts and charter schools. 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 and 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 public comment period on the proposal begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2021 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 March 5, 2021.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for first reading and filing authorization proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide.

Staff Members Responsible:

Leo Lopez, Associate Commissioner, School Finance

David Marx, Senior Director, Financial Compliance

Yolanda Walker, Manager, Financial Compliance

Attachment I:

Text of Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide

Attachment II:

Proposed FASRG Module 1, Financial Accounting and Reporting (FAR) and FAR Appendices

Attachment III:

Proposed FASRG Module 2, Special Supplement - Charter Schools

Attachment IV:

Proposed FASRG Module 3, Special Supplement - Non-profit Charter Schools Chart of Accounts

Attachment V:

Proposed FASRG Module 4, Auditing

Attachment VI:

Proposed FASRG Module 5, Purchasing

Attachment VII:

Proposed FASRG Module 6, Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System

Due to the size of Attachments II-VII, the FASRG modules are available electronically on the TEA website at <https://tea.texas.gov/finance-and-grants/financial-accountability/financial-accountability-system-resource-guide>

ATTACHMENT I
Text of Proposed Amendment to 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter C. Adoptions By Reference

§109.41. Financial Accountability System Resource Guide.

The rules for financial accounting are described in the official Texas Education Agency (TEA) publication Financial Accountability System Resource Guide, dated ~~June 2021~~ [July 2019] , which is adopted by this reference as the agency's official rule. A copy is available for examination on the TEA website with information related to financial compliance [during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701] .

Rule Review of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts, Subchapter B, Texas Education Agency Audit Functions, Subchapter C, Adoptions by Reference, and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract

January 28, 2021

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the review of 19 Texas Administrative Code (TAC) Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts, Subchapter B, Texas Education Agency Audit Functions, Subchapter C, Adoptions by Reference, and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract. The rules being reviewed provide requirements for school districts relating to budgeting, accounting, financial reporting, and auditing; Texas Education Agency (TEA) financial review functions; adoption by reference of the *Financial Accountability System Resource Guide* (FASRG); and the bank bid and proposal forms and the depository contract and surety bond forms.

STATUTORY AUTHORITY: The statutory authority for the rule review is [TGC, §2001.039](#). The statutory authority for 19 TAC Chapter 109 is Texas Education Code ([TEC, §§7.102\(c\)\(32\), 44.001, 44.002, 44.007, and 44.008](#), for Subchapter A; [TEC, §§7.102\(c\)\(32\), 44.001, 44.007, 44.008, 44.010, and 48.104](#), for Subchapter B; [TEC, §§7.055\(b\)\(32\), \(36\), and \(37\); 7.102\(c\)\(32\); 44.001; 44.007\(a\)-\(d\); and 44.008\(b\)](#), for Subchapter C; and [TEC, §§7.102\(c\)\(34\), 45.206, and 45.208](#), for Subchapter D.

TGC, §2001.039, requires a state agency to review and consider for re-adoption each of its rules.

TEC, §7.055(b)(4), requires the commissioner to prescribe a uniform system of forms, reports, and records necessary to fulfill reporting and recordkeeping requirements.

TEC, §7.055(b)(36), requires the commissioner to establish advisory guidelines relating to the fiscal management of a school district and report annually to the SBOE on the status of school district fiscal management as required under TEC, §44.001.

TEC, §7.055(b)(37), requires the commissioner to review school district audit reports as required under TEC, §44.008.

TEC, §7.102(c)(32), authorizes the SBOE to adopt rules concerning school district budgets and audits of school district fiscal accounts as required under TEC, Chapter 44, Subchapter A.

TEC, §7.102(c)(34), requires the SBOE to prescribe uniform bid blanks for school districts to use in selecting a depository bank.

TEC, §44.001, requires the commissioner to report annually to the SBOE the status of school district fiscal management.

TEC, §44.002, requires a superintendent to prepare a proposed district budget according to rules adopted by the SBOE.

TEC, §44.007, directs the SBOE to require each district to file a report of revenues and expenditures by a date set by the SBOE.

TEC, §44.008(b), requires each district's independent audit to meet minimum standards and be in the format prescribed by the SBOE.

TEC, §44.010, requires TEA staff to review and analyze the budgets, fiscal reports, and audit reports filed by school districts to determine if all legal requirements have been met and to collect fiscal data needed to report to the governor and the legislature.

TEC, §45.206, requires school districts to use the uniform bid blank and request for proposal forms prescribed by the SBOE when selecting a depository bank.

TEC, §45.208, requires that a school district and a bank selected as a depository enter into a depository contract using the form prescribed by the SBOE.

TEC, §48.104, requires the SBOE to adopt rules requiring a report on the use of compensatory education funds as part of the annual audit and develop minimum requirements for that report.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The review of 19 TAC Chapter 109, Subchapters A-D, will be presented to the SBOE for adoption at the April 2021 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Following is a summary of the SBOE rules in Chapter 109.

Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts

The rule in this subchapter provides for a uniform system of accounting in public schools. Under current rules, school districts must use a uniform accounting system and maintain certain information for reporting to the TEA.

Subchapter B, Texas Education Agency Audit Functions

The rules in this subchapter provide for an annual audit plan, the completion and review of independent audits, and reporting and auditing for state compensatory education funds. School districts are held accountable for the use of compensatory education allotments through desk reviews and detailed investigations as needed to ensure compliance with the limitations in statute and rule.

Subchapter C, Adoptions by Reference

The rule in this subchapter adopts by reference the FASRG. The FASRG describes rules for financial accounting in modules for financial accounting and reporting, budgeting, purchasing, auditing, site-based decision making, accountability, data collection and reporting, management, and state compensatory education. The FASRG also includes special supplements for nonprofit charter schools. Public school districts use the FASRG to meet the accounting, auditing, budgeting, and reporting requirements set forth

in the TEC and other state statutes relating to public school finance. The FASRG is available on the TEA website at

http://tea.texas.gov/Finance_and_Grants/Financial_Accountability/Financial_Accountability_System_Resource_Guide/.

As a separate item in this agenda, a proposed amendment to 19 TAC §109.41 that would update the FASRG is presented for first reading and filing authorization.

Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract

The rules in this subchapter provide uniform depository bank bid, proposal, contract, and surety bond forms. A school district is required to use a uniform bank bid or proposal form to obtain bids or proposals from depository banks located in the district at least 30 days before the termination of the current depository contract. However, a school district may add to the uniform bank bid or proposal form to specify additional depository requirements. Depository contracts have traditionally been executed for a two-year period, expiring on August 31 in odd-numbered years. Depository bank contracts are legal instruments that help ensure the security of all school district funds on deposit. Additionally, depository contracts contain terms and conditions describing depository bank services and fees.

ANTICIPATED REVISIONS TO RULES: At a future meeting, staff members plan to recommend changes to Subchapter B to clarify language and terminology and update an obsolete citation of the TEC.

PUBLIC COMMENTS: TEA will file the notice of proposed review of 19 TAC Chapter 109, Subchapters A-D, with the Texas Register following the January 2021 SBOE meeting. The TEA will accept comments as to whether reasons for adopting 19 TAC Chapter 109, Subchapters A-D, continue to exist. The public comment period on the proposed rule review begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on this item at the appropriate committee meeting in April 2021 in accordance with the SBOE operating policies and procedures.

The filing of the notice of proposed review soliciting comments as to whether the reasons for adoption continue to exist would not preclude any amendments that may be proposed at the same time or at different dates through a separate rulemaking process.

Staff Members Responsible:

Leo Lopez, Associate Commissioner, School Finance

David Marx, Director, Financial Compliance

Yolanda Walker, Manager, Financial Compliance

Attachment I:

Text of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts, Subchapter B, Texas Education Agency Audit Functions, Subchapter C, Adoptions by Reference, and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract

Attachment II:

Figure: 19 TAC §109.51(c)

Attachment III:

Figure: 19 TAC §109.51(d)

Attachment IV:

Figure: 19 TAC §109.52(b)

Attachment V:

Figure: 19 TAC §109.52(d)

ATTACHMENT I
Text of 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts

§109.1. Financial Accounting.

- (a) A uniform system of public school budgeting, accounting, and financial reporting shall be provided and employed throughout the state as required by law. The uniform system for budgeting, accounting, and financial reporting is to reflect the full implementation of modified and full accrual accounting, as appropriate, in accordance with generally accepted accounting principles.
- (b) The commissioner of education shall develop and administer the requirements relating to budgeting, accounting, financial reporting, and auditing for Texas public schools. The commissioner of education shall ensure adequate stakeholder involvement in the design and modification of these requirements. The State Board of Education shall approve the budgeting, accounting, and reporting systems and the auditing procedures as determined by the commissioner of education. The school districts and charter schools shall install the budgeting, accounting, and financial reporting system as required by law and meet the audit requirements as developed by the commissioner of education and subject to review and comment by the state auditor when required by law.

Statutory Authority: The provisions of this §109.1 issued under the Texas Education Code, §§7.102(c)(32), 44.001, 44.002, 44.007, and 44.008.

Source: The provisions of this §109.1 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective October 13, 2002, 27 TexReg 9317.

Subchapter B. Texas Education Agency Audit Functions

§109.21. Annual Audit Plan.

The commissioner of education shall submit an annual audit plan for field and independent audits for review of the designated committee of the State Board of Education. The plan may be amended as needed by the commissioner of education. The designated committee of the State Board of Education shall be informed at least annually by the commissioner of education on the progress of and amendments to the plan.

Statutory Authority: The provisions of this §109.21 issued under the Texas Education Code, §44.001.

Source: The provisions of this §109.21 adopted to be effective September 1, 1996, 21 TexReg 2076.

§109.23. School District Independent Audits and Agreed-Upon Procedures.

- (a) A school district, governmental charter school, open-enrollment charter school, nonprofit service provider, county education district, or regional education service center must file with the Texas Education Agency (TEA) an annual financial and compliance report and, if applicable, a state compensatory agreed-upon procedures report. These reports must be audited by an independent auditor, and the audit must be reviewed by the TEA, including review of auditors' working papers, in accordance with the Financial Accountability System Resource Guide, as adopted by reference in §109.41 of this title (relating to Financial Accountability System Resource Guide).
- (b) The annual financial audit report and state compensatory agreed-upon procedures report are due 150 days after the end of the fiscal year.
- (c) Auditors from the TEA must review independent audit reports. The commissioner's designee must resolve audit findings.

- (d) The district or other educational entity must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.
 - (1) The independent auditor must:
 - (A) be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy or a state licensing agency from another state;
 - (B) be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under the Texas Education Code, §44.008; and
 - (C) adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the US Government Accountability Office, as amended.
 - (2) The CPA firm must:
 - (A) be a member of the AICPA Governmental Audit Quality Center (GAQC);
 - (B) adhere to GAQC's membership requirements; and
 - (C) collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:
 - (i) Texas public school district environment;
 - (ii) public sector; or
 - (iii) nonprofit sector.
- (e) If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the standards required as stated in subsection (d) of this section, the division may require the district or other educational entity to change its audit firm.
- (f) To the extent that this section conflicts with any other rule regarding audits of school districts and other educational entities by independent auditors and the TEA, this section controls.

Statutory Authority: The provisions of this §109.23 issued under the Texas Education Code, §§7.102(c)(32), 44.001, 44.007, 44.008, and 44.010.

Source: The provisions of this §109.23 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective October 13, 2002, 27 TexReg 9317; amended to be effective March 10, 2015, 40 TexReg 1084; amended to be effective August 31, 2020, 45 TexReg 5345.

§109.25. State Compensatory Education Program Reporting and Auditing System.

- (a) Each school district and charter school shall report financial information relating to expenditure of the state compensatory education allotment under the Foundation School Program to the Texas Education Agency (TEA). Each school district and charter school shall report the information according to standards for financial accounting provided in §109.41 of this title (relating to Financial Accountability System Resource Guide.) The financial data will be reported annually through the Public Education Information Management System. The commissioner of education shall ensure that districts follow guidelines contained in the "Financial Accountability System Resource Guide" in attributing supplemental direct costs to state compensatory education and accelerated instruction programs and services. Costs charged to state compensatory education shall be for programs and services that supplement the regular education program.
- (b) Each school district and charter school shall ensure that supplemental direct costs and personnel attributed to compensatory education and accelerated instruction are identified in district and/or campus improvement plans at the summary level for financial units or campuses. Each school district and charter school shall maintain documentation that supports the attribution of supplemental costs and personnel to compensatory

education. School districts and charter schools must also maintain sufficient documentation supporting the appropriate identification of students in at-risk situations, under criteria established in Texas Education Code (TEC), §29.081.

- (c) The TEA shall conduct risk assessment and desk audit processes to identify the school districts, charter schools, or campuses most at risk of inappropriate allocation and/or underexpenditure of the compensatory education allotment. In the risk assessment and desk audit processes, the TEA shall consider the following factors:
 - (1) aggregate performance of students in at-risk situations on the state assessment instruments that is below the standards for the "acceptable" rating, as defined in the state accountability system;
 - (2) the financial management of compensatory education funds; and/or
 - (3) the quality of data related to compensatory education submitted by a school district or charter school.
- (d) The TEA shall use the results of risk assessment and desk audit processes to prioritize school districts or charter schools for the purpose of on-site visits and may conduct on-site visits.
- (e) The TEA shall issue a preliminary report resulting from a desk audit or an on-site visit before submitting a final report to the school district or charter school. After issuance of a preliminary report, a school district or charter school must file with the TEA the following:
 - (1) a response to the preliminary report within 20 calendar days from the date of the preliminary report outlining steps the school district or charter school will take to resolve the issues identified in the preliminary report; and
 - (2) a corrective action plan within 60 calendar days from the date of the preliminary report if the school district's or charter school's response to the preliminary report does not resolve issues identified in the preliminary report.
- (f) The TEA shall issue a final report that indicates whether the school district or charter school has resolved the findings in the preliminary report and whether the corrective action plan filed under subsection (e)(2) of this section is adequate.
 - (1) If the final report contains a finding of noncompliance with TEC, §42.152(c), the report shall include a financial penalty authorized under TEC, §42.152(q).
 - (2) If the school district or charter school responds with an appropriate corrective action plan, the TEA shall rescind the financial penalty and release the amount of the penalty to the school district or charter school.
- (g) The TEA may conduct an on-site visit to verify the implementation of a school district's or charter school's corrective action plan.

Statutory Authority: The provisions of this §109.25 issued under the Texas Education Code, §42.152, as amended by Senate Bill 1873, 75th Texas Legislature, 1997.

Source: The provisions of this §109.25 adopted to be effective September 1, 1998, 24 TexReg 7781; amended to be effective October 13, 2002, 27 TexReg 9317.

Subchapter C. Adoptions By Reference

§109.41. Financial Accountability System Resource Guide.

The rules for financial accounting are described in the official Texas Education Agency publication Financial Accountability System Resource Guide, dated July 2019, which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

Statutory Authority: The provisions of this §109.41 issued under the Texas Education Code, §§7.055(b)(32), 7.102(c)(32), 44.001(a) and (b), 44.007(a)-(d), and 44.008(b).

Source: The provisions of this §109.41 adopted to be effective September 1, 1996, 21 TexReg 2076; amended to be effective February 15, 1998, 23 TexReg 1020; amended to be effective September 1, 1998, 24 TexReg 7782; amended to be effective December 13, 1998, 23 TexReg 12301; amended to be effective September 12, 1999, 24 TexReg 6978; amended to be effective December 5, 1999, 24 TexReg 10537; amended to be effective July 31, 2001, 26 TexReg 5638; amended to be effective December 30, 2001, 26 TexReg 10539; amended to be effective September 1, 2002, 27 TexReg 7802; amended to be effective January 5, 2003, 27 TexReg 12213; amended to be effective November 16, 2003, 28 TexReg 9833; amended to be effective December 30, 2004, 29 TexReg 11972; amended to be effective July 31, 2008, 33 TexReg 5929; amended to be effective April 26, 2010, 35 TexReg 3261; amended to be effective August 9, 2012, 37 TexReg 5746; amended to be effective August 19, 2019, 44 TexReg 4315.

Subchapter D. Uniform Bank Bid or Request for Proposal and Depository Contract

§109.51. Uniform Depository Bank Bid or Proposal Form.

- (a) At least 60 days before the end of the current depository contract, each school district must decide to use either competitive bidding or a request for proposals to choose a new depository.
- (b) At least 30 days before the end of the current depository contract, the district must mail the uniform blank form for the selected process to each bank located in the district. The district must use either the uniform bid form specified in subsection (c) of this section or the uniform proposal form specified in subsection (d) of this section. The district may add other terms to the uniform bid or proposal form if the added terms do not unfairly restrict competition between banks as stated in the Texas Education Code, §45.206(b). The district must keep the selected bid or proposal form in the district and make it available to the Texas Education Agency upon request.
- (c) This subsection provides the uniform bid blank form, entitled "Bid Form for Depository Services."
Figure: 19 TAC §109.51(c)
- (d) This subsection provides the uniform proposal blank form, entitled "Proposal Form for Depository Services."
Figure: 19 TAC §109.51(d)

Statutory Authority: The provisions of this §109.51 issued under the Texas Education Code, §§7.102(c)(34), 45.206, and 45.208.

Source: The provisions of this §109.51 adopted to be effective September 1, 1997, 22 TexReg 3780; amended to be effective March 4, 2001, 26 TexReg 1708; amended to be effective October 13, 2002, 27 TexReg 9316; amended to be effective August 17, 2008, 33 TexReg 6592; amended to be effective May 15, 2014, 39 TexReg 3706; amended to be effective May 16, 2017, 42 TexReg 2533.

§109.52. Uniform Depository Bank Contract and Surety Bond Forms.

- (a) Each school district must use the uniform depository contract form as provided in subsection (b) of this section. The district must complete the form and file it electronically with the Texas Education Agency (TEA) as specified in the Texas Education Code (TEC), §45.208, and in accordance with filing instructions provided on the TEA website.

- (b) This subsection provides the uniform depository contract form, entitled "Depository Contract for Funds of Independent School Districts under the Texas Education Code, Chapter 45, Subchapter G, School District Depositories."

Figure: 19 TAC §109.52(b)

- (c) If a district's depository elects a surety bond to secure the district's deposit amounts less any applicable Federal Deposit Insurance Corporation insurance, the depository must complete the surety bond form provided in subsection (d) of this section, attach it to the contract, and file it with the district. The district must file a copy of the contract and the surety bond form with the TEA as specified in the TEC, §45.208, and in accordance with filing instructions provided on the TEA website.

- (d) This subsection provides the uniform surety bond form, entitled "Texas School Depository Surety Bond Form."

Figure: 19 TAC §109.52(d)

- (e) If the TEA receives a contract form and determines that it is incomplete, the TEA will notify the district.
- (f) A district that has no current depository contract in force and filed with the TEA will receive its warrants from the TEA by US mail.
- (g) For depository contract filing requirements for charter schools, refer to §100.1043 of this title (relating to Status and Use of State Funds; Depository Contract).

Statutory Authority: The provisions of this §109.52 issued under the Texas Education Code, §§7.102(c)(34), 39.025, 39.027, 45.206, and 45.208.

Source: The provisions of this §109.52 adopted to be effective September 1, 1997, 22 TexReg 3780; amended to be effective March 4, 2001, 26 TexReg 1708; amended to be effective October 13, 2002, 27 TexReg 9316; amended to be effective August 17, 2008, 33 TexReg 6592; amended to be effective May 15, 2014, 39 TexReg 3706; amended to be effective March 27, 2018, 43 TexReg 1850.

Bid Form

for Depository Services

by _____ Independent School District

Definitions and Instructions

In this document, the terms “you” and “your” refer to the depository bank, and “we,” “our,” and “us” refer to the district named above.

You must answer all questions in this form and provide it to us as your bid.

We have the right to reject any bid. If any part of this bid or any contract entered into between you and us is invalid, the remainder, at our option, remains in force and is not affected. We have the right to use a sub-depository bank other than the primary bank and those deposits will be collateralized.

Bank Compensation

We may pay for your services by targeted balances or by fees and change the methodology when appropriate. Please detail any differences in related costs to us with either option.

Compensation Based on a Targeted Balance

We may choose to pay for your services by maintaining a targeted amount of our funds in the depository. We will maintain balances in the checking accounts to compensate you in full or in part for services provided. You must provide a monthly account analysis that reflects the earnings credited for these balances.

You may invest any excess collected balance daily as directed by us in an overnight investment that we approve, an interest bearing account, or a money market mutual fund registered with the Securities and Exchange Commission (SEC) which strives to maintain a \$1 NAV. Please list below the overnight investment and any index upon which the rate will be based.

The rate history at your bank for the months beginning MM/YY and ending MM/YY was:

Earnings Credit Rate (ECR):	_____	%
Interest Bearing Accounts:	_____	%
Money Market Accounts:	_____	%
Sweep Accounts:	_____	%

[Alternatively, the district may require the depository bank to complete the information by month according to Attachment A, Historical Information about the Bank.]

If any of these rates is based on an index rate (such as the T-Bill auction rate), stipulate how you will use the index to calculate the rate.

Compensation Based on Fees

We may choose to pay for your services on a straight fee basis in which we will not maintain a targeted balance. You will assess fees, and we will pay them in accordance with your proposed fees as listed on Attachment A, Volumes for Pricing Transactions.

District Investments

We reserve the right to purchase, sell, and invest our funds and funds under our control, including bond funds, as authorized by the Texas Government Code, Chapter 2256, Public Funds Investment Act, and in compliance with our investment policy, a copy of which is attached as Attachment C *[alternatively, the district may provide the link to the investment policy on the district’s website]*.

[The district chooses to insert language of Option A or Option B]

Option A

We may choose to invest in time deposits at the depository, but all investments including certificates of deposit are bid competitively at the time of purchase.

Option B

We may choose to invest in time deposits at the depository. You will pay interest on our funds placed in time deposits with maturities we chose. The interest rate spread on the deposits should be indicated as above, below, or equal to the “asked” yield on the comparable maturity T-Bill of the proposed time deposit being purchased as reported in an independent, financial source.

Single Maturity Time Deposits of more than \$250,000:

Maturity	Basis point spread over (+) or under (-) T-Bill "asked" yield <i>[District-specified rate]</i>
7 – 29 Days	_____
30 – 59 Days	_____
60 – 89 Days	_____
90 – 179 Days	_____
180 – 364 Days	_____
365 Days or More	_____

Collateral

Collateral Conditions

You must provide collateral equal to 102 percent of all our time and demand deposits plus accrued interest minus applicable Federal Deposit Insurance Corporation (FDIC) coverage. Collateral will be pledged to us and held in an independent safekeeping institution by a custodian or permitted institution as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act. You will be liable for monitoring and maintaining the collateral and the required margin at all times and will provide an original safekeeping notice and a monthly report of the collateral including at least the security description, par amount, cusip, and market value.

You and we must execute a collateral agreement in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Provide a sample collateral agreement as Attachment D, Sample Collateral Agreement.

We estimate our maximum anticipated collateral requirement to be \$_____.

If voluntary collateral pooling is legislated during the period of this contract, you and we may consider it and agree to use it under this contract.

Eligible Collateral

We will accept only approved securities as specified by the TEC, §45.201, as pledged collateral, voluntary pooled collateral (if available) or a Federal Home Loan Bank Letter of Credit.

[Alternatively, the district may require specific collateral in accordance with its investment policy. In that case, the district would refer to its investment policy and use the following paragraph instead:

We will accept only the following as pledged collateral in accordance with our investment policy (see Attachment C, District Investment Policy):

The district lists items here.]

Banking Services Fees

Based on the services we require from you, complete the proposed fee schedule, Attachment A, Volumes for Pricing Transactions. All fees which may be charged to supply the services must be included or will not be eligible under the contract. We and you reserve the right to mutually agree upon any change of contract terms or pricing during the contract extension periods.

Depository Information

Please answer the following questions about your depository bank.

1. State the full name and address of the depository and any parent holding company. List all branch locations within our boundary.
2. Provide the annual audited financial statement for the most current fiscal year. This may be in printed form, but we prefer an electronic link to the website. Members of your holding companies must include corporate annual financial statements and your individual call report for the most recent operating quarter. Audited financial statements are required each year of the contract.
3. State your rating from an independent depository rating agency or, if that rating is not available, the rating on your senior and subordinate debt. You must inform us of any change in this rating during the period of the contract within a reasonable period.

4. Contact Information

To ensure smooth communication and continuation of services, you must assign a specific account executive and a backup to our account to coordinate services and help solve any problem encountered.

- a. Designate a depository officer as a primary contact with us.

Name _____
 Title _____
 Telephone # _____
 Fax # _____
 Email _____

- b. Designate a depository representative as a backup contact with us.

Name _____
 Title _____
 Telephone # _____
 Fax # _____
 Email _____

- c. If the primary and backup contacts are not available, how do we contact someone in an emergency? After hours?
 - d. Describe in detail how you handle problem resolution, customer service, day-to-day contact, and ongoing maintenance for governmental clients. Please be specific about exactly whom we will be calling and working with for the situations described above.
5. List references from at least three of your current, comparable governmental clients. Include the length of time under contract and a client contact, title, and telephone number.

6. Based on the services we require, please provide a proposed timeline for implementing the contract; include the timeline activities and direct responsibilities of both our district and your depository bank during implementation.
7. Provide a copy of all agreements (including those not directly referenced in this bid) that will be required under the contract.
8. If we award the contract to you, you must review our then-current district investment policy and certify in writing to that review in accordance with the Public Funds Investment Act verifying that you have sufficient controls in place to avoid transactions not authorized by the policy. [*The district specifies one: We have attached our investment policy to this bid notice. or We have provided a link to our investment policy on our website.*]

Banking Services

1. Consolidated Account Structure with Sweep Mechanism

We are interested in earning at then-current interest rates available at all times. We want the option to use an automated, daily sweep to a money market mutual fund or depository alternative account (if competitive) to reach our full investment goal. *[District option: We will not accept a repurchase agreement or offshore investments as sweep investment vehicles.]*

Our current account structure is listed as Attachment B, District's Current Account Structure. We do not guarantee that we will maintain the balances or structure at these same levels.

You must clearly describe your most cost-effective account structure (interest bearing accounts, zero balance accounts [ZBAs], or sweep, etc.).

- a. Fully describe the proposed account structure. Would a sweep be from a master account with ZBAs or directly swept from the individual accounts? Is interest distributed at the account level?
- b. State the average interest rate on the recommended alternative structure for the past 12 months.
- c. If an SEC-registered money market fund is used for the sweep proposal, provide the full name and a copy of the prospectus. It must strive to maintain a \$1 NAV.
- d. Interest earned on interest bearing accounts must **not** be charged as an expense on the account analysis. Confirm acceptance of this condition.

We may be required or may desire to open additional accounts, close accounts, or change account types during the contract period. If this occurs, the new accounts and services must be charged at the same contracted amount or, if unanticipated, at not more than published rates.

2. Automated Cash Management Information

We are interested in automated balance and detail information and online retention. Minimum automated services must include the following *[The district specifies the requirements.]*:

- prior-day summary and detail balance reporting on all accounts
 - intraday detail and summary balances (on local main and payroll accounts)
 - initiation and monitoring of stop payments
 - positive pay exception transactions
 - initiation and monitoring of internal and wire transfers
 - image access
 - controlled disbursement presentment totals [optional]
- a. Fully describe your online service. **List** the system capabilities (for example, balance reporting, wires, positive pay, stop payment, etc.).
 - b. What is your backup process to report balances and transactions in case the system is not available?
 - c. When is daily balance information available?

- d. Submit samples of major screens available, or provide web link access to a demonstration module.
- e. How is an individual security sign-on assigned, and who maintains the security module? How many levels of security are available?
- f. [Optional] With regard to controlled disbursements:
 - What is the cutoff time for disbursements?
 - What Federal Reserve location do these accounts clear through?
 - How do we have access to this information?

3. Deposit Services

We require standard commercial deposit services for all accounts.

We expect all deposited checks to clear based on your current published availability schedule, but please note any options for expedited availability in your bid. For all cleared deposits you receive by your established deadline, you must process them for same-day ledger credit. If you fail to credit our accounts in a timely fashion, you must pay interest to us at the then-current effective federal funds rate.

- a. What is your daily cutoff time to ensure same-day ledger credit?
- b. Describe how and when you send credit and debit advices to us.
- c. What type of deposit bags do you use or require? Are these available from you?
- d. In what city does item processing occur?

Remote Deposit

We are interested in establishing (or using] remote check deposit for a few high-volume locations during the contract period. These deposits include both consumer and commercial checks.

- e. What are your current capabilities in remote check deposit? Describe how checks are processed and cleared. Please state the cutoff time for same-day ledger credit.
- f. Give two comparable references with contact information.
- g. Do you produce a daily balancing report? Provide a sample.
- h. What scanner equipment is required to operate the system? Is this equipment available through your depository bank for purchase or lease? Please list the equipment required along with its cost.

4. Standard Disbursing Services

We are interested in standard disbursing services for designated accounts.

- a. Do you image all paid checks, deposit items, and deposit slips?
- b. Are check and deposit images available online? When? Do you provide a monthly compact disc (CD)? If not, are reports downloadable?
- c. How long do you maintain check and deposit images online?
- d. Do you pay all our checks without charge upon presentation?

5. Positive Pay

We require positive pay services if available at the bank for designated accounts on which checks are written. The positive pay process should be fully automated and web based. We will transmit check information electronically to you on each check run and as we create checks manually.

- a. Describe the data transmission and transfer requirements for automated and manual checks.
- b. Is input available online for manual checks? If it is not available online, how do we transmit information on individual manual checks to you?
- c. How can we change or delete check records, if necessary?
- d. How do you notify us of a positive pay exception?
- e. When do you report exception information to us? When is the deadline for our exception elections? Are images of exceptions available?
- f. Are all checks, including those received by the tellers and vault, verified against the positive pay file before processing? How often do you update teller information?
- g. Do you offer payee positive pay?
- h. Please provide a copy of your file layout format.

6. Account Reconciliation

We anticipate using partial or full reconciliation services on all accounts in concert with positive pay, depending on cost effectiveness.

- a. Describe the partial and full reconciliation processes.
- b. With what format(s) does your system interface? What record formats are required? *[Alternatively, the district can specify its interface format for the depository to determine compatibility.]* How do you send reconciled data to us? When?
- c. Please provide references of customers who use the XX ledger system?
- d. Specify all reporting alternatives.
- e. Are reports available online? How long are reports maintained online? Provide a sample copy of reports.

7. Funds Transfer and Wire Services

Incoming wire transfers must receive immediate same-day collected credit. Wire initiation should be available online. We require that wires be released the same business day if information is provided by the established deadline.

- a. Describe the process of online wire initiation. What backup process is available for the online process in case the system is unavailable?
- b. Is any paper transaction required for transfers or wires as follow-up?
- c. How and when will you notify us of incoming wires? Online? Email?
- d. Is future dating available for both repetitive and non repetitive wires and transfers? How far in advance?
- e. What is the deadline for initiation:
 - by telephone?
 - online?

- f. Are templates and template storage available?

8. Optical Imaging

We desire optical images that are downloadable or on CD on all accounts.

- a. What items and reports are available online (checks, statements, deposit slips, deposited items, etc.)? How long are each available online?
- b. What items are captured on the monthly CD, if provided?
- c. When do you make the monthly CD or imaged reports available?
- d. When and for how long are statements and account analyses available online?

9. Automated Clearinghouse (ACH) Services

We require ACH transactions for payable and receivable transactions. We require a pre-notification (pre-note) on all new transactions.

- a. Describe the transmission alternatives for individual ACH transactions. Can we initiate individual ACH transactions online?
- b. What filters and blocks are available on our accounts for ACH transactions?
- c. Are ACH addenda shown in their entirety online and in reports?
- d. What is your policy on pre-notification? Is the pre-note charged as a standard ACH transaction?
- e. What is the deadline for transmission (hour and day) for a payroll to credit employee accounts on a Friday?
- f. Is ACH positive pay available?
- g. Does ACH debit the account on day of initiation or settlement?

10. Safekeeping Services

We may require you or another eligible offeror to provide book-entry safekeeping services for any securities we own. We will make all our investments and transmit instructions for clearing and safekeeping to you in writing or electronically.

All securities must be cleared on a **delivery versus payment (DVP)** basis. Ownership must be documented by original clearing confirmations, and safekeeping of receipts must be provided within one business day of the transaction. Funds for investments must be drawn from our designated demand deposit account. All principal and interest payments, coupon payments, and maturities must receive automated same-day collected credit on our designated account without requiring any additional action by us.

If you use a correspondent bank for safekeeping our securities, the transactions must be handled through your systems and must not require additional interaction by us with the correspondent bank. No delay in transactions, wires, or flow of funds is acceptable under a correspondent relationship.

- a. Are you a member of either the Federal Reserve or a Federal Home Loan Bank? If not, name the correspondent depository you would use for clearing and safekeeping.

- Describe any safekeeping arrangement proposed with a correspondent depository including processing requirements by us.
- b. Are security transactions available online for either originating or monitoring?
 - c. What is the deadline for settlement instructions on a cash (same-day) settlement? Would we incur any charge for late instructions?

We may choose to purchase time deposits from you, but all time deposits will be competitively bid at the time of purchase.

11. Collateral Requirements

You must meet all the requirements, including those beyond the Public Funds Collateral Act, as stated below. The bid must state that you agree to the following terms and conditions:

- All collateral pledged to us must be held by a custodian or permitted institution as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act. *[Alternatively, the district may specify any limitations on its preferred custodial arrangement.]*
- We, you, and the safekeeping bank must execute a triparty safekeeping agreement for custody of pledged securities in full compliance with the FIRREA requiring a depository resolution. (Or completion of Circular 7 if a Federal Reserve bank is acting as custodian. Even if a Federal Reserve bank is used, you and we must still execute a depository agreement.)
- All time and demand deposits above FDIC coverage must be collateralized at a minimum of 102 percent of principal plus accrued interest at all times (110 percent on mortgage-backed securities).
- You are contractually liable for continuously monitoring and maintaining collateral at our required margin levels.
- The custodian must provide evidence of pledged collateral by sending original safekeeping receipts or a report directly to us within one business day of receipt.
- We must receive a monthly report of collateral pledged including description, par, market value, and cusip, at a minimum.
- We may grant substitution rights if you obtain our prior approval and if substituting securities are received before previously pledged securities are removed from safekeeping.

Authorized collateral includes only approved securities as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act and noted above.

- a. Do you propose any collateral charges? If so, under what conditions are they charged, and how is the charge applied?
- b. What is your deadline for requesting collateral in excess of existing requirements?

12. Account Analysis

You should provide monthly account analysis reports for each account and on a consolidated account basis.

- a. When is the account analysis available each month?
- b. Is the account analysis available online? Is it imaged monthly on electronic media?

- c. Are paper statements also sent to us? If so, when?
- d. How long will it take you to correct any billing errors on the account analysis?

13. Monthly Statements

You must provide monthly account statements on all accounts with complete supporting documentation.

- a. State when monthly statements will be available each month online and on paper.
- b. Is the monthly statement available online? If so, when and for how long? Are the statements imaged and/or put on electronic media monthly?
- c. If imaged, are paper statements also sent to us? If so, when?

14. Overdrafts

- a. Are all accounts aggregated for overdraft calculation purposes?
- b. State the rate basis for intraday and interday overdrafts.
- c. What is the policy for daylight overdrafts?

15. Stop Payments

We desire an automated stop payment process.

- a. What are the time period options available for stop payments?
- b. What are the options for extended stop payment periods? How are they extended?
- c. What is the cutoff hour for same-day action on stop payments?
- d. Can we initiate stop payment orders online? If so, do you require any paper follow-up document?
- e. What information on current and expiring stop payments is available online?

16. Customer Service

- a. Do you offer customer services in languages other than English?
- b. What languages are offered?

17. Service Enhancements

Based on the information you provide in the bid and your knowledge of the public sector, please describe any services or technological enhancements, not previously mentioned, that we should consider to manage our treasury operations more effectively.

Optional Services

1. Nonsufficient Funds (NSF) Checks Re-presented as ACH (Re-presented Check [RCK] Entry)

We may want the option of the second presentment to be made by ACH to targeted dates for maximum collection potential.

- a. Are you currently using ACH for collection of NSF checks? How long have you been providing this service? Provide two comparable references with contact information.
- b. How are the NSF and the later ACH transactions matched and reconciled? Does your system cross-reference the two transactions in any way?
- c. Is the NSF information, image, or occurrence available online? When and how? For how long is it available online?
- d. Can we specify any target pay day(s)?

2. Merchant Services.

We currently accept Visa, MasterCard, American Express, Discover, and debit card payments approximating \$_____ in collections per month with an average ticket size of \$_____. There are _____ (specify number) locations with _____ (specify number) terminals. *[Alternatively: We are interested in possibly accepting credit card payments for various activities.]* The service should include daily capture, transmission, and authorization of payments at point of sale and on the web. The service must include reporting by location.

[The district inserts this statement if it is true: We can and do comply with Payment Card Industry Data Security Standards.]

- a. Do you currently offer merchant card processing services? How long has this service been available? What interface format(s) does your system supply?
- b. How many institutions and end customers do you have?
- c. Describe the fee components of a merchant card processing relationship. Provide a list of all the fees to us. State the association fees, the discount rates, and your fee per transaction.
- d. Do you have software that allows online payments to us through your portal?
- e. Describe the reporting functions and data availability.
- f. Describe billing options.
- g. Describe the authorization method or process used. How are incorrect authorizations reversed?
- h. Describe your debit card processing capabilities. Do you distinguish between debit and credit cards on your bank identification number (BIN)? Can you program a debit card to the lowest cost network?
- i. Describe your transmission process. Describe the monitoring and notification process if transmissions fail.
- j. Is data imaging available online? What is available online? When? For how long?
- k. Describe the dispute resolution process.
- l. Describe your security measures for Internet transactions and unauthorized use.

3. Payroll Cards or Debit Cards

We are exploring the use of stored-value cards (payroll cards or debit cards) as a payroll option for employees at a minimum. Cardholders should be able to use the cards as debit

cards for purchases at point of sale as well as for cash withdrawals at financial institutions and automated teller machines.

The purchasing ability of the cards must be limited to the stored value of the card. We may choose not to pay for access fees for the employees issued the stored-value cards.

We will be responsible for any marketing of the program and have total discretion on the distribution of the cards. We will enroll the employees. You must provide cardholders with all processing and transaction information and reports. We expect the following services from you, at a minimum:

- embossing, encoding, and distributing standard cards as directed by us
 - providing paper and electronic statements to cardholders
 - administering accounts, including maintenance of accounts, application of funds, authorization of transactions, and related tracking
 - customer service functions
- a. Do you currently provide this service? If so, how long has it been available?
 - b. How many institutions and end customers use the service? Provide three comparable references for the service.
 - c. Which program (authorization marks) does your program use? (Visa, MasterCard, etc.)
 - d. Describe the enrollment process. Is enrollment batched and web-based?
 - e. Describe the manner by which funds will be made available to the cardholders.
 - f. What are the inactivity levels for the program? Do these generate additional fees? Describe any other potential fees.
 - g. Are all funding transmissions by standard ACH? Describe the data transmission requirements and deadlines.

4. Purchasing Cards

We may consider a purchasing card program during the contract period. Cards would be assigned to our employees for defined use.

- a. What card platforms do you support (MasterCard, Visa)? Do you use a third-party processor?
- b. What, if any, information is available online? When? Describe data download and integration capabilities. Describe reporting capabilities.
- c. What client support is available? How is it provided?
- d. Describe the diverse parameters and restrictions available for the card control. How many access levels are available?
- e. Discuss settlement and corporate liability terms. Include information on your support for the program and your experience, settlement terms on payment, security procedures, and license requirements. How will we receive billing?
- f. Describe how cards are issued, deleted, or replaced. How do you handle lost or stolen cards?
- g. Provide three comparable references for the service.

5. Check Printing

- a. Do you offer check printing services? Describe?
- b. What is the deadline for same-day and next day printing?
- c. Where are checks printed and sent from?

6. Smart Safes

- a. Do you offer smart safes? Describe.
- b. From our deposit history is this cost effective?

Schedules and Attachments

We provide the following:

- copy of our audited financial statements *[or link to website]*
- Attachment A, Volumes for Pricing Transactions (filled in with volumes)
- Attachment B, District's Current Account Structure
- Attachment C, District Investment Policy *[or link to website]*

You must include the following information with the bid:

- copy of your audited financial statements *[or link to website]*
- corporate audited financial statements and the individual depository's call report (for members of your holding companies) *[or link to website]*
- Uniform Bank Performance Report reference
- Attachment A, Volumes for Pricing Transactions (filled in with rates)
- Sample Account Analysis Statement
- Attachment D, Sample Collateral Agreement
- any service agreements (including those not directly referenced in this bid) that must be executed under the contract (if applicable)
- screen shots of major pages within your automated cash management system, or online web demo access (if available)
- sample daily balancing report for remote deposit (if applicable)
- sample account reconciliation reports (if applicable)

Optional Acknowledgments *[The district has the option to insert these acknowledgments.]*

You confirm that you will not charge interest earned on the account analysis.

If awarded the contract, you must review our then-current district investment policy and certify in writing to that review in accordance with the Public Funds Investment Act verifying that you have sufficient controls in place to avoid transactions not authorized by the policy.

You accept the investment options and/or collateral conditions as specified in our investment policy.

By submitting this bid, you acknowledge that you agree with and accept all specifications in the bid except as you expressly qualified in the bid.

Bank: _____

Address: _____

City, State, Zip: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Typed Name: _____

Date: _____

Proposal Form

for Depository Services

by _____ Independent School District

Definitions and Instructions

In this document, the terms “you” and “your” refer to the depository bank, and “we,” “our,” and “us” refer to the district named above.

You must answer all questions in this form and provide it to us as your proposal.

We have the right to reject any proposal. If any part of this proposal or any contract entered into between you and us is invalid, the remainder, at our option, remains in force and is not affected. We have the right to use a sub-depository bank other than the primary bank and those deposits will be collateralized.

Bank Compensation

We may pay for your services by targeted balances or by fees and change the methodology when appropriate? Please detail any differences in related costs to us with either option.

Compensation Based on a Targeted Balance

We may choose to pay for your services by maintaining a targeted amount of our funds in the depository. We will maintain balances in the checking accounts to compensate you in full or in part for services provided. You must provide a monthly account analysis that reflects the earnings credited for these balances.

You may invest any excess collected balance daily as directed by us in an overnight investment that we approve, an interest bearing account, or a money market mutual fund registered with the Securities and Exchange Commission (SEC) which strives to maintain a \$1 NAV. Please list below the overnight investment and any index upon which the rate will be based.

The rate history at your bank for the months beginning MM/YY and ending MM/YY was:

Earnings Credit Rate (ECR):	_____	%
Interest Bearing Accounts:	_____	%
Money Market Accounts:	_____	%
Sweep Accounts:	_____	%

[Alternatively, the district may require the depository bank to complete the information by month according to Attachment A, Historical Information about the Bank.]

If any of these rates is based on an index rate (such as the T-Bill auction rate), stipulate how you will use the index to calculate the rate.

Compensation Based on Fees

We may choose to pay for your services on a straight fee basis in which we will not maintain a targeted balance. You will assess fees, and we will pay them in accordance with your proposed fees as listed on Attachment A, Volumes for Pricing Transactions.

District Investments

We reserve the right to purchase, sell, and invest our funds and funds under our control, including bond funds, as authorized by the Texas Government Code, Chapter 2256, Public Funds Investment Act, and in compliance with our investment policy, a copy of which is attached as Attachment C *[alternatively, the district may provide the link to the investment policy on the district's website]*.

[The district chooses to insert language of Option A or Option B]

Option A

We may choose to invest in time deposits at the depository, but all investments including certificates of deposit are bid competitively at the time of purchase.

Option B

We may choose to invest in time deposits at the depository. You will pay interest on our funds placed in time deposits with maturities we chose. The interest rate spread on the deposits should be indicated as above, below, or equal to the "asked" yield on the comparable maturity T-Bill of the proposed time deposit being purchased as reported in an independent, financial source.

Single Maturity Time Deposits of more than \$100,000:

Maturity	Basis point spread over (+) or under (-) T-Bill "asked" yield <i>[District-specified rate]</i>
7 – 29 Days	_____
30 – 59 Days	_____
60 – 89 Days	_____
90 – 179 Days	_____
180 – 364 Days	_____
365 Days or More	_____

Collateral

Collateral Conditions

You must provide collateral equal to 102 percent of all our time and demand deposits plus accrued interest minus applicable Federal Deposit Insurance Corporation (FDIC) coverage. Collateral will be pledged to us and held in an independent safekeeping institution by a custodian or permitted institution as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act. You will be liable for monitoring and maintaining the collateral and the required margin at all times and will provide an original safekeeping notice and a monthly report of the collateral including at least the security description, par amount, cusip, and market value.

You and we must execute a collateral agreement in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Provide a sample collateral agreement as Attachment D, Sample Collateral Agreement.

We estimate our maximum anticipated collateral requirement to be \$_____.

If voluntary collateral pooling is legislated during the period of this contract, you and we may consider it and agree to use it under this contract.

Eligible Collateral

We will accept only approved securities as specified by the TEC, §45.201, as pledged collateral, voluntary pooled collateral (if available) or a Federal Home Loan Bank Letter of Credit.

[Alternatively, the district may require specific collateral in accordance with its investment policy. In that case, the district would refer to its investment policy and use the following paragraph instead:

We will accept only the following as pledged collateral in accordance with our investment policy (see Attachment C, District Investment Policy):

The district lists items here.]

Banking Services Fees

Based on the services we require from you, complete the proposed fee schedule, Attachment A, Volumes for Pricing Transactions. All fees which may be charged to supply the services must be included or will not be eligible under the contract. We and you reserve the right to mutually agree upon any change of contract terms or pricing during the contract extension periods.

Depository Information

Please answer the following questions about your depository bank.

1. State the full name and address of the depository and any parent holding company. List all branch locations within our boundary.
2. Provide the annual audited financial statement for the most current fiscal year. This may be in printed form, but we prefer an electronic link to the website. Members of your holding companies must include corporate annual financial statements and your individual call report for the most recent operating quarter. Audited financial statements are required each year of the contract.
3. State your rating from an independent depository rating agency or, if that rating is not available, the rating on your senior and subordinate debt. You must inform us of any change in this rating during the period of the contract within a reasonable period.

4. Contact Information

To ensure smooth communication and continuation of services, you must assign a specific account executive and a backup to our account to coordinate services and help solve any problem encountered.

- a. Designate a depository officer as a primary contact with us.

Name _____
 Title _____
 Telephone # _____
 Fax # _____
 Email _____

- b. Designate a depository representative as a backup contact with us.

Name _____
 Title _____
 Telephone # _____
 Fax # _____
 Email _____

- c. If the primary and backup contacts are not available, how do we contact someone in an emergency? After hours?
 - d. Describe in detail how you handle problem resolution, customer service, day-to-day contact, and ongoing maintenance for governmental clients. Please be specific about exactly whom we will be calling and working with for the situations described above.
5. List references from at least three of your current, comparable governmental clients. Include the length of time under contract and a client contact, title, and telephone number.

6. Based on the services we require, please provide a proposed timeline for implementing the contract; include the timeline activities and direct responsibilities of both our district and your depository bank during implementation.
7. Provide a copy of all agreements (including those not directly referenced in this proposal) that will be required under the contract.
8. If we award the contract to you, you must review our then-current district investment policy and certify in writing to that review in accordance with the Public Funds Investment Act verifying that you have sufficient controls in place to avoid transactions not authorized by the policy. *[The district specifies one: We have attached our investment policy to this proposal notice. or We have provided a link to our investment policy on our website.]*
9. We may conduct a preaward interview on-site at your depository bank before awarding the contract. Please provide us with a contact name for arranging the preaward interview.
10. Are you offering any transition or retention incentive to us? If so, please describe it in detail

Banking Services

1. Consolidated Account Structure with Sweep Mechanism

We are interested in earning at then-current interest rates available at all times. We want the option to use an automated, daily sweep to a money market mutual fund or depository alternative account (if competitive) to reach our full investment goal. *[District option: We will not accept a repurchase agreement or offshore investments as a sweep investment vehicle.]*

Our current account structure is listed as Attachment B, District's Current Account Structure. We do not guarantee that we will maintain the balances or structure at these same levels.

You must clearly describe your most cost-effective account structure (interest bearing accounts, zero balance accounts [ZBAs], or sweep, etc.).

- a. Fully describe the proposed account structure. Would a sweep be from a master account with ZBAs or directly swept from the individual accounts? Is interest distributed at the account level?
- b. State the average interest rate on the recommended alternative structure for the past 12 months.
- c. If an SEC-registered money market fund is used for the sweep proposal, provide the full name and a copy of the prospectus. It must strive to maintain a \$1 NAV.
- d. Interest earned on interest bearing accounts must **not** be charged as an expense on the account analysis. Confirm acceptance of this condition.

We may be required or may desire to open additional accounts, close accounts, or change account types during the contract period. If this occurs, the new accounts and services must be charged at the same contracted amount or, if unanticipated, at not more than published rates.

2. Automated Cash Management Information

We are interested in automated balance and detail information and online retention. Minimum automated services must include the following *[The district specifies the requirements.]*:

- prior-day summary and detail balance reporting on all accounts
 - intraday detail and summary balances (on local main and payroll accounts)
 - initiation and monitoring of stop payments
 - positive pay exception transactions
 - initiation and monitoring of internal and wire transfers
 - image access
 - controlled disbursement presentment totals [optional]
- a. Fully describe your online service. **List** the system capabilities (for example, balance reporting, wires, positive pay, stop payment, etc.).
 - b. What is your backup process to report balances and transactions in case the system is not available?
 - c. When is daily balance information available?

- d. Submit samples of major screens available, or provide web link access to a demonstration module.
- e. How is an individual security sign-on assigned, and who maintains the security module? How many levels of security are available?
- f. [Optional] With regard to controlled disbursements:
 - What is the cutoff time for disbursements?
 - What Federal Reserve location do these accounts clear through?
 - How do we have access to this information?

3. Deposit Services

We require standard commercial deposit services for all accounts.

We expect all deposited checks to clear based on your current published availability schedule, but please note any options for expedited availability in your proposal. For all cleared deposits you receive by your established deadline, you must process them for same-day ledger credit. If you fail to credit our accounts in a timely fashion, you must pay interest to us at the then-current effective federal funds rate.

- a. What is your daily cutoff time to ensure same-day ledger credit?
- b. Describe how and when you send credit and debit advices to us.
- c. What type of deposit bags do you use or require? Are these available from you?
- d. In what city does item processing occur?

Remote Deposit

We are interested in establishing or using remote check deposit for a few high-volume locations during the contract period. These deposits include both consumer and commercial checks.

- e. What are your current capabilities in remote check deposit? Describe how checks are processed and cleared. Please state the cutoff time for same-day ledger credit.
- f. Give two comparable references with contact information.
- g. Do you produce a daily balancing report? Provide a sample.
- h. What scanner equipment is required to operate the system? Is this equipment available through your depository bank for purchase or lease? Please list the equipment required along with its cost.

4. Standard Disbursing Services

We are interested in standard disbursing services for designated accounts.

- a. Do you image all paid checks, deposit items and deposit slips?
- b. Are check and deposit images available online? When? Do you provide a monthly compact disc (CD)? If not, are reports downloadable?
- c. How long do you maintain check and deposit images online?
- d. Do you pay all our checks without charge upon presentation?

5. Positive Pay

We require positive pay services if available at the bank for designated accounts on which checks are written. The positive pay process should be fully automated and web based. We will transmit check information electronically to you on each check run and as we create checks manually.

- a. Describe the data transmission and transfer requirements for automated and manual checks.
- b. Is input available online for manual checks? If it is not available online, how do we transmit information on individual manual checks to you?
- c. How can we change or delete check records, if necessary?
- d. How do you notify us of a positive pay exception?
- e. When do you report exception information to us? When is the deadline for our exception elections? Are images of exceptions available?
- f. Are all checks, including those received by the tellers and vault, verified against the positive pay file before processing? How often do you update teller information?
- g. Do you offer payee positive pay?
- h. Please provide a copy of your file layout format.

6. Account Reconciliation

We anticipate using partial or full reconciliation services on all accounts in concert with positive pay, depending on cost effectiveness.

- a. Describe the partial and full reconciliation processes.
- b. With what format(s) does your system interface? What record formats are required? *[Alternatively, the district can specify its interface format for the depository to determine compatibility.]* How do you send reconciled data to us? When?
- c. Please provide references of customers who use the XX ledger system?
- d. Specify all reporting alternatives.
- e. Are reports available online? How long are reports maintained online? Provide a sample copy of reports.

7. Funds Transfer and Wire Services

Incoming wire transfers must receive immediate same-day collected credit. Wire initiation should be available online. We require that wires be released the same business day if information is provided by the established deadline.

- a. Describe the process of online wire initiation. What backup process is available for the online process in case the system is unavailable?
- b. Is any paper transaction required for transfers or wires as follow-up?
- c. How and when will you notify us of incoming wires? Online? Email?
- d. Is future dating available for both repetitive and non repetitive wires and transfers? How far in advance?
- e. What is the deadline for initiation:
 - by telephone?
 - online?
- f. Are templates and template storage available?

8. Optical Imaging

We desire optical images that are downloadable or on CD on all accounts.

- a. What items and reports are available online (checks, statements, deposit slips, deposited items, etc.)? How long are each available?
- b. What items are captured on the monthly CD, if provided?
- c. When do you make the monthly CD or imaged reports available?
- d. When and for how long are statements and account analyses available online?

9. Automated Clearinghouse (ACH) Services

We require ACH transactions for payable and receivable transactions. We require a pre-notification (pre-note) on all new transactions.

- a. Describe the transmission alternatives for individual ACH transactions. Can we initiate individual ACH transactions online?
- b. What filters and blocks are available on our accounts for ACH transactions?
- c. Are ACH addenda shown in their entirety online and in reports?
- d. What is your policy on pre-notification? Is the pre-note charged as a standard ACH transaction?
- e. What is the deadline for transmission (hour and day) for a payroll to credit employee accounts on a Friday?
- f. Is ACH positive pay available?
- g. Does ACH debit the account on day of initiation or settlement?

10. Safekeeping Services

We may require you or another eligible offeror to provide book-entry safekeeping services for any securities we own. We will make all our investments and transmit instructions for clearing and safekeeping to you in writing or electronically.

All securities must be cleared on a **delivery versus payment (DVP)** basis. Ownership must be documented by original clearing confirmations, and safekeeping of receipts must be provided within one business day of the transaction. Funds for investments must be drawn from our designated demand deposit account. All principal and interest payments, coupon payments, and maturities must receive automated same-day collected credit on our designated account without requiring any additional action by us.

If you use a correspondent bank for safekeeping our securities, the transactions must be handled through your systems and must not require additional interaction by us with the correspondent bank. No delay in transactions, wires, or flow of funds is acceptable under a correspondent relationship.

- a. Are you a member of either the Federal Reserve or a Federal Home Loan Bank? If not, name the correspondent depository you would use for clearing and safekeeping. Describe any safekeeping arrangement proposed with a correspondent depository including processing requirements by us.
- b. Are security transactions available online for either originating or monitoring?

- c. What is the deadline for settlement instructions on a cash (same-day) settlement?
Would we incur any charge for late instructions?

We may choose to purchase time deposits from you, but all time deposits will be competitively bid at the time of purchase.

11. Collateral Requirements

You must meet all the requirements, including those beyond the Public Funds Collateral Act, as stated below. The proposal must state that you agree to the following terms and conditions:

- All collateral pledged to us must be held by a custodian or permitted institution as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act. *[Alternatively, the district may specify any limitations on its preferred custodial arrangement.]*
- We, you, and the safekeeping bank must execute a triparty safekeeping agreement for custody of pledged securities in full compliance with the FIRREA requiring a depository resolution. (Or completion of Circular 7 if a Federal Reserve bank is acting as custodian. Even if a Federal Reserve bank is used, you and we must still execute a depository agreement.)
- All time and demand deposits above FDIC coverage must be collateralized at a minimum of 102 percent of principal plus accrued interest at all times (110 percent on mortgage-backed securities).
- You are contractually liable for continuously monitoring and maintaining collateral at our required margin levels.
- The custodian must provide evidence of pledged collateral by sending original safekeeping receipts or a report directly to us within one business day of receipt.
- We must receive a monthly report of collateral pledged including description, par, market value, and cusip, at a minimum.
- We must grant substitution rights if you obtain our prior approval and if substituting securities are received before previously pledged securities are removed from safekeeping.

Authorized collateral includes only approved securities as specified by the Texas Government Code, Chapter 2257, Public Funds Collateral Act and noted above.

- a. Do you propose any collateral charges? If so, under what conditions are they charged, and how is the charge applied?
- b. What is your deadline for requesting collateral in excess of existing requirements?

12. Account Analysis

You should provide monthly account analysis reports for each account and on a consolidated account basis.

- a. When is the account analysis available each month?
- b. Is the account analysis available online? Is it imaged on electronic media monthly?
- c. Are paper statements also sent to us? If so, when?
- d. How long will it take you to correct any billing errors on the account analysis?

13. Monthly Statements

You must provide monthly account statements on all accounts with complete supporting documentation.

- a. State when monthly statements will be available each month online and on paper.
- b. Is the monthly statement available online? If so, when and for how long? Are the statements imaged and/or put on electronic media monthly?
- c. If imaged, are paper statements also sent to us? If so, when?

14. Overdrafts

- a. Are all accounts aggregated for overdraft calculation purposes?
- b. State the rate basis for intraday and interday overdrafts.
- c. What is the policy for daylight overdrafts?

15. Stop Payments

We desire an automated stop payment process.

- a. What are the time period options available for stop payments?
- b. What are the options for extended stop payment periods? How are they extended?
- c. What is the cutoff hour for same-day action on stop payments?
- d. Can we initiate stop payment orders online? If so, do you require any paper follow-up document?
- e. What information on current and expiring stop payments is available online?

16. Customer Service

- a. Do you offer customer services in languages other than English?
- b. What languages are offered?

17. Service Enhancements

Based on the information you provide in the proposal and your knowledge of the public sector, please describe any services or technological enhancements, not previously mentioned, that we should consider to manage our treasury operations more effectively.

Optional Services

1. Nonsufficient Funds (NSF) Checks Re-presented as ACH (Re-presented Check [RCK] Entry)

We may want the option of the second presentment to be made by ACH to targeted dates for maximum collection potential.

- a. Are you currently using ACH for collection of NSF checks? How long have you been providing this service? Provide two comparable references with contact information.
- b. How are the NSF and the later ACH transactions matched and reconciled? Does your system cross-reference the two transactions in any way?
- c. Is the NSF information, image, or occurrence available online? When and how? For how long is it available online?
- d. Can we specify any target pay day(s)?

2. Merchant Services.

We currently accept Visa, MasterCard, American Express, Discover, and debit card payments approximating \$_____ in collections per month with an average ticket size of \$_____. There are _____ (specify number) locations with _____ (specify number) terminals. *[Alternatively: We are interested in possibly accepting credit card payments for various activities.]* The service should include daily capture, transmission, and authorization of payments at point of sale and on the web. The service must include reporting by location.

[The district inserts this statement if it is true: We can and do comply with Payment Card Industry Data Security Standards.]

- a. Do you currently offer merchant card processing services? How long has this service been available? What interface format(s) does your system supply?
- b. How many institutions and end customers do you have?
- c. Describe the fee components of a merchant card processing relationship. Provide a list of all the fees to us. State the association fees, the discount rates, and your fee per transaction.
- d. Do you have software that allows online payments to us through your portal?
- e. Describe the reporting functions and data availability.
- f. Describe billing options.
- g. Describe the authorization method or process used. How are incorrect authorizations reversed?
- h. Describe your debit card processing capabilities. Do you distinguish between debit and credit cards on your bank identification number (BIN)? Can you program a debit card to the lowest cost network?
- i. Describe your transmission process. Describe the monitoring and notification process if transmissions fail.
- j. Is data imaging available online? What is available online? When? For how long?
- k. Describe the dispute resolution process.
- l. Describe your security measures for Internet transactions and unauthorized use.

3. Payroll Cards or Debit Cards

We are exploring the use of stored-value cards (payroll cards or debit cards) as a payroll option for employees at a minimum. Cardholders should be able to use the cards as debit

cards for purchases at point of sale as well as for cash withdrawals at financial institutions and automated teller machines.

The purchasing ability of the cards must be limited to the stored value of the card. We may choose not to pay for access fees for the employees issued the stored-value cards.

We will be responsible for any marketing of the program and have total discretion on the distribution of the cards. We will enroll the employees. You must provide cardholders with all processing and transaction information and reports. We expect the following services from you, at a minimum:

- embossing, encoding, and distributing standard cards as directed by us
 - providing paper and electronic statements to cardholders
 - administering accounts, including maintenance of accounts, application of funds, authorization of transactions, and related tracking
 - customer service functions
- a. Do you currently provide this service? If so, how long has it been available?
 - b. How many institutions and end customers use the service? Provide three comparable references for the service.
 - c. Which program (authorization marks) does your program use? (Visa, MasterCard, etc.)
 - d. Describe the enrollment process. Is enrollment batched and web-based?
 - e. Describe the manner by which funds will be made available to the cardholders.
 - f. What are the inactivity levels for the program? Do these generate additional fees? Describe any other potential fees.
 - g. Are all funding transmissions by standard ACH? Describe the data transmission requirements and deadlines.

4. Purchasing Cards

We may consider a purchasing card program during the contract period. Cards would be assigned to our employees for defined use.

- a. What card platforms do you support (MasterCard, Visa)? Do you use a third-party processor?
- b. What, if any, information is available online? When? Describe data download and integration capabilities. Describe reporting capabilities.
- c. What client support is available? How is it provided?
- d. Describe the diverse parameters and restrictions available for the card control. How many access levels are available?
- e. Discuss settlement and corporate liability terms. Include information on your support for the program and your experience, settlement terms on payment, security procedures, and license requirements. How will we receive billing?
- f. Describe how cards are issued, deleted, or replaced. How do you handle lost or stolen cards?
- g. Provide three comparable references for the service.

5. Check Printing

- a. Do you offer check printing services? Describe?
- b. What is the deadline for same-day and next day printing?
- c. Where are checks printed and sent from?

6. Smart Safes

- a. Do you offer smart safes? Describe.
- b. From our deposit history is this cost effective?

Schedules and Attachments

We provide the following:

- copy of our audited financial statements *[or link to website]*
- Attachment A, Volumes for Pricing Transactions (filled in with volumes)
- Attachment B, District's Current Account Structure
- Attachment C, District Investment Policy *[or link to website]*

You must include the following information with the proposal:

- copy of your audited financial statements *[or link to website]*
- corporate audited financial statements and the individual depository's call report (for members of your holding companies) *[or link to website]*
- Uniform Bank Performance Report reference
- Attachment A, Volumes for Pricing Transactions (filled in with rates)
- Sample Account Analysis Statement
- Attachment D, Sample Collateral Agreement
- any service agreements (including those not directly referenced in this proposal) that must be executed under the contract (if applicable)
- screen shots of major pages within your automated cash management system, or online web demo access (if available)
- sample daily balancing report for remote deposit (if applicable)
- sample account reconciliation reports (if applicable)

Optional Acknowledgments *[insert as required by district preference]*

You confirm that you will not charge interest earned on the account analysis.

If awarded the contract, you must review our then-current district investment policy and certify in writing to that review in accordance with the Public Funds Investment Act verifying that you have sufficient controls in place to avoid transactions not authorized by the policy.

You accept the investment options and/or collateral conditions as specified in our investment policy.

By submitting this proposal, you acknowledge that you agree with and accept all specifications in the proposal except as you expressly qualified in the proposal.

Bank: _____

Address: _____

City, State, Zip: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Typed Name: _____

Date: _____

**Depository Contract for Funds
of Independent School Districts
under the Texas Education Code, Chapter 45, Subchapter G,
School District Depositories**

State of Texas

County-District Number

County of _____

Article I. The _____, referred to in this contract
Name of District

as the "District," is located in _____ County, Texas. The board of trustees of the District has selected
Name of County

_____, referred to in this contract as the "Depository," to serve as the Depository of the
Name of Depository Bank

school funds of the District (or if there are tie bids or proposals as defined in the Texas Education Code [TEC], as one of the Depositories). This selection was made in accordance with the TEC, Chapter 45, Subchapter G. The Depository will serve under this contract for a two-year term starting with the fiscal year beginning _____ and ending _____, and until its successor is selected and has qualified unless
Date *Date*

this contract is terminated sooner by the Depository's failure to adhere to all requirements of the TEC and of this contract. The school funds of the District include all school funds except those permitted by law to be deposited or invested otherwise at the sole discretion of the District's board of trustees.

The Depository is located at _____ County, State of Texas, and is a
Bank Mailing Address, City, Zip Code *Name of County*

bank as defined in the TEC, §45.201.

Article II. The District selected the Depository based on the Depository's written bid or proposal submitted as provided by State Board of Education rule. The District determined that the Depository's written bid or proposal was the best, or equal to the best, among _____ bids or
Number Submitted

proposals submitted to the District and opened on _____. The bid or proposal is incorporated in this contract by reference.
Date

This contract is subject to the TEC and any amendments to it and to any acts of the Texas Legislature that affect public moneys held by the District during the term of this contract.

Article III. The Depository has elected a method to adequately protect the funds of the District deposited with the Depository in accordance with the TEC, §45.208, and a copy of the election is attached to this contract and incorporated by reference.

Article IV.

- A. The TEC, §45.205, requires that this contract and any extension of this contract coincide with the District's fiscal year. If the District changes its fiscal year in accordance with the TEC, §44.0011, the parties may agree to shorten or extend the two-year term of the contract by no more than one year to coincide with the end of the new fiscal year, provided that this contract remains in effect until the Depository's successor is selected and has qualified. If the parties cannot agree, the District has the option to change the term of this contract to coincide with the end of a new fiscal year closest to its original expiration date.
- B. The District and the Depository may agree to extend this contract for three additional two-year terms in accordance with the TEC, §45.205(b). The contract may be modified for each two-year extension if both parties mutually agree to the terms. An extension under this subsection is not subject to the requirements of the TEC, §45.206.
- C. The District must electronically file this contract and any additional two-year extension of this contract with the Texas Education Agency.
- D. The Depository must allow the District to purchase time deposits that mature after the ending date of this contract; however, the Depository may apply new interest rates to the time deposits after the ending date of this contract. The District is entitled to withdraw these time deposits without penalty when this contract expires. But in that event, the Depository will be obligated only to pay interest rates comparable to rates offered in the contract for the term the time deposits were actually held. The Depository may impose an early withdrawal penalty on a time deposit withdrawn within six days of creation of the deposit, to the extent required to comply with federal regulations defining time deposits.
- E. If a contractual dispute results in litigation between the Depository and the District, the trial will be held in the county in which the District has its central office, but only if this venue designation is not considered to be a waiver of any immunity that either party to this contract may be entitled to claim.

Article V. The District and the Depository execute this contract and each retain a copy, both of which are considered to be originals, and file the contract with the TEA electronically as specified in Article IV, item C, above.

**To Be Completed by the District and Verified by the Depository
(For all funds received from the Texas Education Agency)**

--	--	--	--	--	--	--	--	--	--	--	--	--	--

Routing Transit Number
(Must be 9 digits)

Type of Account:

Account Number
(Up to 13 digits)

Check One:
Checking
Savings

Check here if the TEA currently sends funds to an investment pool and no change is required in routing of funds.

Please note that the account information above must match the current direct deposit information on file with the Texas Education Agency, Accounting Division. If the District is changing the current direct deposit information, the District must submit a Vendor Direct Deposit Authorization form along with the depository contract.

Agreed and accepted on behalf of the District this _____ day of _____, _____

Signature of President of School Board

Agreed and accepted on behalf of the Depository this _____ day of _____, _____

Typed Name of Depository

Signature of Authorized Officer

Title of Authorized Officer

Acknowledgment

Acknowledged before me in _____ County, Texas, on _____, 20____, by
_____, bank officer of the Depository named in the preceding document, for the Depository.

Signature of Notary

(SEAL)

Notary Public in and for _____
County, Texas

**Election of Collateral Method for Funds
of Independent School Districts
under the Texas Education Code, Chapter 45, Subchapter G,
School District Depositories**

In accordance with Article III of the Depository Contract for Funds, the Depository has elected to use the following method(s) to protect the funds of the District:

- ___ Surety bond (TEC, §45.208[b])
- ___ Deposit or pledge securities (TEC, §45.208[f])

- A. If the Depository elected to file with the District a corporate surety bond, then the corporate surety bond is in an initial amount of \$ _____, which is equal to the estimated highest daily balance of the District funds determined by the board of trustees of the District to be on deposit with the Depository during the term of this contract. The corporate surety bond is executed in the form and with the content prescribed by State Board of Education rule. A fully executed copy of the corporate surety bond is attached to and made a part of this contract by reference, provided further that:
- (1) the initial amount of the corporate surety bond may rise or fall from day to day so long as all deposits of the District are fully protected;
 - (2) the bond is made payable to the District and is signed by the Depository and the surety company authorized to do business in this state;
 - (3) the bond and the surety on the bond are approved by the board of trustees of the District;
 - (4) the bond exists under the condition that the Depository must:
 - (a) faithfully perform all duties and obligations required by law and this contract;
 - (b) pay on presentation all checks or drafts ordered according to law by the District's board of trustees;
 - (c) pay on demand any demand deposit in the Depository;
 - (d) pay any time deposit after the required notice period expires;
 - (e) faithfully keep school district funds and account for the funds according to law; and
 - (f) faithfully pay over to the successor depository all balances remaining in the account; and
 - (5) the District may not pay a premium on the depository bond out of school district funds.
- B. If the Depository did not elect to make the corporate surety bond in the amount and as referred to in A, above, then the Depository must either deposit or pledge with the District, or with a trustee designated by the District, approved securities as defined in the TEC, §45.201. The pledged or deposited securities must meet the following conditions:
- (1) The pledged securities must be approved securities and authorized by law and must be in a total market value sufficient to protect the funds of the District on deposit as directed at any time by the District in accordance with standards acceptable to the Texas Education Agency.
 - (2) The pledge of approved securities must be waived only to the extent of the exact dollar amount of Federal Deposit Insurance Corporation insurance protection for the District's funds on deposit with the Depository from day to day, and if the insurance protection ends, this contract must immediately become void except as provided in (4) below.
 - (3) The conditions of the pledge of approved securities required by this contract are that the Depository must:
 - (a) credit the account(s) of the District with the full amount of all State of Texas warrants presented to the Depository for the District's account no later than the next banking day after the day the Depository receives the warrants credit the account(s) of the District with the full amount of electronically transferred funds on the effective settlement date;
 - (b) faithfully perform all duties and obligations required by law and this contract;
 - (c) pay upon presentation all checks or drafts ordered according to law by the District's board of trustees;
 - (d) pay upon demand any demand deposit of the District in the Depository;
 - (e) pay any time deposit or certificate of deposit upon maturity or after the required notice period expires;
 - (f) faithfully keep school district funds and account for the funds according to law; and
 - (g) faithfully pay over to the successor depository all balances of funds remaining in the account.
 - (4) The pledge of approved securities required by this contract must continue until either this contract ends or the Depository fulfills all its duties and obligations arising out of this contract, whichever is later. And a continuing security interest in the District's favor must immediately apply to any pledge to all proceeds of sale and to all substitutions, replacements, and exchanges of the securities, and in no event may this continuing security interest be voided by any act of the Depository; however, the Depository will have the right, with the District's consent, to purchase and sell, and substitute or replace with other approved securities, any of the approved securities pledged under this contract, provided that the Depository adheres to all the other conditions of this contract, and the pledge is in addition to all other remedies available in law to the District.
 - (5) The Depository must immediately furnish or cause to be furnished to the District original and valid safekeeping or trust receipts issued by the custodian holding the approved securities pledged under this contract, marked on their face by the custodian to show the pledge and market value as required above, and the Depository must upon the District's request provide a description of securities being pledged and evidence that the securities are legally acceptable in accordance with (1) above.
 - (6) The District may examine and verify at any reasonable time a pledged investment security or a record that a custodian maintains in accordance with the Texas Government Code, §2257.061. The District or its agent may inspect at any time an investment security evidenced by trust receipt.
 - (7) Upon any closing or failure of the Depository, or any event considered by a state or federal regulatory agency to constitute a closing or failure of the Depository, title to all securities pledged under this depository contract must be considered to be vested in, and to be held by

the District. The District is empowered to take immediate possession of and to sell any such pledged securities, whether in safekeeping at another bank or in possession of the District or the Depository, and the District is specifically so empowered by execution of this contract.

- (8) The collateral pledge agreement must conform to Title 12 United States Code Annotated, §1823(e), so to defeat the claim of the Federal Deposit Insurance Corporation, its successor, or any other receiver to the securities, and be:
 - (a) in writing;
 - (b) executed by the Depository at the same time the asset is acquired;
 - (c) approved by the Depository's board of directors or loan committee, with the approval reflected in the board's or committee's minutes; and
 - (d) maintained continuously from the date of its execution as an official record of the Depository.

The Depository must furnish the minutes of the Depository's board of directors or loan committee to the District.

- C. If the Depository elects to give both a corporate surety bond and to pledge approved securities, the corporate surety bond and pledged approved securities must be in an aggregate amount that, together with applicable Federal Deposit Insurance Corporation insurance, will adequately protect the total amount of District funds on deposit with the Depository from day to day. The provisions of A, above, permitting the amount of the corporate surety bond to rise or fall from day to day, and all the provisions of B, above, relating to the amount and conditions of pledge of approved securities, including but not limited to substitution and conditions of pledge, apply to the election permitted by this paragraph C.
- D. The Depository agrees to cover by corporate surety bond, pledge of approved securities, or both an amount that is equal to funds anticipated to be on deposit from day to day, which is estimated not to exceed \$_____. The amount of collateral will be calculated in accordance with the Texas Government Code, Chapter 2257, Collateral for Public Funds Act.
- E. After the beginning date of this contract if the amount of deposit exceeds that which is initially covered by corporate surety bond, pledged approved securities, and FDIC insurance, the amount covered will be increased, and original and valid safekeeping or trust receipts of the additional securities, increased corporate surety bond, or both will be provided in accordance with the TEC and Texas Education Agency rules.

ATTACHMENT V
Text of 19 TAC

Figure: 19 TAC §109.52(d)

Page 1 of 5

Texas School Depository Surety Bond Form

Bond Number _____

I.
Guarantee

1. Under all the terms and conditions of this bond, _____ (referred to in this document as *the Surety Company*) and _____ (referred to in this document as *the Bank*) agree that:
 - a. the Bank will pay a premium to the Surety Company and
 - b. the Surety Company will guarantee the deposits in certain Designated Depository Accounts in the Bank, in excess of the \$250,000.00 deposit insurance provided by the Federal Deposit Insurance Corporation (FDIC).
2. The Surety Company must promptly reimburse the Owner(s) of a Designated Depository Account or Accounts (referred to in this document as *the Owner*) up to a limit of liability as specified in Section III of this bond if the Bank becomes insolvent and fails.
3. "Becomes insolvent and fails" means that either:
 - a. the Bank must be taken over by a regulatory authority, either state or federal, and ordered liquidated or
 - b. the FDIC must sell the Bank's deposits in such a manner that the FDIC refuses to sell or reimburse the deposits in excess of the \$250,000.00 deposit insurance.

II.
Designation of Account Owner and Depository Account(s)

Designated Owner of the Depository Account(s):

[_____ *Independent School District (ISD)*].

Address of the Owner:

Designated Depository Account Number(s):

[List Various Depository Accounts in the Name of _____ ISD]

**III.
Limit of Liability**

The Surety Company's total liability under this bond is [*written dollar amount \$XXXXXXXX*], which is the maximum guaranteed amount. Regardless of the number of Owners and the number of Designated Depository Accounts, the maximum amount of payment under this bond must not exceed [*\$XXXXXXXX*].

**IV.
Payment of Loss**

If the Bank should be declared insolvent and fail, the Surety Company must pay the Owner of the Designated Depository Account(s) for which this bond has been issued the amount that the receiver's certificate indicates to be uninsured by the FDIC. The amount of the payment is limited to the maximum guaranteed amount specified in Section III of this bond. This bond does not cover any indirect or consequential damages or loss. The Surety Company must pay the Owner promptly upon receiving assignment of the receiver's certificate from the Owner or upon demand.

**V.
Termination or Cancellation**

This bond becomes effective at 12:01 a.m. on [*date*] and remains in effect until terminated or canceled for any of the following reasons:

1. The Surety Company cancels the bond for nonpayment of the annual premium 15 days after notifying the Bank of the nonpayment and impending cancellation.
2. The Owner notifies the Surety Company in writing of the Owner's desire to cancel the bond, and the Surety Company cancels the bond immediately.
3. The Surety Company desires to cancel the bond for reasons allowed by the laws of Texas.
 - a. The Surety Company sends a written notice by facsimile transmission, hand delivery, or certified mail, return receipt requested to the Bank and to the Owner's address as shown on this bond. The notice is considered effective upon receipt by the parties to whom the notice is addressed.
 - b. The cancellation is effective 90 days after the notice is effective.
4. This bond is automatically terminated if all funds in the Designated Depository Account(s) listed in Section II of this bond are withdrawn, the account(s) are closed, or both.

If this bond is canceled or terminated, the Surety Company has no obligation to make any payment to any Owner.

VI.
Responsibility of the Bank

It is understood and agreed that this bond is for and on behalf of the Bank to enable the Bank to protect the Owner of its Designated Depository Account(s). All designations of accounts are the complete responsibility of the Bank. The Surety Company's liability to the Owner begins upon the declaration of insolvency and failure of the Bank, and not before that event. In addition, under the Texas Education Code, §45.208, the Surety Company and the Bank agree that the Bank must:

1. faithfully perform all duties and obligations required by law,
2. pay on presentation all checks or drafts ordered according to law by the district's board of trustees,
3. pay on demand any demand deposit in the Bank,
4. pay any time deposit of the school district after the required notice period expires,
5. faithfully keep the school district funds and account for the funds according to law, and
6. faithfully pay over to any successor depository all balances remaining in the accounts of the Bank.

VII.
Consolidation or Merger

This bond becomes void at 12:01 a.m. on the date the Bank consolidates with or merges into any other bank or financial institution. The Bank must notify the Surety Company and the Owner 90 days before any consolidation or merger of the Bank's intention to merge into another bank or financial institution. Any deposits in the Designated Depository Account(s) in excess of the \$250,000.00 FDIC deposit limit must be guaranteed by a new bond or other means as authorized by Texas law at the time of the consolidation or merger.

**VIII.
Sole Use and Benefit**

This bond is for the sole use and benefit of the Owner. This bond is nonnegotiable and may not be assigned under any circumstances by the Owner or any other person, entity, or holder. The Bank may not be considered an agent or representative of the Surety Company for any purpose in connection with this bond.

Signed, sealed, and dated this _____ day of _____, _____.

[Bank]
(Address)
(Phone)

[Surety Company]
(Address)
(Phone)

By _____

By _____

Title _____

Title _____

Acknowledgment

Acknowledged before me in _____ County, Texas, on _____, 20____, by _____, officer of the Bank named in the preceding document, for the Bank, and by _____, officer of the Surety Company named in the preceding document, for the Surety Company.

(SEAL)

Signature of Notary

Notary Public in and for _____
County, Texas
My Commission Expires _____

Surrender of Bond Form

By signature below of the Owner, the Owner gives notice to the Surety Company of the Owner's desire to cancel Bond Number _____ in its entirety.

By _____

Date _____

OR

Surrender of Bond for Reissuance Form

By signature below of the Owner, the Owner gives notice to the Surety Company of the Owner's desire to cancel Bond Number _____ in its entirety, on the condition that another similar bond is issued with the following listed Owner, Owner address, Designated Depository Account Number(s) and limit of liability:

Requested Designated Depository Account Owner:

Address of Requested Designated Owner:

Requested Designated Depository Account Number(s):

Requested Limit of Liability:

By _____

Date _____

Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts
(Adoption of Review)

January 29, 2021

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

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts. The rules in Subchapter B address the historically underutilized business (HUB) program and procedures relating to protest for purchasing issues and dispute resolution, in accordance with TGC requirements.

STATUTORY AUTHORITY: The statutory authority for the rule review is [TGC, §2001.039](#). The statutory authority for 19 TAC Chapter 30, Subchapter B, is [TGC, §§2161.003, 2155.076, and 2260.052](#).

TGC, §2001.039, requires a state agency to review and consider for readoption each of its rules.

TGC, §2161.003, requires the SBOE to adopt the HUB rules of the state as its own rules.

TGC, §2155.076, requires that each state agency by rule develop and adopt protest procedures for resolving vendor protests relating to purchasing issues.

TGC, §2260.052, requires each unit of state government with rulemaking authority to develop rules to govern the negotiation and mediation of a claim.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The review of 19 TAC Chapter 30, Subchapter B, was presented to the Committee on School Finance/Permanent School Fund for discussion at the November 2020 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Effective December 5, 2004, the SBOE adopted rules in 19 TAC Chapter 30, Subchapter B, to address the HUB program, protest procedures for purchasing issues, and procedures for dispute resolution, as required by statute.

The TGC, §2161.003, directs each state agency to adopt the state's HUB rules as its own rules. Those rules apply to state agency construction projects and purchases of goods and services paid for with appropriated money. To comply with statute, the SBOE adopted 19 TAC §30.21, Historically Underutilized Business (HUB) Program, effective December 5, 2004. The rule adopts by reference the Texas Building and Procurement Commission (TBPC) rules concerning the HUB program. Effective April 26, 2009, the rule was amended to reflect the transfer of HUB rules from the TBPC to the Comptroller of Public Accounts.

TGC, §2155.076, requires that each state agency by rule develop and adopt protest procedures for resolving vendor protests relating to purchasing issues. Rules are required to be consistent with the Comptroller of Public Accounts' rules and include standards for maintaining documentation about the

purchasing process to be used in the event of a protest. In addition, TGC, §2260.052, requires each unit of state government with rulemaking authority to develop rules to govern the negotiation and mediation of a claim. To comply with statute, the SBOE adopted 19 TAC §30.22, Procedures for Protests, Dispute Resolution, and Appeals Relating to Purchasing and Contract Issues, effective December 5, 2004. The rule establishes that any person interested in protesting an award must do so by filing a written formal protest petition and provides the specifications that must be addressed in the protest petition. The rule also specifies the mediation procedures for resolution of a formal protest and sets forth guidelines to appeal a protest determination. No amendments have been made to the rule since its initial adoption.

Texas Education Agency (TEA) staff do not anticipate presenting any changes to 19 TAC Chapter 30, Subchapter B, at this time.

PUBLIC COMMENTS: The TEA filed the proposed review of 19 TAC Chapter 30, Subchapter B, with the Texas Register following the November 2020 SBOE meeting. The public comment period on the proposed review began December 18, 2020, and ended January 22, 2021. At the time this item was prepared, no comments had been received regarding this review. Any public comments received will be provided to the SBOE during the January 2021 meeting. The SBOE will take registered oral and written comments on the proposed review at the committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Adopt the review of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts.

Staff Members Responsible:

Carla Steffen, Associate Commissioner of Finance/Chief Financial Officer
Jenna Mattingly, Director, Contracts and Purchasing

Attachment:

Text of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts

ATTACHMENT
Text of 19 TAC

Chapter 30. Administration

Subchapter B. State Board of Education: Purchasing and Contracts

§30.21. Historically Underutilized Business (HUB) Program.

In accordance with the Texas Government Code, §2161.003, the State Board of Education adopts by reference the rules of the Comptroller of Public Accounts, found at Title 34 Texas Administrative Code, §§20.11-20.28, concerning the Historically Underutilized Business (HUB) Program.

Statutory Authority: The provisions of this §30.21 issued under the Texas Government Code, §2161.003.

Source: The provisions of this §30.21 adopted to be effective December 5, 2004, 29 TexReg 11339; amended to be effective April 26, 2009, 34 TexReg 2532.

§30.22. Procedures for Protests, Dispute Resolution, and Appeals Relating to Purchasing and Contract Issues.

- (a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract under the jurisdiction of the State Board of Education (SBOE) may formally protest to the director of the Texas Education Agency (TEA) division responsible for purchasing and contracts. Such protests must be in writing and received in the purchasing and contracts director's office within ten working days after such aggrieved person knows, or reasonably should have known, of the occurrence of the action which is protested, unless the director finds that good cause for delay is shown or determines that a protest or appeal raises issues significant to the TEA's procurement practices or procedures.
- (b) Formal protests must conform to the requirements of this subsection and subsection (d) of this section, and shall be resolved in accordance with the procedure set forth in subsections (e)-(f) of this section. Copies of the protest must be mailed or delivered by the protesting party to the TEA and to the other interested parties. For the purposes of this section, "interested parties" means all respondents who have submitted bids, proposals, or offers for the contract involved. Names and addresses of all interested parties may be obtained by sending a written request for this information to the purchasing and contracts director.
- (c) In the event of a timely protest or appeal under this section, the TEA shall not proceed further with the solicitation or with the award of the contract unless the commissioner of education or the commissioner's designee, in consultation with the purchasing and contracts director, makes a written determination that the expeditious award of contract is necessary to protect substantial interest of the state. A copy of this determination shall be mailed to the protesting party.
- (d) A formal protest petition must be sworn and must contain:
 - (1) a specific identification of the statutory or regulatory provision(s) that the action complained of is alleged to have violated;
 - (2) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in paragraph (1) of this subsection;
 - (3) a precise statement of the relevant facts;
 - (4) an identification of the issue or issues to be resolved;
 - (5) argument and authorities in support of the protest; and
 - (6) a statement that copies of the protest have been mailed or delivered to the TEA and other identifiable interested parties.
- (e) The purchasing and contracts director shall have the authority to settle and resolve the dispute concerning the solicitation or award of a contract. The director may solicit written responses to the protest petition from other interested parties, and if he or she makes such a request, the protesting party shall be given

notice of the director's request and of any written responses to the request that the director receives. The director may consult with the TEA office of legal services concerning the dispute.

- (f) If the protest is not resolved by mutual agreement, the purchasing and contracts director will issue a written determination on the protest.
 - (1) If the director determines that no violation of rules or statutes has occurred, he or she shall so inform the protesting party and other interested parties by a letter which sets forth the reasons for the determination.
 - (2) If the director determines that a violation of rules or statutes has occurred in a case where a contract has not been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and the appropriate remedial action.
 - (3) If the director determines that a violation of rules or statutes has occurred in a case where a contract has been awarded, he or she shall so inform the protesting party and other interested parties by a letter which sets forth the reasons for the determination. In such a case, the director has the authority to declare the contract void. If he or she declares the contract void, this fact shall be included in the determination letter.
- (g) The purchasing and contracts director's determination on a protest may be appealed by the protesting party to the commissioner of education or the commissioner's designee. An appeal of the director's determination must be in writing and must be received in the commissioner's office no later than ten working days after the date of the director's determination. An appeal of the determination shall be limited to those issues raised in the protest petition and the determination letter. Copies of the appeal must be mailed or delivered by the appealing party to the TEA and other interested parties and must contain a sworn statement that such copies have been provided.
- (h) The commissioner or the commissioner's designee shall review the protest petition, the purchasing and contracts director's requests for written responses to the protest petition, any written responses received from other interested parties, the determination, and the appeal.
- (i) The commissioner or the commissioner's designee may, in his or her discretion, issue a written decision on the protest or refer the matter to the SBOE for consideration at a regularly scheduled open meeting.
- (j) A decision issued either by the SBOE in an open meeting or in writing by the commissioner or the commissioner's designee shall be the final administrative action of the TEA.

Statutory Authority: The provisions of this §30.22 issued under the Texas Government Code, §2155.076 and Chapter 2260.

Source: The provisions of this §30.22 adopted to be effective December 5, 2004, 29 TexReg 11339.

Review of Permanent School Fund Securities Transactions and the Investment Portfolio

January 28, 2021

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 October and November 2020 in the investment portfolio of the Texas Permanent School Fund.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

Administrative rules found in 19 TAC Chapter 33 provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: 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](#).

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

**Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund
for the Months October and November 2020**

January 29, 2021

**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 October and November 2020.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

Administrative rules found in 19 TAC Chapter 33 provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the November 2020 meeting, the board approved purchases in the amount of \$3,050,234,143 and sales in the amount of \$3,358,086,350 conducted in the investment portfolio of the Permanent School Fund for the months of July, August, and September 2020.

BACKGROUND INFORMATION AND JUSTIFICATION: 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.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Report on the Permanent School Fund Liquid Account

January 29, 2021

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 receive a status update on the liquid account and take action to ratify transactions.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Texas Natural Resources Code ([NRC](#)), [§51.414](#), as added by HB 4388, 86th Texas Legislature, 2019; 19 Texas Administrative Code (TAC), Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

NRC, §51.414, as added by HB 4388, 86th Texas Legislature, 2019, created the Liquid Account within the Permanent School Fund to be managed by the SBOE.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the November 2020 meeting, the board ratified purchases and sales of the Permanent School Fund Liquid Account for the period September 1, 2019 through September 2020, in the amounts of \$3,561,837,642 and \$671,509,016 respectively.

BACKGROUND INFORMATION AND JUSTIFICATION: None

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

**Annual Reporting Requirement of the Internally-Managed Permanent School Fund
Investment Portfolio**

January 28, 2021

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: This item provides an opportunity for the Executive Administrator and Chief Investment Officer of the Permanent School Fund to report on various items required by 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

Administrative rules found in 19 TAC Chapter 33 provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: This is a recurring report that is presented annually to the committee. Based on the date presented, the committee will provide guidance to investment staff as appropriate.

BACKGROUND INFORMATION AND JUSTIFICATION: Specific actions that the committee must accomplish are outlined in 19 TAC Chapter 33. This chapter also specifies reporting requirements and representations that must be made to the committee.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Third Quarter 2020 Permanent School Fund Performance Report

January 28, 2021

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 third calendar quarter 2020 and cumulative investment performance of the various portfolios of the Fund. This item provides the opportunity for the committee to discuss in depth various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); 19 Texas Administrative Code (TAC), Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

Administrative rules found in 19 TAC Chapter 33 provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: 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.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Approval of an Extension of the Standard Contract with BNY Mellon and Authorization for Contract Execution by the Commissioner of Education

January 29, 2021

**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 extend the standard contract with BNY Mellon, and authorize contract execution by the commissioner of education.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Natural Resources Code (NRC), [§51.414](#); 19 Texas Administrative Code (TAC), Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

NRC, §51.414 establishes the Permanent School Fund (PSF) Liquid Account as an account in the permanent school fund in the State Treasury to be managed by the SBOE.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas PSF and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the February 2017 meeting, the board selected BNY Mellon to provide Global Custody and Securities Lending Services for the PSF with the option to extend for two (2) additional three-year terms. The initial term of the contract will expire on August 31, 2021.

BACKGROUND INFORMATION AND JUSTIFICATION: None

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules
(Second Reading and Final Adoption)

January 29, 2021

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

SUMMARY: This item presents for second reading and final adoption proposed amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules. The proposed amendments would amend the asset allocation of the Permanent School Fund (PSF), update transactions and restrictions that apply to the PSF, and update cross references and a section title. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §5\(a\) and \(f\)](#); Texas Education Code (TEC), [§43.001](#); [§43.0052](#), as added by House Bill (HB) 4388, 86th Texas Legislature, 2019; and Texas Natural Resources Code (NRC), [§32.012](#), as amended by Senate Bill (SB) 608, 86th Texas Legislature, 2019; NRC, [§32.0161](#), as added by SB 608, 86th Texas Legislature, 2019; and NRC, [§32.068](#), and [§51.414](#), as added by HB 4388, 86th Texas Legislature, 2019.

Texas Constitution, Article VII, §5(a), authorizes the State Board of Education (SBOE) to make distributions from the PSF to the available school fund with certain limits.

Texas Constitution, Article VII, §5(f), authorizes the SBOE to manage and invest the PSF according to the prudent investor standard and make investments it deems appropriate.

TEC, §43.001, describes the PSF as a perpetual endowment.

TEC, §43.0052, as added by HB 4388, 86th Texas Legislature, 2019, and TNRC, §32.068 and §51.414, as added by HB 4388, 86th Texas Legislature, 2019, created the Liquid Account within the PSF to be managed by the SBOE and require the SBOE and School Land Board to send quarterly investment and financial reports to the other.

TNRC, §32.012, as amended by SB 608, 86th Texas Legislature, 2019, and §32.0161, as added by SB 608, require the SBOE to submit to the governor a list of six nominees for each of two positions on the School Land Board and requires the SBOE and the School Land Board to hold a joint annual public meeting to discuss the PSF.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendments 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 adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2021-2022 school year. The earlier effective date would allow the rules to align with statute as soon as possible.

PREVIOUS BOARD ACTION: The SBOE adopted rules in Chapter 33 effective September 1, 1996. The proposed rules were last revised by the SBOE as follows. Section 33.5 was amended effective

May 28, 2018. Sections 33.15, 33.25, 33.35, and 33.60 were amended effective March 15, 2020. At the September 2020 SBOE meeting, the Committee on School Finance/Permanent School Fund discussed possible amendments to Chapter 33. At the November 2020 meeting, the SBOE approved the proposed amendments to 19 TAC Chapter 33, Subchapter A, for first reading and filing authorization.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statute, the rules in Chapter 33 establish investment objectives, policies, and guidelines for the PSF.

The proposed amendment to §33.5, Code of Ethics, would update a reference to 19 TAC §33.20, Responsible Parties and their Duties.

The proposed amendment to §33.15, Objectives, would amend the asset allocation of the PSF.

The proposed amendment to §33.25, Permissible and Restricted Investments and General Guidelines for Investment Managers, would update transactions and restrictions that apply to the PSF.

The proposed amendment to §33.35, Guidelines for the Custodian and the Securities Lending Agent, would update the section title to include the PSF Liquid Account.

The proposed amendment to §33.60, Performance and Review Procedures, would update a reference from the TNRC to the TEC.

No changes are recommended since approved for first reading.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

The Texas Education Agency (TEA) has determined that there are no additional costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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 adding to the list of prohibited transactions and restrictions in §33.25.

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: No changes have been made to this section since published as proposed.

The proposal would update and clarify provisions supporting the management and investment of the PSF. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

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: Following the November 2020 SBOE meeting, notice of proposed amendments to 19 TAC Chapter 33, Subchapter A, was filed with the Texas Register, initiating the public comment period. The public comment period began December 18, 2020, and ended January 22, 2021. No comments had been received at the time this item was prepared. A summary of any public comments received regarding the proposal will be provided to the SBOE during the January 2021 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption proposed amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules; and

Make an affirmative finding that immediate adoption of proposed amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, 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 Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Attachment:

Text of Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules

ATTACHMENT
Text of Proposed Amendments to 19 TAC

**Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas
Permanent School Fund**

Subchapter A. State Board of Education Rules

§33.5. Code of Ethics.

- (a)-(c) (No change.)
- (d) Definitions. For purposes of this chapter, the following terms shall have the following meanings.
 - (1)-(3) (No change.)
 - (4) PSF Service Providers are the following Persons:
 - (A) any Person who is an external investment manager, as described in §33.20(c)(1) [~~§33.20(b)(1)~~] of this title (relating to Responsible Parties and Their Duties), or who is responsible by contract for providing legal advice regarding the PSF, executing PSF brokerage transactions, or acting as a custodian of the PSF;
 - (B) (No change.)
 - (C) any Person who is Investment Counsel as described in §33.20(c)(4) [~~§33.20(b)(4)~~] of this title or provides consultant services for compensation regarding the management and investment of the PSF;
 - (D)-(G) (No change.)
 - (5)-(6) (No change.)
- (e)-(v) (No change.)

§33.15. Objectives.

- (a) (No change.)
- (b) Goal and objectives for the PSF.
 - (1) Goal. The goal of the SBOE for the PSF shall be to invest for the benefit of current and future generations of Texans consistent with the safety of principal, considering [~~in light of~~] the strategic asset allocation plan adopted. To achieve this goal, PSF investment shall always be carefully administered [~~at all times~~].
 - (2) (No change.)
- (c) (No change.)
- (d) Asset allocation policy.
 - (1) The SBOE shall adopt and implement a strategic asset allocation plan based on a well-diversified [~~well diversified~~], balanced investment approach that uses a broad range of asset classes indicated by the following characteristics of the PSF:
 - (A)-(G) (No change.)
 - (2) (No change.)
 - (3) The SBOE Committee on School Finance/Permanent School Fund, with the advice of the PSF investment staff, shall review the provisions of this section at least annually and, as needed, rebalance the assets of the portfolio according to the asset allocation rebalancing procedure specified in the PSF Investment Procedures Manual. The SBOE Committee on School

Finance/Permanent School Fund shall consider the industry diversification and the percentage allocation within the following asset classes:

(A)-(I) (No change.)

(J) high yield;

~~[(J) risk parity;]~~

(K)-(L) (No change.)

(4)-(5) (No change.)

§33.25. Permissible and Restricted Investments and General Guidelines for Investment Managers.

(a) (No change.)

(b) Prohibited transactions and restrictions. Except as provided in subsection (a) of this section or as approved or delegated by the SBOE, the following prohibited transactions and restrictions apply to all Texas Permanent School Fund (PSF) investment managers with respect to the investment or handling of PSF assets, except as otherwise noted:

(1)-(5) (No change.)

(6) purchasing the equity or debt securities of the PSF investment manager's own organization or an affiliated organization, but excluding purchases with respect to indexed or passively managed portfolios ;

(7) engaging in any purchasing transaction, after which the cumulative market value of common stock in a single corporation exceeds 2.5% of the PSF total market value or 5.0% of the manager's total portfolio market value, but excluding purchasing transactions with respect to indexed or passively managed portfolios ;

(8) engaging in any purchasing transaction, after which the cumulative number of shares of common stock in a single corporation held by the PSF exceeds 5.0% of the outstanding voting stock of that issuer, but excluding purchasing transactions with respect to indexed or passively managed portfolios ;

(9)-(11) (No change.)

(12) purchasing any publicly traded fixed income security rated below BB- ~~[not rated investment grade]~~ by Standard & Poor's ~~[(BBB-)]~~, Ba3 by Moody's ~~[(Baa3)]~~, or BB- by Fitch ~~[(BBB-)]~~, subject to the provisions of the PSF Investment Procedures Manual and the following restrictions:

(A) when ratings are provided by the three rating agencies, the middle rating shall be used;

(B) when ratings are provided by two ratings agencies, the lower rating is used; or

(C) when a rating is provided by one rating agency, the sole rating is used;

(13) purchasing any publicly traded fixed income securities that are rated below investment grade by Standard & Poor's (below BBB-), Moody's (below Baa3), or Fitch (below BBB-), with such rating as determined in accordance with paragraph (12)(A)-(C) of this subsection, if the cumulative market value of such below investment grade rated securities after such purchase exceeds 5% of the total portfolio market par value of the PSF fixed income portfolio;

~~(14) [(13)]~~ purchasing short-term money market instruments rated below A-1 by Standard & Poor's or P-1 by Moody's;

~~(15) [(14)]~~ engaging in any transaction that results in unrelated business taxable income (excluding current holdings);

~~(16) [(15)]~~ engaging in any transaction considered a "prohibited transaction" under the Internal Revenue Code or the Employee Retirement Income Security Act (ERISA);

~~(17) [(16)]~~ purchasing precious metals or other commodities;

- (18) ~~(17)~~ engaging in any transaction that would leverage a manager's position;
- (19) ~~(18)~~ lending securities owned by the PSF, but held in custody by another party, such as a bank custodian, to any other party for any purpose, unless lending securities according to a separate written agreement the SBOE approved; and
- (20) ~~(19)~~ purchasing fixed income securities without a stated par value amount due at maturity.

(c)-(d) (No change.)

§33.35. Guidelines for the Custodian and the Securities Lending Agent for the Texas Permanent School Fund (PSF) and the PSF Liquid Account .

Completing custodial and security lending functions in an accurate and timely manner is necessary for effective investment management and accurate records.

- (1) A custodian shall have the following responsibilities regarding the segments of the funds for which the custodian is responsible.
 - (A) (No change.)
 - (B) Provide for daily investment of any cash ~~[on a daily basis]~~ to avoid uninvested amounts.
 - (C)-(I) (No change.)
- (2) (No change.)

§33.60. Performance and Review Procedures.

As requested by the State Board of Education (SBOE) or Texas Permanent School Fund (PSF) investment staff, evaluation and periodic investment reports shall supply critical information on a continuing basis, such as the amount of trading activity, investment performance, cash positions, diversification ratios, rates of return, and other perspectives of the portfolios. The reports shall address compliance with investment policy guidelines.

- (1)-(2) (No change.)
- (3) Reports to the School Land Board. Each quarter, the SBOE shall provide the School Land Board a financial report on the portion of the PSF assets and funds for which the SBOE is responsible in accordance with Texas Education ~~[Natural Resources]~~ Code, §43.0052.
- (4)-(6) (No change.)

Figure: 19 TAC §33.5(i)(2)

POTENTIAL CONFLICT OF INTEREST DISCLOSURE FORM
(State Board of Education and Persons Providing Services to the State Board of Education
Relating to the Management and Investment of the Permanent School Fund)

TO: Commissioner of Education or
 Chair, State Board of Education

FROM:

DATE:

Description of Facts Creating Potential Conflict of Interest:

Proposed Action to Avoid Conflict of Interest:

REVIEWED AND APPROVED: _____

Cc: Internal Auditor
 General Counsel

Review of the Private Equity Asset Class for the Permanent School Fund

January 28, 2021

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the board to review the private equity asset class.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); 19 Texas Administrative Code (TAC), Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the September 2019 meeting, the board approved the contract with Neuberger Berman LLC. At the June 2020 meeting, the board approved the Permanent School Fund Long-Term Strategic Asset Allocation Plan with an allocation of 15% to the private equity asset class.

BACKGROUND INFORMATION AND JUSTIFICATION: None

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Review of the Real Return Asset Class for the Permanent School Fund

January 29, 2021

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 real return asset class for the Permanent School Fund (PSF).

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

As adopted by the SBOE, 19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: At the June 2020 meeting, the board approved the PSF Long-Term Strategic Asset Allocation Plan with an allocation of 4% to the real return asset class.

BACKGROUND INFORMATION AND JUSTIFICATION: None

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

**Report of the Permanent School Fund Executive Administrator and
Chief Investment Officer**

January 28, 2021

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF 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 PSF.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage and invest the permanent school fund in accordance with the prudent person standard.

Administrative rules found in 19 TAC Chapter 33 provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: None

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

COMMITTEE ON SCHOOL INITIATIVES

Election of Chair

January 31, 2019

COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: State Board of Education (SBOE) operating rules call for each committee to elect a chair from among its members. This item provides an opportunity for the Committee on School Initiatives to elect a chair at this meeting if the SBOE retains the existing committee structure. The chair may then appoint a vice chair. If the board changes the committee structure, the committee may elect a member to preside over this first meeting only.

STATUTORY AUTHORITY: Statutory authority for this action is the Texas Education Code, [§7.107\(b\)](#).

TEC, §7.107(b) requires the SBOE to organize and adopt operating rules at the first meeting after an election and qualification of new members.

The full text of the statutory citation can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: A committee chair was last elected on January 31, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: The board is required to organize at the first meeting after the election and qualification of new members. Section 1.2(d) of the board's operating rules require each standing committee to 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.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Support Services

Open-Enrollment Charter School Generation 26 Application Updates

January 28, 2021

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The director of the Division of Charter School Authorizing and Administration will discuss updates regarding the Generation Twenty-Six Open-Enrollment Charter Application cycle.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§12.101](#).

TEC, §12.101 requires the commissioner to notify the State Board of Education (SBOE) of each charter the commissioner proposes to grant. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Following the conclusion of the application cycle, the board will have an opportunity to review and take action or no action on the commissioner's list of proposed Generation Twenty-Six Subchapter D Open-Enrollment Charter Schools.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is engaged in an ongoing effort to remain abreast of the evolving state-educational landscape and prepare to address areas that are within its jurisdiction. To that end, this item is for discussion of updates pertaining to the Generation Twenty-Six application.

Public information concerning open-enrollment charter schools is available at the division of Charter Schools – Subchapter D Charters page found on the Texas Education Agency's website (<https://tea.texas.gov/charterapp.aspx>). When complete, the Generation Twenty-Six application and required attachments will be available on that page.

Staff Members Responsible:

Kelvey Oeser, Deputy Commissioner, Educator Support
Joe Siedlecki, Associate Commissioner, Systems Support, Innovation, and Charters
Heather Mauzé, Director, Charter School Authorizing and Administration

**Adoption of Review of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions
(Adoption of Review)**

January 29, 2021

**COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions. Subchapter A establishes the SBOE process for petitioning the adoption of changes to SBOE rules, as required by TGC, §2001.021.

STATUTORY AUTHORITY: The statutory authority for the rule review is [TGC, §2001.039](#). The statutory authority for 19 TAC Chapter 30, Subchapter A, is [TGC, §2001.021](#).

TGC, §2001.039, requires a state agency to review and consider for readoption each of its rules.

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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The review of 19 TAC Chapter 30, Subchapter A, was presented to the Committee on School Initiatives for discussion at the November 2020 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: TGC, §2001.021, requires that procedures to petition for the adoption of rule changes be adopted by rule. To comply with statute, the SBOE adopted 19 TAC §30.1, Petition for Adoption of Rule Changes, effective December 5, 2004. Prior to the adoption of 19 TAC §30.1, procedures to petition for the adoption of changes to SBOE rules were included as part of the SBOE's operating rules. Effective April 26, 2009, an amendment adopted in rule the petition form to be used to submit a petition. Effective May 23, 2017, an amendment updated the petition form adopted in rule to require the petitioner to indicate that the petitioner meets one of the four definitions of an interested person specified in statute and added language to specify the reasons the SBOE may deny a petition for rulemaking.

Since 19 TAC §30.1 was last reviewed in 2016, six petitions were presented to the SBOE. In 2017, four petitioners requested that the amount of credit for Cosmetology I and II courses be modified. The SBOE denied the petitions because the Texas Essential Knowledge and Skills (TEKS) for cosmetology could not be revised until they became effective on August 28, 2017, and the SBOE had already taken action to address the issue presented by the petitioners at its November 2016 meeting.

In 2018, one petition was presented to the SBOE. The SBOE denied the petition for rulemaking requesting the adoption of a rule requiring all Texas students to wear uniforms because the SBOE does not have jurisdiction or authority to propose or adopt the petitioned rule.

In 2019, one petition was presented to the SBOE for an amendment to 19 TAC §74.12 that would allow debate, public speaking, and oral interpretation to satisfy fine arts graduation requirements. The SBOE denied the petition because the courses were not aligned with TEKS in fine arts courses.

If authorized by the SBOE, the Texas Education Agency (TEA) will file the adopted review with the Texas Register stating that the SBOE finds the reasons for adopting 19 TAC Chapter 30, Subchapter A, continue to exist. The filing of the adopted review stating that the reasons for adoption continue to exist would not preclude any amendments that may be proposed at different dates through a separate rulemaking process.

Changes to the rule in 19 TAC Chapter 30, Subchapter A, are recommended as a result of the review. A proposed amendment to 19 TAC §30.1, including the petition form, is presented for first reading and filing authorization as a separate item in this agenda. The proposed amendment would update the SBOE's petition procedures to allow for electronic submission of a petition.

PUBLIC COMMENTS: The TEA filed the proposed review of 19 TAC Chapter 30, Subchapter A, with the Texas Register following the November 2020 SBOE meeting. The public comment period on the proposed review began December 18, 2020, and ended January 22, 2021. At the time this item was prepared, no comments had been received regarding this review. Any public comments received will be provided to the SBOE during the January 2021 meeting. The SBOE will take registered oral and written comments on the proposed review at the committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Adopt the review of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions.

Staff Members Responsible:

Cristina De La Fuente-Valadez, Director, Rulemaking
Lynette Smith, Program Specialist, Rulemaking

Attachment I:

Text of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions

Attachment II:

Figure: 19 TAC §30.1(a)

ATTACHMENT
Text of 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.

Statutory Authority: The provisions of this §30.1 issued under the Texas Government Code, §2001.021.

Source: The provisions of this §30.1 adopted to be effective December 5, 2004, 29 TexReg 11339; amended to be effective April 26, 2009, 34 TexReg 2531; amended to be effective May 23, 2017, 42 TexReg 2722.

Figure: 19 TAC §30.1(a)

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:

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

**Proposed Amendment to 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes
(First Reading and Filing Authorization)**

January 29, 2021

**COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes. The proposed amendment would update the State Board of Education (SBOE) petition procedures to allow for electronic submission of a petition authorized under Texas Government Code (TGC), §2001.021.

STATUTORY AUTHORITY: Texas Government Code ([TGC](#)), [§2001.021](#).

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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is 20 days after filing as adopted with the Texas Register. Under Texas Education Code (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 2021-2022 school year. The earlier effective date will allow an interested person to submit a petition electronically, which currently is not an option.

PREVIOUS BOARD ACTION: The SBOE last amended 19 TAC §30.1 effective May 23, 2017.

BACKGROUND INFORMATION AND JUSTIFICATION: TGC, §2001.021, requires that procedures to petition for the adoption of rule changes be adopted by rule. To comply with statute, the SBOE adopted 19 TAC §30.1 effective December 5, 2004. Prior to the adoption of 19 TAC §30.1, procedures to petition for the adoption of changes to SBOE rules were included as part of the SBOE's operating rules. Effective April 26, 2009, an amendment adopted in rule the petition form to be used to submit a petition. Effective May 23, 2017, an amendment updated the petition form adopted in rule to require the petitioner to indicate that the petitioner meets one of the four definitions of an interested person specified in statute and added language to specify the reasons the SBOE may deny a petition for rulemaking.

The attachment to this item reflects the text of the proposed amendment to 19 TAC §30.1 for consideration by the SBOE for first reading and filing authorization. The proposed amendment would update the SBOE's petition procedures, including the petition form included as Figure: 19 TAC §30.1(a), to improve efficiency by ensuring that an interested person can submit the petition for rulemaking electronically. In addition, the proposed amendment to Figure: 19 TAC §30.1(a) would specify one Texas Education Agency (TEA) division as the collection point for all petitions submitted to the SBOE. This would ensure timely acknowledgement and reviewing of a petition by TEA staff for consideration by the SBOE at a future meeting.

The proposed amendment to §30.1(b) would add "calendar" to the phrase 60 days to clarify the timeline for responding to a petition.

The proposed amendment to §30.1(a), (b)(1) and (2), and (c) would replace "commissioner" with "TEA staff" to reflect that the initial review of the merits of the petition is conducted by TEA staff for recommendation to the SBOE.

In addition, the proposed amendment to §30.1(d)(4)(A) would clarify that the SBOE may deny a petition if the petition is filed within one year of the SBOE denying a petition on a similar rule or the same subject matter. This change would address similar or duplicate petitions submitted within one year. The time period of one year is already established in rule and not proposed to be changed.

The proposed amendment would also include technical edits throughout §30.1 to improve readability.

The proposed amendment was not 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. Therefore, this item is presented for first reading and filing authorization consideration at this meeting. It is recommended that the SBOE consider this item for first reading and filing authorization to more quickly provide an interested person the option of submitting a petition under TGC, §2001.021, electronically.

A separate item in this agenda presents the adoption of review of 19 TAC Chapter 30, Subchapter A.

FISCAL IMPACT: TEA has determined that there are no additional costs to state or local government 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 TGC, §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 TGC, §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 TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §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 allowing for a petition for rulemaking to be submitted via electronic means.

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: The proposal would provide another means by which an interested person can file a petition for rulemaking, create a more efficient process, and reflect current procedures. 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 new data and reporting implications.

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 public comment period on the proposal begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2021 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 March 5, 2021.

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 proposed amendment to 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes.

Staff Members Responsible:

Cristina De La Fuente-Valadez, Director, Rulemaking
Lynette Smith, Program Specialist, Rulemaking

Attachment I:

Text of Proposed Amendment to 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions, §30.1, Petition for Adoption of Rule Changes

Attachment II:

Figure: 19 TAC §30.1(a)

ATTACHMENT I
Text of Proposed Amendment to 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 (TGC) , §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 the [a] form provided in this subsection. The petition shall be signed and submitted to the Texas Education Agency (TEA) [commissioner of education] . The TEA staff [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 petition [proposal] to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §30.1(a) [Figure: 19 TAC §30.1(a)]

- (b) In accordance with TGC [the Texas Government Code] , §2001.021, the TEA staff [agency] must respond to the petitioner within 60 calendar days of receipt of the petition.
- (1) Where possible, the TEA staff [commissioner's] recommendation concerning the petition shall be placed on the next SBOE agenda, and the SBOE shall act on the petition within 60 calendar days [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 calendar days, the TEA staff [commissioner or a designee] shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBOE meeting at which the TEA staff recommendation will be presented to the SBOE for action.
- (c) The SBOE will review the petition and the TEA staff recommendation [of the commissioner] and will either deny the petition, giving reasons for the denial, or direct the TEA staff [commissioner] to begin the rulemaking process [or deny the petition, giving reasons for the denial] . The TEA staff [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 files [is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing] a petition:
- (A) within one year of the SBOE denying a [having the] petition on a similar rule or the same subject matter [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.

ATTACHMENT II

Figure: 19 TAC §30.1(a)

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.

The petition [~~Petitions~~] should be signed and submitted [~~to~~] :

by mail to Rulemaking Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494; or [Commissioner of Education]
[Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494]

by using the email button at the bottom of this petition form or by emailing directly to rules@tea.texas.gov.

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

(Typing your name in the field above serves as your signature for the purposes of this petition.)

[Click here to submit petition form](#)

Proposed New 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District
(First Reading and Filing Authorization)

January 29, 2021

COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District. The proposed new rule would identify provisions of the Texas Education Code (TEC) that are not applicable to Boys Ranch Independent School District.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.351 and §11.352.

TEC, §11.351, permits the State Board of Education (SBOE) to establish a special purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The board is also permitted to impose duties or limitations on the school district as necessary for the special purpose of the district.

TEC, §11.352, permits the SBOE to adopt rules for the governance of a special purpose district.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed new section 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 adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2021-2022 school year. The earlier effective date would allow Boys Ranch Independent School District to begin planning for implementation before the beginning of the 2021-2022 school year.

PREVIOUS BOARD ACTION: A discussion item regarding a new rule related to Boys Ranch Independent School District was presented to the committee at its November 2020 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: TEC, §11.352, permits the SBOE to adopt rules for the governance of a special purpose district.

Boys Ranch Independent School District is a special purpose school district operated by Cal Farley's Boys Ranch. It is a public school of this state fulfilling the mission of the Texas public education system to ensure that Texas students receive a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation.

Boys Ranch Independent School District has requested that the SBOE waive specific provisions of the TEC related to district governance and operation.

The attachment to this item presents the text of proposed new 19 TAC §61.111 for consideration by the SBOE for first reading and filing authorization. The proposed new section would establish the section's applicability only to Boys Ranch Independent School District and identify the provisions of the TEC that would not apply to the special purpose school district.

FISCAL IMPACT: The Texas Education Agency (TEA) has determined that there are no additional costs to state or local government 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 create a new regulation. The new rule would identify provisions of the TEC that are not applicable to the special purpose school district Boys Ranch Independent School District.

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 BENEFIT AND COST TO PERSONS: The proposal would clarify which provisions of the TEC are not applicable to the special purpose school district Boys Ranch Independent School District. 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 and 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 public comment period on the proposal begins March 5, 2021, and ends April 9, 2021. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2021 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 March 5, 2021.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for first reading and filing authorization proposed new 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District.

Staff Members Responsible:

Jeff Cottrill, Deputy Commissioner, Governance and Accountability

Morris Lyon, Senior Governance Advisor, Governance-Field Support

Attachment:

Text of Proposed New 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose School Districts, §61.111, Applicability of State Law to Boys Ranch Independent School District

ATTACHMENT
Text of Proposed New 19 TAC

Chapter 61. School Districts

Subchapter B. Special Purpose School Districts

§61.111. Applicability of State Law to Boys Ranch Independent School District.

- (a) This section applies only to Boys Ranch Independent School District.
- (b) Boys Ranch Independent School District, a special purpose school district operated by Cal Farley's Boys Ranch, is a public school of this state fulfilling the mission of the Texas public education system to ensure that Texas students receive a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation.
- (c) Except as provided by subsection (d) of this section, the laws applicable to Texas public schools apply to Boys Ranch Independent School District in accordance with Texas Education Code (TEC), §11.352(c).
- (d) The following sections of the TEC do not apply to Boys Ranch Independent School District:
 - (1) TEC, §25.0811, related to the first day of instruction; and
 - (2) TEC, §25.0812, related to the last day of school.

INFORMATION MATERIALS

STATE BOARD OF EDUCATION OPERATING RULES
(Amended September 13, 2019)

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 and their areas of oversight are:

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. Oversight of the Bond Guarantee Program
8. 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, revisions, and amendments 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

(b) Amendments to the areas of committee oversight reflecting new or changing board responsibilities may be made during the board's periodic operating rules review or by means of resolution addressing the change in responsibilities should such change occur between the operating rules review.

(c) 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.

(d) 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.

(e) 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.

- (f) Ad hoc committees. Ad hoc committees (i.e., task forces) may 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.
- (g) 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. The Chair or the Commissioner may request the Attorney General to issue an opinion under Texas Government Code §402.042.

§1.3. Board Member Seating Selection.

With the exception of the chair, vice chair, and secretary, the seating of board members will be by State Board of Education districts. The seating for the remaining 12 members will be rotated annually at the first board meeting of the calendar year. 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 or adjourned 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(c), if videoconference calling technology is used, the meeting location where the presiding officer of the meeting is present must be open to the public, except during executive sessions. The chair may limit the number of remote videoconference locations in the interest of decorum and teleconference capacity.
- (c) 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, flags, noisemakers, 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.

- (e) Supporters of a testifier may not gather behind the podiums used for testimony. Testifiers are free to use a portion of their testimony time to acknowledge supporters seated in the audience.

§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 not less than four weeks prior to the Monday of the week during which the 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) Titles for congratulatory, commendatory or other non-substantive resolutions shall be submitted by the timelines prescribed in this section with resolution text following at date and time consistent with the staff's pre-meeting preparation timeline.
- (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 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.
 - (3) A person may register himself or herself, and one other person. Organizations may not register more than two persons per item.
 - (4) Those registering online will receive an email confirming the registration during the next business day.
 - (5) Registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
 - (6) 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.
 - (7) Speakers will be informed if it appears that time constraints will not permit all speakers to make their presentation within the allotted time.
 - (8) 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 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 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 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 set out in §2.10(b).

- (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. Public Comments Regarding Proposed Rulemaking.

All interested persons have a reasonable opportunity to submit data, views and arguments, prior to the board adoption of any rule. Public comments regarding proposed board rules may be submitted as provided in the notice of proposed rulemaking published in the *Texas Register*. The deadline for submitting public comments is 5:00 p.m. on Friday the week prior to the start of the board meeting. The board will also take registered oral and written comments on proposed rulemaking at the appropriate committee meeting.

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) parking fees (including personal vehicles);
 - (3) notary fees for official documents; and
 - (4) 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) A Division of State Board of Education Support staff member 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 §7.102(c)(9). 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; School Land Board; 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.

§4.4. Instructional Materials Submitted to the Texas Resource Review.

- (a) An SBOE member shall not nominate instructional materials for submittal to the Texas Resource Review without a majority vote of the board endorsing said nomination.

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 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 noon on the day prior to the final vote on the adoption of the TEKS. 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 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.
- (b) 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.

**Texas Permanent School Fund
Asset Allocation Mix - SBOE
November 30, 2020**

<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	\$ 1,648,407,353	5.81%	\$ 2,369,074,498	6.34%
	Domestic Large Cap	2,127,264,095	7.50%	5,286,047,600	14.15%
	Total Domestic Equity	3,775,671,448	13.31%	7,655,122,098	20.49%
	International Equity - Blackrock	4,084,570,720	14.39%	5,762,031,466	15.42%
	Emerging Market Equity - Navarro	820,737,541	2.89%	1,178,458,543	3.15%
	Total Public Market Equity	8,680,979,709	30.59%	14,595,612,107	39.06%
Fixed Income	Domestic Fixed Income	4,231,660,722	14.91%	4,409,226,226	11.80%
	Treasuries	1,164,269,256	4.10%	1,121,449,718	3.00%
	Investec Emerging Market Debt	1,211,727,166	4.27%	1,327,957,132	3.55%
	Ashmore Emerging Market Debt	1,206,524,623	4.25%	1,265,464,685	3.39%
	Total Emerging Market Debt	2,418,251,789	8.52%	2,593,421,817	6.94%
	Total Fixed Income	7,814,181,767	27.53%	8,124,097,761	21.74%
Absolute Return	Raven 1	713,486,414	2.51%	1,099,391,891	2.94%
	Raven 4	540,592,648	1.90%	969,911,867	2.60%
	Raven 6	333,311,832	1.17%	481,462,464	1.29%
	Raven 7	393,992,962	1.39%	572,542,882	1.53%
	Raven 8	437,986,838	1.54%	531,023,714	1.42%
	Total Absolute Return	2,419,370,694	8.51%	3,654,332,818	9.78%
Private Equity	Columbia NB Crossroads Fund L.P.	248,564,648	0.88%	292,278,449	0.78%
	Columbia NB Crossroads Fund II L.P.	323,271,557	1.14%	461,458,749	1.23%
	Columbia NB Crossroads Fund II Tranche C	722,764,962	2.55%	988,884,113	2.65%
	Columbia NB Crossroads Fund II Tranche D	419,756,813	1.48%	497,455,371	1.33%
	TPSF NB PE Program	888,495,823	3.13%	1,337,983,087	3.58%
	Private Equity Direct	1,155,101,073	4.07%	1,469,590,554	3.93%
	Columbia CS Fund, L.P.	217,023,001	0.76%	304,849,369	0.82%
	Total Private Equity	3,974,977,877	14.01%	5,352,499,692	14.32%
Real Estate	Direct Real Estate Investments	2,807,839,071	9.89%	3,277,206,505	8.77%
	Total Real Estate	2,807,839,071	9.89%	3,277,206,505	8.77%
Real Return	Real Return - TIPS	1,001,474,253	3.53%	1,089,056,661	2.91%
	Real Return Commodities - Terlingua 1	587,500,000	2.07%	386,904,125	1.04%
	Real Return Commodities - Terlingua 2	575,000,000	2.03%	361,802,009	0.97%
	Real Return Commodities - Terlingua 3	287,400,148	1.01%	294,100,021	0.79%
	Total Real Return	2,451,374,401	8.64%	2,131,862,816	5.71%
Total Unallocated Cash	230,804,145	0.83%	230,804,145	0.62%	
Fund Total		28,379,527,664	100.00%	37,366,415,844	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 7,782,033,806 20.83%
Total Real Estate Exposure and Percentage of Fund Total Fair Value 6,085,045,576 16.28%

Current State Board of Education approved Strategic Asset Allocation Mix (approved July 2, 2020)

Large Cap U.S. Equity	14.00%	U.S. Treasuries	3.00%
Small/Mid Cap U.S. Equity	6.00%	Absolute Return	7.00%
Developed and Emerging Market International Large Cap Equity	14.00%	Private Equity	15.00%
Emerging Market Equity	3.00%	Real Estate	11.00%
Core Bonds	12.00%	Emerging Manager Program	1.00%
High Yield Bonds	3.00%	Real Return (Commodities)	1.00%
Emerging Market Debt (Local Currency)	7.00%	Real Return (TIPS)	3.00%
			100.00%

2017-2021 Rule Review Plan for State Board of Education Rules

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 JUSTIFICATION: 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 TEKS on a schedule determined by the SBOE designed to align the adoption of instructional materials 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).
END OF REVIEW PROCESS (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).
END OF REVIEW PROCESS		
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.
END OF AMENDMENT PROCESS		

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		

Staff Members 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

ATTACHMENT I

2017-2021 Rule Review Plan for State Board of Education Rules (Approved November 2016, Revised January 2019)

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 is designed to align the adoption of instructional materials with the amendments to the TEKS.

Review Period: September 2017 - August 2018			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 74. Curriculum Requirements	<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>		
Chapter 105. Foundation School Program	<i>Subchapter A. Definitions</i>	Finance	November 2017
	<i>Subchapter B. Use of State Funds</i>		
Chapter 89. Adaptations for Special Populations	<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>		
Chapter 61. School Districts	<i>Subchapter A. Board of Trustees Relationship</i>	Administration	April 2018

Review Period: September 2018 – August 2019			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 157. Hearings and Appeals	<i>Subchapter A. General Provisions for Hearings Before the State Board of Education</i>	Personnel	<u>January 2019</u> [September 2018]
	<i>Subchapter D. Independent Hearing Examiners</i>		
Chapter 129. Student Attendance	<i>Subchapter A. Student Attendance Allowed</i>	Finance	January 2019
	<i>Subchapter B. Student Attendance Accounting</i>		

Review Period: September 2019 – August 2020			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund	<i>Subchapter A. State Board of Education Rules</i>	Finance	September 2019
Chapter 66. State Adoption and Distribution of Instructional Materials	<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>		
Chapter 100. Charters	<i>Subchapter A. Open-Enrollment Charter Schools</i>	Charter Schools	January 2020
	<i>Subchapter B. Home-Rule School District Charters</i>		

Review Period: September 2020 – August 2021			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 30. Administration	<i>Subchapter A. State Board of Education: General Provisions</i>	Administration	November 2020
	<i>Subchapter B. State Board of Education: Purchasing and Contracts</i>		
Chapter 101. Assessment	<i>Subchapter A. General Provisions</i>	Assessment	January 2021
	<i>Subchapter B. Implementation of Assessments</i>		
	<i>Subchapter C. Local Option</i>		
Chapter 109. Budgeting, Accounting, and Auditing	<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>		

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.

January 29, 2021

The Honorable Members of the State Board of Education
1701 North Congress Avenue
Austin, TX 78701-1494

Dear State Board of Education Members:

Under 19 Texas Administrative Code (TAC) §109.21, the commissioner of education is required to report to the State Board of Education at least annually on the progress of each fiscal year's audit plan. In accordance with that section, the following is a description of the status of audit reports and related activities for the agency's 2020 fiscal year, which ended on August 31, 2020.

Organization and Personnel

Duties related to student attendance reviews, annual financial and compliance report (AFR) reviews, special allotment reviews, and financial accountability ratings continued to be administered by the Financial Compliance Division. In addition, the division became responsible for auditing SHARS (School Health and Related Services) and administering all aspects of the State Compensatory Education (SCE) program.

In fiscal 2020, the division continued to advise and partner with districts and charters to ensure that accurate financial and student records were being kept and that they remained in compliance with laws and regulations. The division also continued to review student attendance data and AFRs, and issue financial accountability ratings. Other tasks of the division included reviewing the proper coding of financial data and student data, district depository contracts, work papers of certified public accountants (CPA) who audit school district and charter schools, superintendent severance payments, and financial exigency. The team processed district's fiscal year changes updated the *Student Attendance Accounting Handbook* and completed a rewrite of the *Financial Accountability System Resource Guide* (FASRG) as well.

This year the division was significantly impacted by the pandemic beginning in March of 2020. Some of the division staff had to turn their focus onto finding ways to fund student attendance in non-traditional ways. Additionally the 86th legislature enacted sweeping changes in laws related to school districts and charter schools, including major modifications to school finance in House Bill 3 (HB 3). Because of the changes of HB 3, the division added audit procedures to three major areas: AFRs, student attendance, and special allotment monitoring. In addition, the division began implementing changes to the SCE program.

Annual Audit Plan and Division Activities

The Financial Compliance Division adhered to the annual audit plan that was provided to the Committee on School Finance/Permanent School Fund in June 2020, with a few exceptions due to limited resources. The division had turnover in personnel in key positions that are currently being replaced. The division continued to prioritize reviewing and investigating student attendance compliance, reviewing AFRs, issuing financial accountability ratings, reviewing CPA work papers, conducting special allotment monitoring under the new rules, providing training, updating guidance documents, and answering customer questions daily.

The following table summarizes the review activities of the division for the 2020 fiscal year by type. Additional details and a list of other work performed by the division are provided in the attachment.

Activity	Status						
Student Attendance <table border="1" data-bbox="690 842 1084 1079"> <tr> <td data-bbox="690 842 1084 919">--Reviews</td> <td data-bbox="1084 842 1422 919">73 <i>Completed</i> 80 <i>in progress</i></td> </tr> <tr> <td data-bbox="690 919 1084 997">--Correspondence Investigations</td> <td data-bbox="1084 919 1422 997">1 <i>Completed</i> 1 <i>in progress</i></td> </tr> <tr> <td data-bbox="690 997 1084 1079">--Charter School Closeout Reviews</td> <td data-bbox="1084 997 1422 1079">1 <i>Completed</i> 0 <i>in progress</i></td> </tr> </table>	--Reviews	73 <i>Completed</i> 80 <i>in progress</i>	--Correspondence Investigations	1 <i>Completed</i> 1 <i>in progress</i>	--Charter School Closeout Reviews	1 <i>Completed</i> 0 <i>in progress</i>	
--Reviews	73 <i>Completed</i> 80 <i>in progress</i>						
--Correspondence Investigations	1 <i>Completed</i> 1 <i>in progress</i>						
--Charter School Closeout Reviews	1 <i>Completed</i> 0 <i>in progress</i>						
SHARS (School Health and Related Services) <table border="1" data-bbox="690 1150 1084 1310"> <tr> <td data-bbox="690 1150 1084 1228">--Audits/Reviews</td> <td data-bbox="1084 1150 1422 1228">19 <i>Completed</i> 1 <i>in progress</i></td> </tr> <tr> <td data-bbox="690 1228 1084 1310">--Compliant Investigations</td> <td data-bbox="1084 1228 1422 1310">3 <i>Completed</i> 1 <i>in progress</i></td> </tr> </table>	--Audits/Reviews	19 <i>Completed</i> 1 <i>in progress</i>	--Compliant Investigations	3 <i>Completed</i> 1 <i>in progress</i>			
--Audits/Reviews	19 <i>Completed</i> 1 <i>in progress</i>						
--Compliant Investigations	3 <i>Completed</i> 1 <i>in progress</i>						
Annual Financial and Compliance Report Reviews	1,758 <i>Completed</i>						
CPA Work Paper Reviews	0 <i>Completed</i> 1 <i>in progress</i>						
Superintendent Severance Payments	34 <i>Completed</i> 7 <i>in progress</i>						
TEA Mailbox Questions/Research/Answer	1100+ <i>Completed</i>						
Fiscal Management Reviews	0 <i>Completed</i> 1 <i>in progress</i>						

School First Ratings Issued	1,196	<i>Completed</i>
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The division completed 73 reviews of student attendance data, including both desk and compliance reviews. These reviews resulted in the recovery of \$782,282 of taxpayer funds because of the errors that were discovered. In addition, one student attendance investigations was also completed, resulting in the recovery of \$1,207,447 in funds.

The Texas Education Code (TEC), §44.008(e), requires division staff members to review every public school AFR that has been audited by certified independent auditors. In the reviews, the division uses financial statement data to verify year-end financial data submitted through the Texas Student Data System Public Education Information Management System (TSDS PEIMS). Division staff members identify problems such as inaccurate PEIMS data, noncompliance with laws or rules, insolvency, and potential default on bonded indebtedness. They then communicate with local education agencies regarding required corrective action. In addition, the division reviews electronically submitted AFR information to verify that no sensitive or confidential information was disclosed. During the 2020 fiscal year, the division reviewed and issued letters or reports on 1,758 AFRs.

The division's responsibility for SHARS includes on-site reviews, desk reviews, complaints investigations, trainings, and coordination with the Texas Health and Human Services Commission (HHSC). A total of 19 SHARS audit/reviews were completed and one was still in progress at the end of the fiscal year. In addition, the Financial Compliance Division initiated four investigation into SHARS complaints and completed three by fiscal year-end.

The division is currently retooling its audit plan for the special allotments. Though this endeavor advanced past the pilot phase during the prior fiscal year, the 86th Legislature made major changes to these programs as part of HB 3. Because the purpose of this audit plan was to review, identify, and correct districts that were out of compliance with spending requirements for these programs, it was necessary to update rules and regulations before continuing to review and advise on the special allotments.

The division's audit plan for fiscal management reviews of school districts and charter schools is also being updated. With the new legislative changes, the reviews will focus on the division's key purpose of compliance. By the end of fiscal year 2020, the division performed one review with a new employee training for the job.

The division completed desk reviews of superintendent severance payment disclosures submitted by school districts. These reviews resulted in \$146,030 in reductions in Foundation School Program (FSP) funding. Other severance payments were in compliance with the statutorily required amounts.

The division performed work paper reviews on one CPA. Division staff members also checked Texas State Board of Public Accountancy records to determine if each CPA performing audits of school districts and charter schools held a valid license and if the CPA's firm had an unexpired

firm license and reviewed the membership list of the AICPA Governmental Audit Quality Center to determine if they are in compliance with the statutes.

TEC, §45.208, which relates to school depository contracts and charter school depository information was repealed, therefore the division no longer reviews school district depository contract files.

The division is working on the next update to FASRG to reflect the changes mandated by the 86th Legislature and GASB and FASB.

The division staff continued to assist newly approved charter schools by going onsite and reviewing the operations of the charter school in the areas of student attendance, business office operations, and highlighting key areas in the SAAH, FASRG, and going through the FIRST indicators in detail.

Division staff members held and participated in several workshops that provided guidance to school district and charter school personnel. Topics covered included supplemental allotment programs, changes to financial reporting standards, changes to student attendance accounting, and new laws on the horizon. Several staff members from the division participated in speed training districts on the changes to student attendance because of the pandemic.

Division staff members also spent hundreds of hours providing information on statutory and regulatory requirements to charter school officials, district officials, and other individuals by phone and correspondence. Staff members researched and responded to over 1,100 requests for information received through the division's three mailboxes (financial accountability, school audits, and student attendance accounting).

Additionally, the division made changes to the Financial Integrity Rating System of Texas (FIRST).

Status of Division Reviews and Related Activities

The attached document presents the status of division activities conducted during the 2020 fiscal year. As of August 31, 2020, the adjustments resulting from attendance reviews and correspondence investigations, reviews of charter closeouts, on-site special accreditation investigations, and fiscal management reviews resulted in \$2,142,163 owed to the state.

Respectfully submitted,

David Marx
Director, Financial Compliance Division

Attachment

ATTACHMENT

Item No.	Review No.	County District Number	District Name	Final Mailed	Final Adjustment
1	DA18-019	108-904	Edinburg ISD	9/30/2019	\$ (949.00)
2	DA18-007	212-905	Tyler ISD	9/30/2019	\$ (8,310.00)
3	CR19-006	246-802	Goodwater Montessori School	9/30/2019	
4	CR19-018	071-804	El Paso Academy	9/30/2019	
5	CR19-022	007-906	Poteet ISD	9/30/2019	
6	DA18-042	057-914	Mesquite ISD	10/22/2019	\$ (836.00)
7	DA18-037	043-914	Wylie ISD	10/25/2019	\$ (10,980.00)
8	DA18-003	046-902	Comal ISD	10/25/2019	\$ (21,078.00)
9	DA18-005	057-903	Carrollton-Farmers Branch ISD	10/30/2019	\$ (21,634.00)
10	DA18-040	101-907	Cypress-Fairbanks ISD	10/30/2019	\$ (50,812.00)
11	DA18-035	184-903	Weatherford ISD	10/30/2019	\$ (41,006.00)
12	CR19-002	057-850	Pioneer Technology & Arts Academy	10/30/2019	
13	CR19-020	223-901	Brownfield ISD	11/14/2019	
14	F19-004	068-901	Ector County ISD	11/14/2019	
15	DA18-008	043-910	Plano ISD	11/26/2019	\$ (3,143.00)
16	DA18-039	071-905	Ysleta ISD	11/26/2019	\$ (21,743.00)
17	DA18-001	101-912	Houston ISD	11/26/2019	\$ (126,827.00)
18	DA18-004	101-919	Spring ISD	11/26/2019	\$ (28,278.00)
19	DA18-002	220-905	Fort Worth ISD	11/26/2019	\$ (18,655.00)
20	F19-008	101-908	Deer Park ISD	11/26/2019	
21	CR19-001	061-805	Trivium Academy	12/9/2019	
22	CR19-004	126-801	Kauffman Leadership Academy	12/9/2019	
23	DA18-014	057-909	Garland ISD	12/13/2019	\$ (4,479.00)
24	CR19-016	234-905	Martin's Mill ISD	12/13/2019	
25	CR19-024	015-825	Lighthouse Charter School	12/13/2019	
26	F19-005	244-903	Vernon ISD	12/13/2019	
27	DA18-027	061-902	Lewisville ISD	1/23/2020	\$ (7,330.00)
28	DA18-016	101-917	Pasadena ISD	1/31/2020	\$ (26,192.00)
29	DA18-021	201-902	Henderson ISD	1/31/2020	\$ (5,433.00)
30	DA18-018	246-909	Round Rock ISD	1/31/2020	\$ (13,251.00)
31	CR19-009	058-905	Klondike ISD	1/31/2020	
32	DA18-028	031-901	Brownsville ISD	2/18/2020	\$ (10,995.00)
33	CR19-013	138-904	Benjamin ISD	2/18/2020	
34	DA18-015	015-907	San Antonio ISD	2/20/2020	\$ (4,488.00)
35	CR19-005	101-871	A+ Unlimited Potential	2/20/2020	
36	F19-001	057-905	Dallas ISD	2/24/2020	
37	F20-003	112-908	Como-Pickton CISD	2/24/2020	
38	DA18-017	220-907	Keller ISD	2/25/2020	\$ (9,303.00)
39	DA18-025	101-903	Alief ISD	3/31/2020	\$ (326,746.00)
40	DA18-026	227-901	Austin ISD	3/31/2020	\$ (124.00)
41	CR19-017	101-811	Excel Academy	3/31/2020	
42	CR19-019	022-903	San Vicente ISD	3/31/2020	
43	CR20-010	098-901	Gruver ISD	3/31/2020	
44	CR20-012	123-805	Ehrhart School	3/31/2020	

Item No.	Review No.	County District Number	District Name	Final Mailed	Final Adjustment
45	CR20-018	091-901	Bells ISD	3/31/2020	
46	CR20-002	101-872	Etoile Academy Charter School	5/29/2020	
47	CR19-007	015-838	Compass Rose Academy	5/29/2020	
48	CR20-007	005-902	Holliday ISD	5/29/2020	
49	CR20-008	063-906	Patton Springs ISD	5/29/2020	
50	F20-002	235-902	Victoria ISD	5/29/2020	
51	DA18-013	071-909	Socorro ISD	6/26/2020	\$ (7,798.00)
52	CR19-003	043-802	Lone Star Language Academy	6/26/2020	
53	F19-006	015-910	North East ISD	6/26/2020	
54	CR20-014	247-904	Poth ISD	6/26/2020	
55	CR20-015	001-909	Slocum ISD	6/26/2020	
56	CR20-016	057-839	La Academia de Estrellas	6/26/2020	
57	CR20-020	161-907	Lorena ISD	6/26/2020	
58	CR20-006	101-873	Yellowstone College Preparatory	7/6/2020	
59	F19-002	100-907	Lumberton ISD	7/16/2020	
60	CR20-003	111-801	Lake Granbury Academy	7/16/2020	
61	CR19-011	165-802	Midland Academy Charter School	7/28/2020	
62	CR20-011	117-907	Spring Creek ISD	7/28/2020	
63	F20-004	101-905	Channelview ISD	7/28/2020	
64	F20-005	220-904	Everman ISD	7/28/2020	
65	DA20-004	186-903	Iraan-Sheffield ISD	8/7/2020	\$
66	CR20-004	101-874	Legacy School of Sport Sciences	8/12/2020	
67	CR19-021	102-902	Marshall ISD	8/13/2020	
68	DA20-020	007-904	Lytle ISD	8/13/2020	\$
69	CR19-023	248-901	Kermit ISD	8/20/2020	
70	CR19-015	071-809	Vista Del Futuro Charter School	8/21/2020	
71	DA20-029	170-904	Willis ISD	8/21/2020	\$ (1,370.00)
72	CR20-019	101-828	Houston Gateway Academy Inc.	8/31/2020	
73	DA20-018	205-905	Odem-Elroy ISD	8/31/2020	\$ (10,522.00)
Total					\$ (782,282.00)

Item No.	Review No.	County District Number	District Name
1	CR20-001	057-851	Bridgeway Preparatory Academy
2	CR20-005	227-829	Valor Public Schools
3	CR20-009	074-911	Savoy ISD
4	CR20-013	211-901	Texhoma ISD
5	CR20-017	075-908	Round Top-Carmine ISD
6	DA18-012	015-915	Northside ISD
7	DA20-001	236-801	Raven School
8	DA20-002	043-907	McKinney ISD
9	DA20-003	161-914	Waco ISD
10	DA20-005	057-808	Universal Academy
11	DA20-006	221-801	Texas College Preparatory Academies
12	DA20-007	220-901	Arlington ISD
13	DA20-008	015-802	George Gervin Academy
14	DA20-009	101-828	Houston Gateway Academy Inc.
15	DA20-010	178-904	Corpus Christi ISD
16	DA20-011	108-902	Donna ISD
17	DA20-012	101-910	Galena Park ISD
18	DA20-013	240-901	Laredo ISD
19	DA20-014	079-907	Fort Bend ISD
20	DA20-015	101-914	Katy ISD
21	DA20-016	057-910	Grand Prairie ISD
22	DA20-017	220-908	Mansfield ISD
23	DA20-019	101-915	Klein ISD
24	DA20-021	129-906	Terrell ISD
25	DA20-022	015-917	Southside ISD
26	DA20-023	170-903	Montgomery ISD
27	DA20-024	195-901	Pecos-Barstow-Toyah ISD
28	DA20-025	101-913	Humble ISD
29	DA20-026	181-908	Little Cypress-Mauriceville CISD
30	DA20-027	123-905	Nederland ISD
31	DA20-028	020-905	Brazosport ISD
32	DA20-030	178-912	Tuloso-Midway ISD
33	DA20-031	227-910	Del Valle ISD
34	DA20-032	227-803	Wayside Schools
35	DA20-033	167-902	Mullin ISD
36	DA20-034	015-808	Inspire Academies
37	DA20-035	011-901	Bastrop ISD
38	DA20-036	015-901	Alamo Heights ISD
39	DA20-037	170-906	Magnolia ISD
40	DA20-038	095-905	Plainview ISD
41	DA20-039	014-909	Temple ISD
42	DA20-040	220-906	Grapevine-Colleyville ISD
43	DA20-041	126-903	Cleburne ISD
44	DA20-042	050-910	Copperas Cove ISD

Item No.	Review No.	County District Number	District Name
45	DA20-043	002-901	Andrews ISD
46	DA20-044	230-902	Gilmer ISD
47	DA20-045	015-913	Lackland ISD
48	DA20-046	070-801	Waxahachie Faith Family Academy
49	DA20-047	107-910	LaPoynor ISD
50	DA20-048	117-901	Borger ISD
51	DA20-049	220-917	Castleberry ISD
52	DA20-050	007-901	Charlotte ISD
53	DA20-051	015-906	Randolph Field ISD
54	DA20-052	019-912	Pleasant Grove ISD
55	DA20-053	019-913	Hubbard ISD
56	DA20-054	061-910	Argyle ISD
57	DA20-055	071-801	Burnham Wood Charter School District
58	DA20-056	130-902	Comfort ISD
59	DA20-057	154-901	Madisonville CISD
60	DA20-058	175-911	Rice ISD
61	DA20-059	230-906	New Diana ISD
62	DA20-060	061-911	Northwest ISD
63	DA20-061	220-916	Hurst-Eules-Bedford ISD
64	DA20-062	057-907	Duncanville ISD
65	DA20-063	070-903	Ennis ISD
66	DA20-064	212-906	Whitehouse ISD
67	DA20-065	061-901	Denton ISD
68	DA20-066	043-911	Princeton ISD
69	DA20-067	061-912	Lake Dallas ISD
70	DA20-068	015-911	East Central ISD
71	DA20-069	220-915	Azle ISD
72	DA20-070	091-903	Denison ISD
73	DA20-071	199-902	Royse City ISD
74	DA20-072	043-901	Allen ISD
75	DA20-073	057-828	Winfrey Academy Charter School
76	DA20-074	105-902	San Marcos CISD
77	DA20-075	159-901	Eagle Pass ISD
78	DA20-076	015-912	Southwest ISD
79	DA20-077	059-901	Hereford ISD
80	F20-001	071-902	El Paso ISD
Total		80	Student Attendance Reviews -- In Progress

Item No.	Review No.	County District Number	District Name	Final Mailed	Final Adjustment
1	SI19-003	031-916	South Texas ISD	2/20/2020	\$ (1,207,447.00)
Total		1	Student Attendance Complaint Investigations Completed		\$ (1,207,447.00)

Item No.	Review No.	County District Number	District Name
1	SI20-001	057-804	Texans Can Academies
Total		1	Student Attendance Investigations -- In Progress

Item No.	Review No.	County District Number	District Name	Final Mailed	Final Adjustment
1	CO20-001	126-801	Kauffman Leadership Academy	7/28/2020	\$ (6,404.00)
Total		1	Student Attendance Charter School Close Outs Completed		\$ (6,404.00)

Item No.	County District Number	District Name
1	243-906	City View ISD
Total	1	Fiscal Management Reviews--In Progress

Item No.	County District Number	District Name	Review Date	Statutory Adjustment
1	123-910	Beaumont ISD	10/22/2019	\$ (146,030)
2	017-901	Borden County ISD	12/2/2019	-
3	108-903	Edcouch-Elsa ISD	2/5/2020	-
4	220-914	Kennedale ISD	11/20/2019	-
5	083-902	Loop ISD	12/2/2019	-
6	073-903	Marlin ISD	2/5/2020	-
7	083-903	Seminole ISD	12/2/2019	-
8	229-903	Woodville ISD	11/1/2019	-
Total	8	Superintendent's Severance Reviews Completed		\$ (146,030)

Item No.	County District Number	District Name	Review Date
1	250-906	Alba-Golden ISD	3/23/2020
2	043-901	Allen ISD	12/10/2019
3	138-904	Benjamin ISD	10/25/2019
4	212-902	Bullard ISD	10/4/2019
5	064-903	Carrizo Springs Consolidated ISD	7/24/2020
6	038-901	Childress ISD	6/17/2020
7	074-904	Dodd City ISD	8/6/2020
8	108-903	Edcouch-Elsa ISD	9/17/2020
9	001-904	Frankston ISD	12/4/2019
10	120-905	Industrial ISD	8/26/2020
11	129-904	Kemp ISD	6/2/2020
12	121-905	Kirbyville CISD	11/1/2019
13	100-903	Kountze ISD	10/21/2019
14	061-905	Krum ISD	7/9/2020
15	250-903	Mineola ISD	10/2/2019
16	167-902	Mullin ISD	3/27/2020
17	123-905	Nederland ISD	9/16/2020
18	137-902	Ricardo ISD	9/22/2020
19	066-902	San Diego ISD	1/29/2020
20	152-909	Shallowater ISD	8/28/2020
21	204-904	Shepherd ISD	5/18/2020
22	152-903	Slaton ISD	2/20/2020
23	015-908	South San Antonio ISD	10/29/2019
24	177-902	Sweetwater ISD	3/19/2020
25	241-904	Wharton ISD	5/29/2020
Total	25	Superintendent's Severance Reviews -- In Progress	

Item No.	County District Number	District Name	Review Date
1	236-902	Huntsville ISD	10/18/19
2	101-915	Klein ISD	10/24/19
3	071-907	Canutillo ISD	11/15/19
4	246-913	Leander ISD	01/10/20
5	233-901	San Felipe-Del Rio CISD	01/17/20
6	019-910	Malta ISD	01/17/20
7	110-905	Ropes ISD	02/05/20
8	172-902	Daingerfield-Lone Star ISD	02/10/20
9	079-907	Fort Bend ISD	02/26/20
10	045-903	Rice CISD	03/11/20
11	183-902	Carthage ISD	03/26/20
12	020-901	Alvin ISD	03/27/20
13	019-909	Simms ISD	03/30/20
14	178-905	Driscoll ISD	03/30/20
15	084-908	Hitchcock ISD	03/30/20
16	177-902	Sweetwater ISD	04/06/20
17	101-924	Sheldon ISD	06/15/20
18	084-901	Dickinson ISD	06/16/20
19	108-904	Edinburg CISD	06/30/20
Total	19	SHARS Audit Reviews (onsite/desk) -COMPLETED	

Item No.	County District Number	District Name
1	014-909	Temple ISD
Total	1	SHARS Audit Reviews (onsite/desk) -In Progress

Item No.	County District Number	District Name	Review Date
1	079-901	Lamar ISD	11/06/19
2	152-906	Lubbock-Cooper ISD	01/29/20
3	189-902	Progreso ISD	06/01/20
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Total	3	SHARS Complaints -COMPLETED	

Item No.	County District Number	District Name
1	043-912	Prosper ISD
Total	1	SHARS Complaints -In Progress

STATUTORY AUTHORITY REFERENCE SECTION:

TEXAS CONSTITUTION ARTICLE VII

TEXAS EDUCATION CODE (TEC)

TEXAS GOVERNMENT CODE (TGC)

TEXAS OCCUPATIONS CODE (TOC)

NATURAL RESOURCES CODE (NRC)

THE TEXAS CONSTITUTION
ARTICLE 7. EDUCATION
SECTION 2

Sec. 2. PERMANENT SCHOOL FUND.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.

Sec. 2A. RELEASE OF STATE CLAIM TO CERTAIN LANDS AND MINERALS WITHIN SHELBY, FRAZIER, AND MCCORMICK LEAGUE AND IN BASTROP COUNTY.

- (a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.
- (b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:
 - (1) shown on Bastrop County Rolled Sketch No. 4, recorded in the General Land Office on December 15, 1999; and
 - (2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.
- (c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.
- (d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.
- (e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.
- (f) This section is self-executing.

Sec. 2B. AUTHORITY TO RELEASE STATE'S INTEREST IN CERTAIN PERMANENT SCHOOL FUND LAND HELD BY PERSON UNDER COLOR OF TITLE.

- (a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:
 - (1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office;
 - (2) the land is not patentable under the law in effect before January 1, 2002; and
 - (3) the person claiming title to the land:

THE TEXAS CONSTITUTION
ARTICLE 7. EDUCATION
SECTION 2

- (A) holds the land under color of title;
 - (B) holds the land under a chain of title that originated on or before January 1, 1952;
 - (C) acquired the land without actual knowledge that title to the land was vested in the State of Texas;
 - (D) has a deed to the land recorded in the appropriate county; and
 - (E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.
- (b) This section does not apply to:
- (1) beach land, submerged or filled land, or islands; or
 - (2) land that has been determined to be state-owned by judicial decree.
- (c) This section may not be used to:
- (1) resolve boundary disputes; or
 - (2) change the mineral reservation in an existing patent.

Sec. 2C. RELEASE OF STATE CLAIM TO CERTAIN LANDS IN UPSHUR AND SMITH COUNTIES.

- (a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

- (b) This section does not apply to:
- (1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;
 - (2) any navigable waterway or related interest owned by a governmental entity; or
 - (3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.
- (c) This section is self-executing.

THE TEXAS CONSTITUTION
ARTICLE 7. EDUCATION
SECTION 5

Sec. 5. PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND: COMPOSITION, MANAGEMENT, USE, AND DISTRIBUTION.

- (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, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, 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 any other provision of this constitution or of a statute, the State Board of Education, the General Land Office, or another entity that has responsibility for the management of revenues derived from permanent school fund land or other properties may, in its sole discretion and in addition to other distributions authorized under this constitution or a statute, distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed \$600 million by each entity each year.

(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; former Subsec. (g) and Subsec. (h) expired Dec. 1, 2006; Subsec. (a) amended and current Subsec. (g) added Nov. 8, 2011; Subsec. (g) amended Nov. 5, 2019.)

**NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE C. ADMINISTRATION
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

NRC, §32.012. MEMBERS OF THE BOARD.

- (a) The board is composed of:
- (1) the commissioner; and
 - (2) four citizens [~~a citizen~~] of the state appointed by the governor with the advice and consent of the senate[~~;~~ ~~and~~
 - ~~[(3) a citizen of the state appointed by the attorney general with the advice and consent of the senate].~~
- (b) Two citizens appointed by the governor must be selected from lists of nominees submitted by the State Board of Education. The State Board of Education shall submit to the governor a list of six nominees for a vacant position described by this subsection. The governor may request that the State Board of Education submit a second list of six nominees if the governor does not choose to appoint a nominee from the first list.
- ~~(c) At least one of the citizens appointed under Subsection (a) must be a resident of a county with a population of less than 200,000. The governor and the State Board of Education shall collaborate to ensure that the membership of the board complies with this subsection.~~
- ~~(d) [The authority of the attorney general to appoint one of the members of the board, including the authority to make appointments during the recess of the senate, is the same as the authority of the governor to fill vacancies in state offices under the Texas Constitution.~~
- ~~(e)~~ Each appointment made by the governor [~~and the attorney general~~] shall be made in accordance with and subject to the provisions of the Texas Constitution authorizing the filling of vacancies in state offices by appointment of the governor.

NRC, §32.013. TERMS OF APPOINTED MEMBERS.

The appointed members of [~~appointed to~~] the board [~~by the governor and the attorney general~~] serve for terms of two years.

NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE C. ADMINISTRATION
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER C. POWERS AND DUTIES

NRC, §32.068. QUARTERLY REPORTS.

Each quarter, the board shall provide to the State Board of Education a financial report on the portion of the permanent school fund assets and funds for which the board is responsible. The report must include:

- (1) target and actual asset allocations, by asset type, based on fair market value or net asset value;
- (2) investment performance by asset type; and
- (3) benchmarks and benchmark performances.

Added by Acts 2019, 86th Leg., R.S., Ch. 493 (H.B. [4388](#)), Sec. 2, eff. September 1, 2019.

NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE C. ADMINISTRATION
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

NRC, §32.0161. ANNUAL JOINT MEETING.

- (a) The board and the State Board of Education shall hold an annual joint public meeting to discuss the allocation of the assets of the permanent school fund and the investment of the money in the fund.
- (b) Each member of the board must attend the annual joint public meeting, unless the member's absence is excused by majority vote of the board.
- (c) Each member of the State Board of Education must attend the annual joint public meeting, unless the member's absence is excused by majority vote of the State Board of Education. If the State Board of Education delegates powers and duties relating to the investment of the permanent school fund to a committee of the State Board of Education, only a majority of the committee members must attend the meeting.

Added by Acts 2019, 86th Leg., R.S., Ch. 524 (S.B. 608), Sec. 4, eff. September 1, 2019.

NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE D. DISPOSITION OF THE PUBLIC DOMAIN
CHAPTER 51. LAND, TIMBER, AND SURFACE RESOURCES
SUBCHAPTER I. ACQUISITION OF PUBLIC SCHOOL LAND

NRC, §51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT.

- (a) The permanent school fund liquid account is established as an account in the permanent school fund in the State Treasury to be used by the board and the State Board of Education as provided by this section.
- (b) Each quarter, the board shall hold a meeting and adopt a resolution to release from the real estate special fund account funds designated under Section [51.401](#) that are not being used for a purpose listed in Section [51.402](#)(a) and are not required for the board's anticipated cash needs for the 90-day period following the date of the meeting, to be deposited to the credit of the permanent school fund liquid account in the State Treasury.
- (c) The State Board of Education may invest funds in the permanent school fund liquid account. The investments may be made only in liquid assets, in the same manner that the permanent school fund is managed by the State Board of Education.
- (d) Investment income and realized capital gains derived from funds in the permanent school fund liquid account shall be deposited in the State Treasury to the credit of the State Board of Education for investment in the permanent school fund. This subsection does not require a deposit if the market value of the assets held in the permanent school fund liquid account is below cost.
- (e) The State Board of Education may use funds in the permanent school fund liquid account to pay for administrative costs associated with implementing this section, including costs associated with contracts for professional investment management, investment advisory services, or custodial services.
- (f) The board shall provide to the State Board of Education in each quarterly report required by Section [32.068](#) the board's anticipated cash needs for the six-month period following the date of the report, to allow the State Board of Education to ensure that the board's cash needs may be met as provided by Subsection (g).
- (g) Not later than the fifth business day after the date of a request of the board, the State Board of Education shall release from the permanent school fund liquid account funds to be deposited to the credit of the real estate special fund account in the State Treasury in an amount requested by the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 493 (H.B. [4388](#)), Sec. 4, eff. September 1, 2019.

TEXAS EDUCATION CODE
CHAPTER 7. STATE ORGANIZATION
SUBCHAPTER C. COMMISSIONER OF EDUCATION

TEC, §7.055. COMMISSIONER OF EDUCATION POWERS AND DUTIES.

- (a) The commissioner has the powers and duties provided by Subsection (b).
- (b)
 - (1) The commissioner shall serve as the educational leader of the state.
 - (2) The commissioner shall serve as executive officer of the agency and as executive secretary of the board.
 - (3) The commissioner shall carry out the duties imposed on the commissioner by the board or the legislature.
 - (4) The commissioner shall prescribe a uniform system of forms, reports, and records necessary to fulfill the reporting and recordkeeping requirements of this title.
 - (5) The commissioner may delegate ministerial and executive functions to agency staff and may employ division heads and any other employees and clerks to perform the duties of the agency.
 - (6) The commissioner shall adopt an annual budget for operating the Foundation School Program as prescribed by Subsection (c).
 - (7) The commissioner may issue vouchers for the expenditures of the agency and shall examine and must approve any account to be paid out of the school funds before the comptroller may issue a warrant.
 - (8) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(7), eff. June 17, 2011.
 - (9) The commissioner shall have a manual published at least once every two years that contains Title 1 and this title, any other provisions of this code relating specifically to public primary or secondary education, and an appendix of all other state laws relating to public primary or secondary education and shall provide for the distribution of the manual as determined by the board.
 - (10) The commissioner may visit different areas of this state, address teachers' associations and educational gatherings, instruct teachers, and promote all aspects of education and may be reimbursed for necessary travel expenses incurred under this subdivision to the extent authorized by the General Appropriations Act.
 - (11) The commissioner may appoint advisory committees, in accordance with Chapter 2110, Government Code, as necessary to advise the commissioner in carrying out the duties and mission of the agency.
 - (12) The commissioner shall appoint an agency auditor.
 - (13) The commissioner may provide for reductions in the number of agency employees.
 - (14) The commissioner shall carry out duties relating to the investment capital fund under Section 7.024.
 - (15) The commissioner shall review and act, if necessary, on applications for waivers under Section 7.056.
 - (16) The commissioner shall carry out duties relating to regional education service centers as specified under Chapter 8.
 - (17) The commissioner shall distribute funds to open-enrollment charter schools as required under Subchapter D, Chapter 12.

- (18) The commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of teachers, a recommended appraisal process and criteria on which to appraise the performance of administrators, and a job description and evaluation form for use in evaluating school counselors, as provided by Subchapter H, Chapter 21.
- (19) The commissioner shall coordinate and implement teacher recruitment programs under Section 21.004.
- (20) The commissioner shall perform duties in connection with the certification and assignment of hearing examiners as provided by Subchapter F, Chapter 21.
- (21) The commissioner shall carry out duties under the Texas Advanced Placement Incentive Program under Subchapter C, Chapter 28.
- (22) The commissioner may adopt rules for optional extended year programs under Section 29.082.
- (23) The commissioner shall monitor and evaluate prekindergarten programs and other child-care programs as required under Section 29.154.
- (24) The commissioner, with the approval of the board, shall develop and implement a plan for the coordination of services to children with disabilities as required under Section 30.001.
- (25) The commissioner shall develop a system to distribute to school districts or regional education service centers a special supplemental allowance for students with visual impairments as required under Section 30.002.
- (26) The commissioner, with the assistance of the comptroller, shall determine amounts to be distributed to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf as provided by Section 30.003 and to the Texas Juvenile Justice Department as provided by Section 30.102.
- (27) The commissioner shall establish a procedure for resolution of disputes between a school district and the Texas School for the Blind and Visually Impaired under Section 30.021.
- (28) The commissioner shall perform duties relating to the funding, adoption, and purchase of instructional materials under Chapter 31.
- (29) The commissioner may enter into contracts concerning technology in the public school system as authorized under Chapter 32.
- (30) The commissioner shall adopt a recommended contract form for the use, acquisition, or lease with option to purchase of school buses under Section 34.009.
- (31) The commissioner shall ensure that the cost of using school buses for a purpose other than the transportation of students to or from school is properly identified in the Public 18 Education Information Management System (PEIMS) under Section 34.010.
- (32) The commissioner shall perform duties in connection with the public school accountability system as prescribed by Chapters 39 and 39A.
- (33) Repealed by Acts 1999, 76th Leg., ch. 397, Sec. 8, eff. Sept. 1, 1999.
- (34) The commissioner shall perform duties in connection with the equalized wealth level under Chapter 41.
- (35) The commissioner shall perform duties in connection with the Foundation School Program as prescribed by Chapter 42.

- (36) The commissioner shall establish advisory guidelines relating to the fiscal management of a school district and report annually to the board on the status of school district fiscal management as required under Section 44.001.
 - (37) The commissioner shall review school district audit reports as required under Section 44.008.
 - (38) The commissioner shall perform duties in connection with the guaranteed bond program as prescribed by Subchapter C, Chapter 45.
 - (39) The commissioner shall cooperate with the Texas Higher Education Coordinating Board in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61.
 - (40) The commissioner shall suspend the certificate of an educator or permit of a teacher who violates Chapter 617, Government Code.
 - (41) The commissioner shall adopt rules relating to extracurricular activities under Section 33.081 and approve or disapprove University Interscholastic League rules and procedures under Section 33.083.
- (c) The budget the commissioner adopts under Subsection (b) for operating the Foundation School Program must be in accordance with legislative appropriations and provide funds for the administration and operation of the agency and any other necessary expense. The budget must designate any expense of operating the agency or operating a program for which the board has 19 responsibility that is paid from the Foundation School Program. The budget must designate program expenses that may be paid out of the foundation school fund, other state funds, fees, federal funds, or funds earned under interagency contract. Before adopting the budget, the commissioner must submit the budget to the board for review and, after receiving any comments of the board, present the operating budget to the governor and the Legislative Budget Board. The commissioner shall provide appropriate information on proposed budget expenditures to the comptroller to assure that all payments are paid from the appropriate funds in a timely and efficient manner.

TEXAS EDUCATION CODE
CHAPTER 7. STATE ORGANIZATION
SUBCHAPTER D. STATE BOARD OF EDUCATION

TEC, §7.102. STATE BOARD OF EDUCATION POWERS AND DUTIES.

- (a) The board may perform only those duties relating to school districts or regional education service centers assigned to the board by the constitution of this state or by this subchapter or another provision of this code.
- (b) The board has the powers and duties provided by Subsection (c), which shall be carried out with the advice and assistance of the commissioner.
- (c)
 - (1) The board shall develop and update a long-range plan for public education.
 - (2) The board may enter into contracts relating to or accept grants for the improvement of educational programs specifically authorized by statute.
 - (3) The board may accept a gift, donation, or other contribution on behalf of the public school system or agency and, unless otherwise specified by the donor, may use the contribution in the manner the board determines.
 - (4) The board shall establish curriculum and graduation requirements.
 - ~~(5) The board shall establish a standard of performance considered satisfactory on student assessment instruments.~~
 - (6) The board may create special-purpose school districts under Chapter [11](#).
 - (7) The board shall provide for a training course for school district trustees under Section [11.159](#).
 - (8) The board shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter as required by Subchapter B, Chapter [12](#), and may place on probation or revoke a home-rule school district charter as provided by that subchapter.
 - ~~(9) The board may grant an open enrollment charter or approve a charter revision as provided by Subchapter D, Chapter [12](#).~~
 - (10) The board shall adopt rules establishing criteria for certifying hearing examiners as provided by Section [21.252](#).
 - (11) The board shall adopt rules to carry out the curriculum required or authorized under Section [28.002](#).
 - (12) The board shall establish guidelines for credit by examination under Section [28.023](#).
 - (13) The board shall adopt transcript forms and standards for differentiating high school programs for purposes of reporting academic achievement under Section [28.025](#).
 - (14) The board shall adopt guidelines for determining financial need for purposes of the Texas Advanced Placement Incentive Program under Subchapter C, Chapter [28](#), and may approve payments as provided by that subchapter.
 - (15) The board shall adopt criteria for identifying gifted and talented students and shall develop and update a state plan for the education of gifted and talented students as required under Subchapter D, Chapter [29](#).
 - (16) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 73, Sec. 2.06(a)(1), eff. September 1, 2013.
 - (17) The board shall adopt rules relating to community education development projects as required under Section [29.257](#).
 - (18) The board may approve the plan to be developed and implemented by the commissioner for the coordination of services to children with disabilities as required under Section [30.001](#).
 - (19) The board shall establish a date by which each school district and state institution shall provide to the commissioner the necessary information to determine the district's share of the cost of the education of a student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as required under Section [30.003](#) and may adopt other rules concerning funding of the education of students enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as authorized under Section [30.003](#).
 - (20) The board shall adopt rules prescribing the form and content of information school districts are required to provide concerning programs offered by state institutions as required under Section [30.004](#).
 - (21) The board shall adopt rules concerning admission of students to the Texas School for the Deaf as required under Section [30.057](#).

- (22) The board shall carry out powers and duties related to regional day school programs for the deaf as provided under Subchapter D, Chapter [30](#).
 - (23) The board shall adopt and purchase or license instructional materials as provided by Chapter [31](#) and adopt rules required by that chapter.
 - (24) The board shall develop and update a long-range plan concerning technology in the public school system as required under Section [32.001](#) and shall adopt rules and policies concerning technology in public schools as provided by Chapter [32](#).
 - (25) The board shall conduct feasibility studies related to the telecommunications capabilities of school districts and regional education service centers as provided by Section [32.033](#).
 - (26) The board shall appoint a board of directors of the center for educational technology under Section [32.034](#).
 - (27) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 4.001(b), eff. Sept. 1, 2001.
 - (28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section [38.003](#).
 - (29) The board shall perform duties in connection with the public school accountability system as prescribed by Chapters [39](#) and [39A](#).
 - (30) The board shall perform duties in connection with the Foundation School Program as prescribed by Chapter [48](#) [42].
 - (31) The board may invest the permanent school fund within the limits of the authority granted by Section [5](#), Article VII, Texas Constitution, and Chapter 43.
 - (32) The board shall adopt rules concerning school district budgets and audits of school district fiscal accounts as required under Subchapter A, Chapter [44](#).
 - (33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Subchapter C, Chapter [45](#).
 - (34) The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank as required under Section [45.206](#).
- (d) The board may adopt rules relating to school districts or regional education service centers only as required to carry out the specific duties assigned to the board by the constitution or under Subsection (c).
 - (e) An action of the board to adopt a rule under this section is effective only if the board includes in the rule's preamble a statement of the specific authority under Subsection (c) to adopt the rule.
 - (f) Except as otherwise provided by this subsection, a rule adopted by the board under this section does not take effect until the beginning of the school year that begins at least 90 days after the date on which the rule was adopted. The rule takes effect earlier if the rule's preamble specifies an earlier effective date and the reason for that 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 this section and expressly requires the adoption of an earlier effective date; or
 - (2) on the affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

TEXAS EDUCATION CODE
CHAPTER 7. STATE ORGANIZATION
SUBCHAPTER D. STATE BOARD OF EDUCATION

TEC, § 7.107. OFFICERS (excerpt):

- (b) At the board's first regular meeting after the election and qualification of new members, the board shall organize, adopt rules of procedure, and elect by separate votes a vice chair and a secretary.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 11. SCHOOL DISTRICTS
SUBCHAPTER H. SPECIAL-PURPOSE SCHOOL DISTRICTS

TEC, §11.351. AUTHORITY TO ESTABLISH SPECIAL-PURPOSE SCHOOL DISTRICT.

- (a) On the recommendation of the commissioner and after consulting with the school districts involved and obtaining the approval of a majority of those districts in each affected county in which a proposed school district is located, the State Board of Education may establish a special-purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The board may impose duties or limitations on the school district as necessary for the special purpose of the district. The board shall exercise the powers as provided by this section relating to the districts established under this section.

- (b) The State Board of Education shall grant to the districts the right to share in the available school fund apportionment and other privileges as are granted to independent and common school districts.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 11. SCHOOL DISTRICTS
SUBCHAPTER H. SPECIAL-PURPOSE SCHOOL DISTRICTS

TEC, §11.352. GOVERNANCE OF SPECIAL-PURPOSE DISTRICT.

- (a) The State Board of Education shall appoint for each district established under Section 11.351 a board of three, five, or seven trustees, as determined by the State Board of Education. A trustee is not required to be a resident of the district.
- (b) For each military reservation school district, the State Board of Education may appoint a board of three or five trustees. Enlisted military personnel and military officers may be appointed to the school board. A majority of the trustees appointed for the district must be civilians and all may be civilians. The trustees shall be selected from a list of persons who are qualified to serve as members of a school district board of trustees under Section 11.061 and who live or are employed on the military reservation. The list shall be furnished to the board by the commanding officer of the military reservation. The trustees appointed serve terms of two years.
- (c) The State Board of Education may adopt rules for the governance of a special-purpose district. In the absence of a rule adopted under this subsection, the laws applicable to independent school districts apply to a special-purpose district.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 12. CHARTERS
SUBCHAPTER D. OPEN-ENROLLMENT CHARTER SCHOOL

TEC, §12.101. AUTHORIZATION.

- (a) In accordance with this subchapter, the commissioner may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:
- (1) an institution of higher education as defined under Section [61.003](#);
 - (2) a private or independent institution of higher education as defined under Section [61.003](#);
 - (3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
 - (4) a governmental entity.
- (b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:
- (1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or
 - (2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.
- (b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.
- (b-1) In granting charters for open-enrollment charter schools, the commissioner may not grant a total of more than:

- (1) 215 charters through the fiscal year ending August 31, 2014;
 - (2) 225 charters beginning September 1, 2014;
 - (3) 240 charters beginning September 1, 2015;
 - (4) 255 charters beginning September 1, 2016;
 - (5) 270 charters beginning September 1, 2017; and
 - (6) 285 charters beginning September 1, 2018.
- (b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.
- (b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.
- (b-4) Notwithstanding Section [12.114](#), approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter [39](#), or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:
- (1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter [39](#) and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter [39](#), for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;
 - (2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and
 - (3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder that the commissioner has determined that the charter holder does not satisfy the requirements of this section.
- (b-5) The initial term of a charter granted under this section is five years.

- (b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter [39](#).
- (b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section [12.1141\(c\)](#).
- (b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:
 - (1) exclude any loan or line of credit in determining an applicant's available funding; or
 - (2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.
- (b-10) The commissioner by rule shall allow a charter holder to provide written notice of the establishment of a new open-enrollment charter school under Subsection (b-4)(2) up to 18 months before the date on which the campus is anticipated to open. Notice provided to the commissioner under this section does not obligate the charter holder to open a new campus.
- (c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.
- (d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

TEXAS EDUCATION CODE
CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.002. REQUIRED CURRICULUM.

- (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;~~
 - (i) physical health, including the importance of proper nutrition and exercise;
 - (ii) mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
 - (iii) suicide prevention, including recognizing suicide-related risk factors and warning signs;
 - (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.
- (b-1) In this section, "common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative.
- (b-2) The State Board of Education may not adopt common core state standards to comply with a duty imposed under this chapter.
- (b-3) A school district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c).
- (b-4) Notwithstanding any other provision of this code, a school district or open-enrollment charter school may not be required to offer any aspect of a common core state standards curriculum.
- (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.

- (c-1) The State Board of Education shall adopt rules requiring students enrolled in grade levels six, seven, and eight to complete at least one fine arts course during those grade levels as part of a district's fine arts curriculum.
- (c-2) Each time the Texas Higher Education Coordinating Board revises the Internet database of the coordinating board's official statewide inventory of workforce education courses, the State Board of Education shall by rule revise the essential knowledge and skills of any corresponding career and technology education curriculum as provided by Subsection (c).
- (c-3) In adopting the essential knowledge and skills for the technology applications curriculum for kindergarten through grade eight, the State Board of Education shall adopt essential knowledge and skills that include coding, computer programming, computational thinking, and cybersecurity. The State Board of Education shall review and revise, as needed, the essential knowledge and skills of the technology applications curriculum every five years to ensure the curriculum:
 - (1) is relevant to student education; and
 - (2) aligns with current or emerging professions.
- (d) The physical education curriculum required under Subsection (a)(2)(C) must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. In identifying the essential knowledge and skills of physical education, the State Board of Education shall ensure that the curriculum:
 - (1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;
 - (2) is consistent with national physical education standards for:
 - (A) the information that students should learn about physical activity; and
 - (B) the physical activities that students should be able to perform;
 - (3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;
 - (4) offers students an opportunity to choose among many types of physical activity in which to participate;
 - (5) offers students both cooperative and competitive games;
 - (6) meets the needs of students of all physical ability levels, including students who have a chronic health problem, disability, including a student who is a person with a disability described under Section [29.003\(b\)](#) or criteria developed by the agency in accordance with that section, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;
 - (7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested;
 - (8) teaches self-management and movement skills;
 - (9) teaches cooperation, fair play, and responsible participation in physical activity;
 - (10) promotes student participation in physical activity outside of school; and
 - (11) allows physical education classes to be an enjoyable experience for students.

- (e) American Sign Language is a language for purposes of Subsection (a)(2)(A). A public school may offer an elective course in the language.
- (f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall:
 - (1) be flexible in approving a course for credit for high school graduation under this subsection; and
 - (2) approve courses in cybersecurity for credit for high school graduation under this subsection.
- (g) A local instructional plan may draw on state curriculum frameworks and program standards as appropriate. Each district is encouraged to exceed minimum requirements of law and State Board of Education rule. Each district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:
 - (1) includes teacher input;
 - (2) provides district employees with the opportunity to express opinions regarding the initiative; and
 - (3) includes a meeting of the board of trustees of the district at which:
 - (A) information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and
 - (B) members of the public and district employees are given the opportunity to comment regarding the initiative.
- (g-1) A district may also offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board of trustees for credit without obtaining State Board of Education approval if:
 - (1) the district develops a program under which the district partners with a public or private institution of higher education and local business, labor, and community leaders to develop and provide the courses; and
 - (2) the course or other activity allows students to enter:
 - (A) a career or technology training program in the district's region of the state;
 - (B) an institution of higher education without remediation;
 - (C) an apprenticeship training program; or
 - (D) an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.
- (g-2) Each school district shall annually report to the agency the names of the courses, programs, institutions of higher education, and internships in which the district's students have enrolled under Subsection (g-1) and the names of the courses and institutions of higher education in which the district's students have enrolled under Subsection (g-3). The agency shall make available information provided under this subsection to other districts.
- (g-3) A district may also offer a course in cybersecurity that is approved by the board of trustees for credit without obtaining State Board of Education approval if the district partners with a public or private institution of higher education that offers an undergraduate degree program in cybersecurity to develop and provide the course.
- (h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

- (i) The State Board of Education shall adopt rules for the implementation of this subchapter. Except as provided by Subsection (j), the board may not adopt rules that designate the methodology used by a teacher or the time spent by a teacher or a student on a particular task or subject.
- (j) The State Board of Education by rule may require laboratory instruction in secondary science courses and may require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.
- (k) The State Board of Education, in consultation with the Department of State Health Services and the Texas Diabetes Council, shall develop a diabetes education program that a school district may use in the health curriculum under Subsection (a)(2)(B).
- (l) A school district shall require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. To the extent practicable, a school district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for:
 - (1) any student who is unable to participate in the required physical activity because of illness or disability; and
 - (2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner.
- (l-1) In adopting rules relating to an activity described by Subsection (l)(2), the commissioner may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.
- (l-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).
- (l-3)
 - (1) This subsection may be cited as "Lauren's Law."
 - (2) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:
 - (A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or
 - (B) children at a school-designated function.
- (m) Section [2001.039](#), Government Code, as added by Chapter 1499, Acts of the 76th Legislature, Regular Session, 1999, does not apply to a rule adopted by the State Board of Education under Subsection (c) or (d).

- (n) The State Board of Education may by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum under Subsection (a)(2)(E).
- (o) In approving career and technology courses, the State Board of Education must determine that at least 50 percent of the approved courses are cost-effective for a school district to implement.
- (p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. The program must:
 - (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;
 - (2) address relationship skills, including money management, communication skills, and marriage preparation; and
 - (3) in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.
- (p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:
 - (1) child development;
 - (2) parenting skills, including child abuse and neglect prevention; and
 - (3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.
- (p-3) The agency shall evaluate programs and curriculum materials developed under Subsection (p-2) and distribute to other school districts information regarding those programs and materials.
- (p-4) A student under 14 years of age may not participate in a program developed under Subsection (p) without the permission of the student's parent or person standing in parental relation to the student.
- (q) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(1), eff. September 1, 2014.
- (r) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the science, risk factors, causes, dangers, [causes,] consequences, signs, symptoms, and treatment of substance abuse, including the use of illegal drugs, abuse of prescription drugs, abuse of alcohol such as by binge drinking or other excessive drinking resulting in [and] alcohol poisoning, inhaling solvents, and other forms of substance abuse. The agency shall compile a list of evidence-based substance abuse [alcohol] awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based substance abuse [alcohol] awareness program" means a program, practice, or strategy that has been proven to effectively prevent substance abuse [or delay alcohol use] among students, as determined by evaluations that are evidence-based [use valid and reliable measures and that are published in peer reviewed journals].
- (s) In this subsection, "bullying" has the meaning assigned by Section [37.0832](#) and "harassment" has the meaning assigned by Section [37.001](#). In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.
- (t) The State Board of Education, in consultation with the commissioner of higher education and business and industry leaders, shall develop an advanced language course that a school district may use in the curriculum under Subsection (a)(2)(A) to provide students with instruction in industry-related terminology that

prepares students to communicate in a language other than English in a specific professional, business, or industry environment.

(w) Repealed section 28.002 (w)

~~(w) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of nonmedical use of prescription drugs. The agency shall compile a list of evidence-based prescription drug misuse awareness programs from which a school district may choose a program to use in the district's middle school, junior high school, and high school health curriculums. In this subsection, an "evidence-based prescription drug misuse awareness program" means a program, practice, or strategy that has been proven to effectively prevent nonmedical use of prescription drugs among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.~~

~~(z) The State Board of Education by rule shall require each school district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying. In this subsection:~~

~~(1) "Cyberbullying" has the meaning assigned by Section 37.0832.~~

~~(2) "Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.~~

TEXAS EDUCATION CODE
CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND
ACADEMIC ACHIEVEMENT RECORD

TEC, §28.025. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD.

- (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) A school district shall ensure that each student, on entering ninth grade, indicates in writing an endorsement under Subsection (c-1) that the student intends to earn. A district shall permit a student to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:
 - (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the agency, allowing the student to graduate under the foundation high school program without earning an endorsement.
- (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-2) In adopting rules under Subsection (b-1), the State Board of Education shall:
- (1) provide for a student to comply with the curriculum requirements for an advanced English course under Subsection (b-1)(1), for an advanced mathematics course under Subsection (b-1)(2), and for any advanced science course under Subsection (b-1)(3) by successfully completing a course in the appropriate content area that has been approved as an advanced course by board rule or that is offered as an advanced course for credit without board approval as provided by Section [28.002\(g-1\)](#); and
 - (2) allow a student to comply with the curriculum requirements for the third and fourth mathematics credits under Subsection (b-1)(2) or the third and fourth science credits under Subsection (b-1)(3) by successfully completing an advanced career and technical course designated by the State Board of Education as containing substantively similar and rigorous academic content.
- (b-3) In adopting rules for purposes of Subsection (b-2), the State Board of Education must approve a variety of advanced English, mathematics, and science courses that may be taken to comply with the foundation high school program requirements, provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation.
- (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-5) A school district may offer a mathematics or science course to be taken by a student after completion of Algebra II and physics. A course approved under this subsection must be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit.
- ~~(b-6) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.~~
- ~~(b-6) A school district may allow a student to enroll concurrently in Algebra I and geometry.~~
- (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-8) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.
- (b-9) A school district, with the approval of the commissioner, may allow a student to satisfy the fine arts credit required under Subsection (b-1)(7) by participating in a community-based fine arts

program not provided by the school district in which the student is enrolled. The fine arts program must provide instruction in the essential knowledge and skills identified for fine arts by the State Board of Education under Section [28.002\(c\)](#). The fine arts program may be provided on or off a school campus and outside the regular school day.

- (b-10) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(8) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.
- (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-12) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirements for the two credits in a language other than English required under Subsection (b-1)(5) by substituting two credits in computer programming languages, including computer coding.
- (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.
- (b-15) A student may earn a distinguished level of achievement under the foundation high school program by successfully completing:
- (1) four credits in mathematics, which must include Algebra II and the courses described by Subsection (b-1)(2);
 - (2) four credits in science, which must include the courses described by Subsection (b-1)(3);
 - (3) the remaining curriculum requirements under Subsection (b-1); and
 - (4) the curriculum requirements for at least one endorsement under Subsection (c-1).
- (b-16) A student may satisfy an elective credit required under Subsection (b-1)(6) with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the foundation high school program or an endorsement under Subsection (c-1). This subsection may apply to more than one elective credit.
- (b-17) The State Board of Education shall adopt rules to ensure that a student may comply with the curriculum requirements under Subsection (b-1)(6) by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.
- (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.
- (b-19) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with curriculum requirements for the world geography or world history credit under Subsection (b-1)(4) by successfully completing a combined world history and world geography course developed by the State Board of Education.
- (b-20) The State Board of Education shall adopt rules to include the instruction developed under Section [28.012](#) in one or more courses in the required curriculum for students in grade levels 9 through 12.
- (b-21) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirement for one credit under Subsection (b-1)(5) by successfully completing at an elementary school either a dual language immersion program under Section [28.0051](#) or a course in American Sign Language [at an elementary school].
- (c) A person may receive a diploma if the person is eligible for a diploma under Section [28.0251](#). In other cases, a student may graduate and receive a diploma only if:
- (1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with Sections [28.0256](#) and [Section] [39.025](#); or
 - (2) the student successfully completes an individualized education program developed under Section [29.005](#).

- (c-1) A student may earn an endorsement on the student's transcript by successfully completing curriculum requirements for that endorsement adopted by the State Board of Education by rule. The State Board of Education by rule shall provide students with multiple options for earning each endorsement, including, to the greatest extent possible, coherent sequences of courses. The State Board of Education by rule must permit a student to enroll in courses under more than one endorsement curriculum before the student's junior year. An endorsement under this subsection may be earned in any of the following categories:
- (1) science, technology, engineering, and mathematics (STEM), which includes courses directly related to science, including environmental science, technology, including computer science, cybersecurity, and computer coding, engineering, and advanced mathematics;
 - (2) business and industry, which includes courses directly related to database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and heating, ventilation, and air conditioning;
 - (3) public services, which includes courses directly related to health sciences and occupations, mental health, education and training, law enforcement, and culinary arts and hospitality;
 - (4) arts and humanities, which includes courses directly related to political science, world languages, cultural studies, English literature, history, and fine arts; and
 - (5) multidisciplinary studies, which allows a student to:
 - (A) select courses from the curriculum of each endorsement area described by Subdivisions (1) through (4); and
 - (B) earn credits in a variety of advanced courses from multiple content areas sufficient to complete the distinguished level of achievement under the foundation high school program.
- (c-2) In adopting rules under Subsection (c-1), the State Board of Education shall:
- (1) require a student in order to earn any endorsement to successfully complete:
 - (A) four credits in mathematics, which must include:
 - (i) the courses described by Subsection (b-1)(2); and
 - (ii) an additional advanced mathematics course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education;
 - (B) four credits in science, which must include:
 - (i) the courses described by Subsection (b-1)(3); and
 - (ii) an additional advanced science course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education; and
 - (C) two elective credits in addition to the elective credits required under Subsection (b-1)(6); and
 - (2) develop additional curriculum requirements for each endorsement with the direct participation of educators and business, labor, and industry representatives, and shall require each school district to report to the agency the categories of endorsements under

Subsection (c-1) for which the district offers all courses for curriculum requirements, as determined by board rule.

- (c-3) In adopting rules under Subsection (c-1), the State Board of Education shall adopt criteria to allow a student participating in the arts and humanities endorsement under Subsection (c-1)(4), with the written permission of the student's parent or a person standing in parental relation to the student, to comply with the curriculum requirements for science required under Subsection (c-2)(1)(B)(ii) by substituting for an advanced course requirement a course related to that endorsement.
- (c-4) Each school district must make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement under Subsection (c-1). A school district that offers only one endorsement curriculum must offer the multidisciplinary studies endorsement curriculum.
- (c-5) A student may earn a performance acknowledgment on the student's transcript by satisfying the requirements for that acknowledgment adopted by the State Board of Education by rule. An acknowledgment under this subsection may be earned:
 - (1) for outstanding performance:
 - (A) in a dual credit course;
 - (B) in bilingualism and biliteracy;
 - (C) on a college advanced placement test or international baccalaureate examination;
 - (D) on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; or
 - (E) on an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
 - (2) for earning a state recognized or nationally or internationally recognized business or industry certification or license.
- (c-6) Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section [28.0258](#). This subsection expires September 1, ~~2019~~ 2023.
- (c-7) Subject to Subsection (c-8), a student who is enrolled in a special education program under Subchapter A, Chapter 29, may earn an endorsement on the student's transcript by:
 - (1) successfully completing, with or without modification of the curriculum:
 - (A) the curriculum requirements identified by the State Board of Education under Subsection (a); and
 - (B) the additional endorsement curriculum requirements prescribed by the State Board of Education under Subsection (c-2); and
 - (2) successfully completing all curriculum requirements for that endorsement adopted by the State Board of Education:
 - (A) without modification of the curriculum; or

(B) with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's admission, review, and dismissal committee.

- (c-8) For purposes of Subsection (c-7), the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.
- (c-10) In adopting rules under Subsection (c-1), the State Board of Education shall adopt or select five technology applications courses on cybersecurity to be included in a cybersecurity pathway for the science, technology, engineering, and mathematics endorsement.
- (d) A school district may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) but who fails to comply with Section [39.025](#). A school district may allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.
- (e) Each school district shall report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the State Board of Education. The transcript forms adopted by the board must be designed to clearly identify whether a student received a diploma or a certificate of coursework completion.
- (e-1) A school district shall clearly indicate a distinguished level of achievement under the foundation high school program as described by Subsection (b-15), an endorsement described by Subsection (c-1), and a performance acknowledgment described by Subsection (c-5) on the transcript of a student who satisfies the applicable requirements. The State Board of Education shall adopt rules as necessary to administer this subsection.
- (e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:
- (1) enrolled in the foundation high school program;
 - (2) pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-15); and
 - (3) enrolled in a program to earn an endorsement described by Subsection (c-1).
- (e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter [29](#).
- (f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter A, Chapter [29](#), and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).
- (g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.

- (h) The commissioner by rule shall adopt a transition plan to implement and administer the amendments made by H.B. No. 5, 83rd Legislature, Regular Session, 2013, replacing the minimum, recommended, and advanced high school programs with the foundation high school program beginning with the 2014-2015 school year. Under the transition plan, a student who entered the ninth grade before the 2014-2015 school year must be permitted to complete the curriculum requirements required for high school graduation under:
- (1) the foundation high school program, if the student chooses during the 2014-2015 school year to take courses under this program;
 - (2) the minimum high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year;
 - (3) the recommended high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year; or
 - (4) the advanced high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year.
- (h-1) This subsection and Subsection (h) expire September 1, 2018.
- (i) If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. [~~In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a].~~]

TEXAS EDUCATION CODE
CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND
ACADEMIC ACHIEVEMENT RECORD

TEC, §28.0256. FINANCIAL AID APPLICATION REQUIREMENT FOR HIGH SCHOOL GRADUATION.

- (a) Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA).
- (b) A student is not required to comply with Subsection (a) if:
 - (1) the student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
 - (2) the student signs and submits the form described by Subdivision (1) on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Chapter [31](#), Family Code; or
 - (3) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.
- (c) A school district or open-enrollment charter school shall adopt a form to be used for purposes of Subsection (b). The form must be:
 - (1) approved by the agency; and
 - (2) made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under Subchapter B, Chapter [29](#), in the district or school.
- (d) If a school counselor notifies a school district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Section [28.025](#), the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied.
- (e) The commissioner shall adopt rules as necessary to implement this section, including rules to:
 - (1) establish:
 - (A) a timeline for:
 - (i) the distribution to students of the free application for federal student aid or Texas application for state financial aid and the form adopted under Subsection (c); and
 - (ii) the submission of a form under Subsection (b);
 - (B) standards regarding the information that a school district or open-enrollment charter school must provide to students regarding:
 - (i) in accordance with Section [33.007](#)(b)(5), instructions for filling out the free application for federal student aid or Texas application for state financial aid; and
 - (ii) the options available to a student under Subsection (b) if the student wishes to decline to complete and submit a financial aid application; and
 - (C) the method by which a student must provide to a school district or open-enrollment charter school proof that the student has completed and submitted the

- free application for federal student aid or Texas application for state financial aid as required by this section;
- (2) require each school district to report to the agency:
 - (A) the number of students who completed and submitted a financial aid application under Subsection (a); and
 - (B) the number of students who received an exception from complying with Subsection (a) under Subsection (b); and
 - (3) ensure compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.
 - (f) The agency shall establish an advisory committee to assist the agency in adopting rules under Subsection (e) to implement this section and to develop recommendations for that purpose. The advisory committee is composed of:
 - (1) school counselors;
 - (2) school administrators; and
 - (3) stakeholders to represent the needs of interested students.
 - (g) Not later than January 1, 2021, the agency shall report the advisory committee's recommendations to the standing committee of each house of the legislature with jurisdiction over public education. Subsection (f) and this subsection expire January 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 2.015, eff. June 12, 2019.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.003. RULES.

The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEXAS EDUCATION CODE
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §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.
- (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 education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (d-1) 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.
- (g) In reviewing and adopting instructional materials, the board shall consider a school district's need for technology as well as instructional materials and in any biennium may limit the adoption of instructional materials to provide sufficient resources to purchase technology resources, including digital curriculum.
- (h) The board shall include information regarding open education resource instructional materials during the adoption cycle, including any cost savings associated with the adoption of open education resource instructional materials.

TEXAS EDUCATION CODE
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

TEC, §31.081. INSTRUCTIONAL MATERIALS WEB PORTAL.

- (a) The commissioner shall develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials under Section [31.101](#).
- (b) The web portal must include general information such as price, computer system requirements, and any other relevant specifications for each instructional material:
 - (1) on the instructional materials list, including the list adopted under Section [31.0231](#); or
 - (2) submitted by a publisher for inclusion in the web portal.
- (c) The commissioner by rule shall establish the procedure by which a publisher may submit instructional materials for inclusion in the web portal.
- (d) The commissioner shall use a competitive process to contract for the development of the web portal.
- (e) The commissioner shall use money in the state instructional materials and technology fund to pay any expenses associated with the web portal.

TEXAS EDUCATION CODE
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

TEC, §31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED BY PUBLISHER.

- (a) The commissioner shall contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under Section [31.081](#). The analysis must:
 - (1) evaluate the quality of the material; and
 - (2) determine the extent to which the material covers the essential knowledge and skills identified under Section [28.002](#) for the subject and grade level for which the material is intended to be used, including an identification of:
 - (A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and
 - (B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material.
- (b) The commissioner shall include in the web portal developed under Section [31.081](#) the results of each analysis conducted under Subsection (a).

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.021. ESSENTIAL SKILLS AND KNOWLEDGE.

The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section [4.002](#).

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.022. ASSESSMENT PROGRAM.

- (a) The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section [4.002](#). After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.
- (b) It is the policy of this state that the statewide assessment program be designed to:
 - (1) provide assessment instruments that are as short as practicable; and
 - (2) minimize the disruption to the educational program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1999, 76th Leg., ch. 397, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1315 (H.B. [3906](#)), Sec. 1, eff. June 14, 2019.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY
SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

TEC, §39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS.

Text of subsection effective until September 01, 2021

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section [39.027](#), shall be assessed in:
- (1) mathematics, annually in grades three through eight;
 - (2) reading, annually in grades three through eight;
 - (3) writing, including spelling and grammar, in grades four and seven;
 - (4) social studies, in grade eight;
 - (5) science, in grades five and eight; and
 - (6) any other subject and grade required by federal law.

Text of subsection effective on September 01, 2021

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section [39.027](#), shall be assessed in:
- (1) mathematics, annually in grades three through eight;
 - (2) reading, annually in grades three through eight;
 - (3) social studies, in grade eight;
 - (4) science, in grades five and eight; and
 - (5) any other subject and grade required by federal law.
- (a-1) The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:
- (1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section [39.0241](#); and
 - (2) an appropriate range of performances to serve as a valid indication of growth in student achievement.
- (a-2) Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

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- (1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled; or
 - (2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.
- (a-3) The agency may not adopt or develop a criterion-referenced assessment instrument under this section based on common core state standards as defined by Section [28.002](#)(b-1). This subsection does not prohibit the use of college advanced placement tests or international baccalaureate examinations as those terms are defined by Section [28.051](#).
- (a-4) For purposes of Subsection (a)(1), the State Board of Education by rule may designate sections of a mathematics assessment instrument for a grade level that:
- (1) may be completed with the aid of technology; and
 - (2) must be completed without the aid of technology.
- (a-5)-(a-10) Expired.
- (a-11) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the agency and of any other entity that developed the assessment instrument.
- (a-12) An assessment instrument adopted or developed under Subsection (a) may not have more than three parts. A part of an assessment instrument must be designed so that:
- (1) if administered to students in grades three and four, 85 percent of students will be able to complete that part within 60 minutes; and
 - (2) if administered to students in grades five through eight, 85 percent of students will be able to complete that part within 75 minutes.
- (a-13) The amount of time allowed for administration of an assessment instrument adopted or developed under Subsection (a) may not exceed eight hours, and the administration may occur in multiple parts over more than one day.
- (a-14) Subsections (a-12) and (a-13) do not apply to the administration of assessment instruments for a grade level if, as a result of the time restriction imposed, the assessment instrument no longer:
- (1) complies with federal law; or
 - (2) is valid and reliable, based on findings and recommendations made by the advisory committees established under Section [39.02302](#).

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- (a-15) Subsections (a-12) and (a-13) do not apply to a classroom portfolio method used to assess writing performance.
- (a-16) An assessment instrument under this section may not be administered to a kindergarten student except for the purpose of determining whether the student is entitled to the benefit of the Foundation School Program as provided under this code.
- (b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter [A](#), Chapter [29](#), for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students under this subsection. The agency may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's admission, review, and dismissal committee.
 - (b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. A classroom portfolio method used to assess writing performance may require a teacher to prepare tasks and materials.
- (c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter [A](#), Chapter [29](#), the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).
 - (c-1) The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections [39.034](#)(c) and (d).

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- (c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section [39.025](#).
- (c-3) Except as provided by Subsection (c-7), in adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall ensure that assessment instruments administered under Subsection (a) or (c) are not administered on the first instructional day of a week.
- (c-4) To the extent practicable and subject to Section [39.024](#), the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:
 - (1) developed in a manner that measures a student's performance under the college readiness standards established under Section [28.008](#); and
 - (2) validated by national postsecondary education experts for college readiness content and performance standards.
- (c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.
- (c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:
 - (1) is aligned with the essential knowledge and skills of the subject being assessed; and
 - (2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1282 (H.B. [1244](#)), Sec. 1

- (c-7) The United States history end-of-course assessment instrument adopted under Subsection (c) must include 10 questions randomly selected by the agency from the civics test administered by the United States Citizenship and Immigration Services as part of the naturalization process under the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.). The agency shall:
 - (1) ensure that the questions included in the assessment instrument align with the essential knowledge and skills adopted for the United States history course for which the instrument is administered; and
 - (2) annually issue a report:
 - (A) providing the questions included in the assessment instrument under this subsection and the answers to those questions; and
 - (B) detailing student performance on the questions included in the assessment instrument under this subsection, both statewide and disaggregated by school

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district and campus.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1315 (H.B. [3906](#)), Sec. 3

- (c-7) Subsection (c-3) does not apply to a classroom portfolio method used to assess writing performance if student performance under that method is less than 50 percent of a student's overall assessed performance in writing.
- (c-8) Beginning with the 2022-2023 school year, an assessment instrument developed under Subsection (a) or (c) may not present more than 75 percent of the questions in a multiple choice format.
- (d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter [A](#), Chapter [29](#), shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.
- (e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014-2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.
- (e-1) The agency may defer releasing assessment instrument questions and answer keys as required by Subsection (e) to the extent necessary to develop additional assessment instruments.
- (f) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.
- (g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.
- (h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section not later than the 21st day after the date the assessment instrument is administered. The school district shall disclose to each district teacher the results of assessment

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instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

- (i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section [39.022](#). Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.
- (j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 18, eff. September 1, 2007.
- (l) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section [29.052](#), whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section [39.027](#)(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section [29.063](#) shall determine which students are administered assessment instruments in Spanish under this subsection.
- (m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section [29.063](#) shall determine which students are exempt from the administration of the assessment instruments under Section [39.027](#)(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.
- (n) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).
- (o) The agency shall adopt or develop optional interim assessment instruments for each subject or course for each grade level subject to assessment under this section. A school district may not be required to administer interim assessment instruments adopted or developed under this subsection. An interim assessment instrument:
 - (1) must be:

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- (A) predictive of the assessment instrument for the applicable subject or course for that grade level required under this section; and
- (B) administered electronically; and
- (2) may not be used for accountability purposes.
- (p) On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (l):
 - (1) the number of questions on the assessment instrument;
 - (2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section [39.0241](#)(a);
 - (3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section [39.0241](#); and
 - (4) the corresponding scale scores.

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TEC, §39.025. SECONDARY-LEVEL PERFORMANCE REQUIRED.

- (a) The commissioner shall adopt rules requiring a student in the foundation high school program under Section [28.025](#) to be administered an end-of-course assessment instrument listed in Section [39.023](#)(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section [39.0241](#)(a), on each end-of-course assessment instrument administered to the student. For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.
- (a-1) A student enrolled in a college preparatory mathematics or English language arts course under Section [28.014](#) who satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section [51.334](#) on an assessment instrument designated by the coordinating board under that section administered at the end of the college preparatory mathematics or English language arts course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Section [39.023](#)(c), even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument designated by the coordinating board under Section [51.334](#) administered as provided by this subsection may retake that assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument.
- (a-2) The commissioner shall determine a method by which a student's satisfactory performance on an advanced placement test, an international baccalaureate examination, an SAT Subject Test, the SAT, the ACT, or any nationally recognized norm-referenced assessment instrument used by institutions of higher education to award course credit based on satisfactory performance on the assessment instrument shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). The commissioner shall determine a method by which a student's satisfactory performance on the PSAT or the ACT-Plan shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). A student who fails to perform satisfactorily on a test or other assessment instrument authorized under this subsection, other than the PSAT or the ACT-Plan, may retake that test or other assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument. A student who fails to perform satisfactorily on the PSAT or the ACT-Plan must take the appropriate end-of-course assessment instrument. The commissioner shall adopt rules as necessary for the administration of this subsection.
- (a-3) A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment

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instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. This subsection expires September 1, 2023.

- (a-4) The admission, review, and dismissal committee of a student in a special education program under Subchapter [A](#), Chapter [29](#), shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.
- (a-5) Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section [28.0258](#). This subsection expires September 1, 2023.
- (b) Each time an end-of-course assessment instrument adopted under Section [39.023](#)(c) is administered, a student who failed to achieve a score requirement under Subsection (a) may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.
- (b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section [39.0241](#)(a) on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.
- (b-2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 934 , Sec. 5(3), eff. June 18, 2015.
- (c) A student who has been denied a high school diploma under this section and who subsequently performs at the level necessary to comply with the requirements of this section shall be issued a high school diploma.
- (c-1) A school district may not administer an assessment instrument required for graduation administered under this section as this section existed:
 - (1) before September 1, 1999; or
 - (2) before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.
- (c-2) A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by Subsection (c-1) an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument applicable to the student described by Subsection (c-1). The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.
- (d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to

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a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

- (1) for the first time in a public school in this state; or
 - (2) after an absence of at least four years from any public school in this state.
- (e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a).
- (e-1) Nothing in this section has the effect of prohibiting the administration of an end-of-course assessment instrument listed in Section [39.023\(c\)](#) to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. The commissioner shall adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner for purposes of this section as the performance of a student enrolled at the high school level.
- (f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. The rules must provide for the end-of-course assessment instruments adopted under Section [39.023\(c\)](#) to be administered beginning with students enrolled in the ninth grade for the first time during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:
- (1) for students entering a grade above the ninth grade during the 2011-2012 school year or students repeating ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section [39.023\(a\)](#) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and
 - (2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, or the current assessment instrument or instruments administered for graduation purposes as provided by Subsection (f-1) or on each required assessment instrument administered under Section [39.023\(c\)](#), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007.
- (f-1) The commissioner shall establish satisfactory performance levels for the SAT, the ACT, the Texas Success Initiative (TSI) diagnostic assessment, and the current assessment instrument or instruments administered for graduation purposes that are equivalent in rigor to the performance level required to be met under Subsection (a), as that subsection existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, that qualify a student subject to Subsection (f)(1) to receive a high school diploma. Notwithstanding Subsection (f), the commissioner is not required after September 1, 2017, to maintain and administer assessment instruments administered under Section [39.023\(c\)](#), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular

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- (f-2) A school district shall determine which assessment or assessments described by Subsection (f-1) qualify a student subject to Subsection (f)(1) to receive a high school diploma from the district.

- (g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade.

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TEC, §39.032. ASSESSMENT INSTRUMENT STANDARDS; CIVIL PENALTY.

- (a) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (c) State and national norms of averages shall be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered.
- (c-1) The standardization norms computed under Subsection (c) shall be:
 - (1) based on a national probability sample that meets accepted standards for educational and psychological testing; and
 - (2) updated at least every eight years using proven psychometric procedures approved by the State Board of Education.
- (c-2) The eight-year limitation on data to compute norms under this section does not apply if only data older than eight years is available for an assessment instrument. The commissioner by rule may limit the exception created by this subsection based on the type of assessment instrument.
- (d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1210, Sec. 2, eff. June 19, 2009.
- (e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.
- (f) In this section, "assessment instrument" means a group-administered achievement test.

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TEC, §39.033. VOLUNTARY ASSESSMENT OF PRIVATE SCHOOL STUDENTS.

- (a) Under an agreement with the agency, a private school may administer an assessment instrument adopted under this subchapter to students at the school.
- (b) An agreement under this section must require the private school to:
 - (1) as determined appropriate by the commissioner, provide to the commissioner the information described by Sections [39.053\(c\)](#) and [39.301\(c\)](#); and
 - (2) maintain confidentiality in compliance with Section [39.030](#).
- (c) A private school must reimburse the agency for the cost of administering an assessment instrument under this section. The State Board of Education shall determine the cost under this section. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a public school district.
- (d) In this section, "private school" means a school that:
 - (1) offers a general education to elementary or secondary students; and
 - (2) is not operated by a governmental entity.

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TEC, §43.001. COMPOSITION OF PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND.

- (a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:
- (1) all land appropriated for the public schools by the constitution and laws of this state;
 - (2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as defined by Section [88.111](#); and property described by Section [12.128](#);
 - (3) all proceeds from the authorized sale of permanent school fund land;
 - (4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;
 - (5) all investments authorized by Section [43.003](#) of properties belonging to the permanent school fund; and
 - (6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.
- (b) The available school fund, which shall be apportioned annually to each county according to its scholastic population, consists of:
- (1) the distributions to the fund from the permanent school fund as provided by ~~Sections~~ [Section](#) [5\(a\) and \(g\)](#), Article VII, Texas Constitution;
 - (2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;
 - (3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and
 - (4) all other appropriations to the available school fund made by the legislature for public school purposes.
- (c) The term "scholastic population" in Subsection (b) or any other law governing the apportionment, distribution, and transfer of the available school fund means all students of school age enrolled in average daily attendance the preceding school year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state.
- (d) Each biennium the State Board of Education shall set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund as provided by ~~Sections~~ [Section](#) [5\(a\) and \(g\)](#), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state technology and instructional materials fund established under Section [31.021](#).

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TEC, §43.003. INVESTMENT OF PERMANENT SCHOOL FUND.

In compliance with this section, the State Board of Education may invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified 3 below:

- (1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies and in bonds issued by this state;
- (2) obligations and pledges of The University of Texas;
- (3) corporate bonds, debentures, or obligations of United States corporations of at least "A" rating;
- (4) obligations of United States corporations that mature in less than one year and are of the highest rating available at the time of investment;
- (5) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation;
- (6) bonds of counties, school districts, municipalities, road precincts, drainage, irrigation, navigation, and levee districts in this state, subject to the following requirements:
 - (A) the securities, before purchase, must have been diligently investigated by the attorney general both as to form and as to legal compliance with applicable laws;
 - (B) the attorney general's certificate of validity procured by the party offering the bonds, obligations, or pledges must accompany the securities when they are submitted for registration to the comptroller, who must preserve the certificates;
 - (C) the public securities, if purchased, and when certified and registered as specified under Paragraph (B), are incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general are prima facie evidence of the validity of the bonds and bond coupons; and

- (D) after the issuing political subdivision has received the proceeds from the sales of the securities, the issuing agency is estopped to deny their validity, and the securities are 4 valid and binding obligations;
- (7) preferred stocks and common stocks that the State Board of Education considers proper investments for the permanent school fund, subject to the following requirements:
 - (A) in making all of those investments, the State Board of Education shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own 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;
 - (B) the company issuing the stock must be incorporated in the United States, and the stocks must have paid dividends for five consecutive years or longer immediately before the date of purchase and the stocks, except for bank stocks and insurance stocks, must be listed on an exchange registered with the Securities and Exchange Commission or its successors; and
 - (C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation and not more than five percent of the voting stock of any one corporation will be owned; and
- (8) notwithstanding any other law or provision of this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States.

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TEC, §43.004. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE EVALUATION.

- (a) The State Board of Education shall develop written investment objectives concerning the investment of the permanent school fund. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.
- (b) The board shall employ a well-recognized performance measurement service to evaluate and analyze the investment results of the permanent school fund. The service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the permanent school fund with the investment of other public and private funds.

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TEC, §43.007. PURCHASE AND SALE OR EXCHANGE OF SECURITIES.

- (a) The State Board of Education may authorize the purchase of all of the types of securities in which it is authorized by law to invest the permanent school fund in either registered or negotiable form. The board may authorize the reissue of those securities held at any time for the account of the permanent school fund in either registered or negotiable form. The State Board of Education may authorize the sale of any of the securities held for the account of the permanent school fund and reinvest the proceeds of sale for the fund and may authorize the exchange of any of the securities held for the account of the permanent school fund.
- (b) In making purchases, sales, exchanges, and reissues, the State Board of Education shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own 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.
- (c) When any securities are sold, reissued, or exchanged as provided by Subsection (a), the custodian of the securities shall deliver the securities sold, reissued, or exchanged in accordance with the directions of the State Board of Education.

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TEC, §43.0031. PERMANENT SCHOOL FUND ETHICS POLICY.

- (a) In addition to any other requirements provided by law, the State Board of Education shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the permanent school fund. The ethics policy must include provisions that address the following issues as they apply to the management and investment of the permanent school fund and to persons responsible for managing and investing the fund:
 - (1) general ethical standards;
 - (2) conflicts of interest;
 - (3) prohibited transactions and interests;
 - (4) the acceptance of gifts and entertainment;
 - (5) compliance with applicable professional standards;
 - (6) ethics training; and
 - (7) compliance with and enforcement of the ethics policy.
- (b) The ethics policy must include provisions applicable to:
 - (1) members of the State Board of Education;
 - (2) the commissioner;
 - (3) employees of the agency; and
 - (4) any person who provides services to the board relating to the management or investment of the permanent school fund.
- (c) Not later than the 45th day before the date on which the board intends to adopt a proposed ethics policy or an amendment to or revision of an adopted ethics policy, the board shall submit a copy of the proposed policy, amendment, or revision to the Texas Ethics Commission and the state auditor for review and comments. The board shall consider any comments from the commission or state auditor before adopting the proposed policy.
- (d) The provisions of the ethics policy that apply to a person who provides services to the board relating to the management or investment of the permanent school fund must be based on the Code of Ethics and the Standards of Professional Conduct prescribed by the Association for Investment Management and Research or other ethics standards adopted by another appropriate professionally recognized entity.
- (e) The board shall ensure that applicable provisions of the ethics policy are included in any contract under which a person provides services to the board relating to the management and investment of the permanent school fund.

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TEC, §43.0032. CONFLICTS OF INTEREST.

- (a) A member of the State Board of Education, the commissioner, an employee of the agency, or a person who provides services to the board that relate to the management or investment of the permanent school fund who has a business, commercial, or other relationship that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the fund shall disclose the relationship in writing to the board.
- (b) The board or the board's designee shall, in the ethics policy adopted under Section 43.0031, define the kinds of relationships that may create a possible conflict of interest.
- (c) A person who files a statement under Subsection (a) disclosing a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the board, after consultation with the general counsel of the agency, expressly waives this prohibition. The board may delegate the authority to waive the prohibition established by this subsection.

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TEC, §43.0033. REPORTS OF EXPENDITURES.

A consultant, advisor, broker, or other person providing services to the State Board of Education relating to the management and investment of the permanent school fund shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of:

- (1) a member of the board;
- (2) the commissioner; or
- (3) an employee of the agency or of a nonprofit corporation created under Section 43.006.

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TEC, §43.0034. FORMS; PUBLIC INFORMATION.

- (a) The board shall prescribe forms for:
 - (1) statements of possible conflicts of interest and waivers of possible conflicts of interest under Section 43.0032; and
 - (2) reports of expenditures under Section 43.0033.
- (b) A statement, waiver, or report described by Subsection (a) is public information.
- (c) The board shall designate an employee of the agency to act as custodian of statements, waivers, and reports described by Subsection (a) for purposes of public disclosure.

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TEC, §43.0052. QUARTERLY REPORTS.

Each quarter, the State Board of Education shall provide to the School Land Board a financial report on the portion of the permanent school fund assets and funds for which the State Board of Education is responsible. The report must include:

- (1) target and actual asset allocations, by asset type, based on fair market value or net asset value;
- (2) investment performance by asset type;
- (3) benchmarks and benchmark performances; and
- (4) costs of implementing and administering the permanent school fund liquid account under Section [51.414](#), Natural Resources Code, including costs associated with contracts for:
 - (A) professional investment management;
 - (B) investment advisory services; and
 - (C) custodial services for the account.

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TEC, §44.001. FISCAL GUIDELINES.

- (a) The commissioner shall establish advisory guidelines relating to the fiscal management of a school district.
- (b) The commissioner shall report annually to the State Board of Education the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements.

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TEC, §44.002. PREPARATION OF BUDGET.

- (a) On or before a date set by the State Board of Education, the superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of the district for the following fiscal year.
- (b) The budget must be prepared according to generally accepted accounting principles, rules adopted by the State Board of Education, and adopted policies of the board of trustees.

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TEC, §44.007. ACCOUNTING SYSTEM; REPORT.

- (a) A standard school fiscal accounting system must be adopted and installed by the board of trustees of each school district. The accounting system must conform with generally accepted accounting principles.
- (b) The accounting system must meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor.
- (c) A record must be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year shall be filed with the agency on or before the date set by the State Board of Education.
- (d) The State Board of Education shall require each district, as part of the report required by this section, to include management, cost accounting, and financial information in a format prescribed by the board and in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program.
- (e) Expired.
- (f) Expired.

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TEC, §44.008. ANNUAL AUDIT; REPORT.

- (a) The board of school trustees of each school district shall have its school district fiscal accounts audited annually at district expense by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy. The audit must be completed following the close of each fiscal year.
- (b) The independent audit must meet at least the minimum requirements and be in the format prescribed by the State Board of Education, subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System (PEIMS).
- (c) Each treasurer receiving or having control of any school fund of any school district shall keep a full and separate itemized account with each of the different classes of its school funds coming into the treasurer 's hands. The treasurer 's records of the district 's itemized accounts and records shall be made available to audit.
- (d) A copy of the annual audit report, approved by the board of trustees, shall be filed by the district with the agency not 11 later than the 150th day after the end of the fiscal year for which the audit was made. If the board of trustees declines or refuses to approve its auditor 's report, it shall nevertheless file with the agency a copy of the audit report with its statement detailing reasons for failure to approve the report.
- (e) The audit reports shall be reviewed by the agency, and the commissioner shall notify the board of trustees of objections, violations of sound accounting practices or law and regulation requirements, or of recommendations concerning the audit reports that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner shall notify the appropriate county or district attorney and the attorney general. The commissioner shall have access to all vouchers, receipts, district fiscal and financial records, and other school records as the commissioner considers necessary and appropriate for the review, analysis, and passing on audit reports.

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TEC, §44.010. REVIEW BY AGENCY.

The budgets, fiscal reports, and audit reports filed with the agency shall be reviewed and analyzed by the staff of the agency to determine whether all legal requirements have been met and to collect fiscal data needed in preparing school fiscal reports for the governor and the legislature.

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TEC, §45.206. BID OR REQUEST FOR PROPOSAL NOTICES; BID AND PROPOSAL FORMS.

- (a) Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals.
- (a-1) If a school district chooses under Subsection (a) to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.
- (a-2) If a school district chooses under Subsection (a) to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.
- (b) The school district may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district.
- (c) Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner, that will permit comparison with other bids or proposals received.
- (d) If the school district chooses under Subsection (a) to use requests for proposals, the district shall state the selection criteria, including the factors specified under Section [45.207\(c\)](#), in the request for proposals and shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

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TEC, §45.208. DEPOSITORY CONTRACT; BOND.

- (a) The bank or banks selected as the depository or depositories and the school district shall enter into a depository contract or contracts, bond or bonds, or other necessary instruments setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.
- (b) The depository bank shall attach to the contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance, determined by the board of trustees of the district, of all deposits that the school district will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the school district and must be signed by the depository bank and by some surety company authorized to do business in this state. The depository bank shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank.
- (c) The bond shall be conditioned on:
 - (1) the faithful performance of all duties and obligations devolving by law on the depository;
 - (2) the payment on presentation of all checks or drafts on order of the board of trustees of the school district, in accordance with its orders entered by the board of trustees according to law;
 - (3) the payment on demand of any demand deposit in the depository;
 - (4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;
 - (5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and
 - (6) the faithful paying over to the successor depository all balances remaining in the accounts.
- (d) The bond and the surety on the bond must be approved by the board of trustees of the school district. A premium on the depository bond may not be paid out of school district funds

- (e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 439 (S.B. [1376](#)), Sec. 4.01(a)(8), eff. June 4, 2019.
- (f) In lieu of the bond required under Subsection (b), the depository bank may deposit or pledge, with the school district or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of the school district deposited with depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the school district deposited with the depository bank. The school district shall designate from time to time the amount of approved securities or the aggregate amount of the bond and approved securities to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the school district. For purposes of this subsection, the approved securities are valued at their market value.

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TEC, §48.102. SPECIAL EDUCATION.

- a) For each student in average daily attendance in a special education program under Subchapter [A](#), Chapter [29](#), in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section [48.101](#) to which the district is entitled, multiplied by 1.15. For each full-time equivalent student in average daily attendance in a special education program under Subchapter [A](#), Chapter [29](#), in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section [48.101](#) to which the district is entitled, multiplied by a weight determined according to instructional arrangement as follows:

Homebound	5.0
Hospital class	3.0
Speech therapy	5.0
Resource room	3.0
Self-contained, mild and moderate, regular campus	3.0
Self-contained, severe, regular campus	3.0
Off home campus	2.7
Nonpublic day school	1.7
Vocational adjustment class	2.3

- (b) A special instructional arrangement for students with disabilities residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established by commissioner rule. The funding weight for this arrangement shall be 4.0 for those students who receive their education service on a local school district campus. A special instructional arrangement for students with disabilities residing in state schools shall be established by commissioner rule with a funding weight of 2.8.
- (c) For funding purposes, the number of contact hours credited per day for each student in the off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.
- (d) For funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

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- (e) The commissioner by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the commissioner shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.
- (f) In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.
- (g) The commissioner shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.
- (h) At least 55 percent of the funds allocated under this section must be used in the special education program under Subchapter [A](#), Chapter [29](#).
- (i) The agency shall encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.
- (j) A school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under Section [48.101](#) to which the district is entitled for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed \$10 million per year. A school district may use funds received under this section only in providing an extended year program.
- (k) From the total amount of funds appropriated for special education under this section, the commissioner shall withhold an amount specified in the General Appropriations Act, and distribute that amount to school districts for programs under Section [29.014](#). The program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 545, Sec. 1, eff. Sept. 1, 2003.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 494 (H.B. [1130](#)), Sec. 1, eff. September 1, 2011.

Transferred, redesignated and amended from Education Code, Section 42.151 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 1.025, eff. September 1, 2019.

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TEC, §48.104. COMPENSATORY EDUCATION ALLOTMENT.

- (a) For each student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the basic allotment multiplied by 0.2 or, if the student is educationally disadvantaged, 0.275. For each full-time equivalent student who is in a remedial and support program under Section [29.081](#) because the student is pregnant, a district is entitled to an annual allotment equal to the basic allotment multiplied by 2.41.
- (b) For each student who is educationally disadvantaged and resides in an economically disadvantaged census block group as determined by the commissioner under Subsection (c), a district is entitled to an annual allotment equal to the basic allotment multiplied by the weight assigned to the student's census block group under Subsection (d).
- (c) For purposes of the allotment under Subsection (b), the commissioner shall establish an index for economically disadvantaged census block groups in the state that provides criteria for determining which census block groups are economically disadvantaged and categorizes economically disadvantaged census block groups in five tiers according to relative severity of economic disadvantage. In determining the severity of economic disadvantage in a census block group, the commissioner shall consider:
 - (1) the median household income;
 - (2) the average educational attainment of the population;
 - (3) the percentage of single-parent households;
 - (4) the rate of homeownership; and
 - (5) other economic criteria the commissioner determines likely to disadvantage a student's preparedness and ability to learn.
- (d) The weights assigned to the five tiers of the index established under Subsection (c) are, from least to most severe economic disadvantage, 0.225, 0.2375, 0.25, 0.2625, and 0.275.
- (e) If insufficient data is available for any school year to evaluate the level of economic disadvantage in a census block group, a school district is entitled to an annual allotment equal to the basic allotment multiplied by 0.225 for each student who is educationally disadvantaged and resides in that census block group.
- (f) A student receiving a full-time virtual education through the state virtual school network may be included in determining the number of students who are educationally disadvantaged and reside in an economically disadvantaged census block group under Subsection (b) or (e), as applicable, if the school district submits to the commissioner a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.
- (g) Not later than March 1 of each year, the commissioner shall:
 - (1) review and, if necessary, update the index established under Subsection (c) to be used for the following school year, based on the most recent estimates published by the United States Census Bureau; and
 - (2) notify each school district of any changes to the index.

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- (h) The state demographer, the Department of Agriculture, and any other state agency with relevant information shall assist the commissioner in performing the commissioner's duties under this section.
- (i) On a schedule determined by the commissioner, each school district shall report to the agency the census block group in which each student enrolled in the district who is educationally disadvantaged resides. The agency shall provide to school districts a resource for use in determining the census block group in which a student resides.
- (j) The commissioner shall adopt rules for the method of determining the number of students who qualify for an allotment under this section at a campus that participates in the Community Eligibility Provision administered by the United States Department of Agriculture, as provided by the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. No. 111-296).
- (j-1) In addition to other purposes for which funds allocated under this section may be used, those funds may also be used to:
 - (1) provide child-care services or assistance with child-care expenses for students at risk of dropping out of school, as described by Section [29.081\(d\)\(5\)](#); or
 - (2) pay the costs associated with services provided through a life skills program in accordance with Sections [29.085\(b\)\(1\)](#) and (3)-(7).
- (k) At least 55 percent of the funds allocated under this section must be used to:
 - (1) fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter [B](#), Chapter [39](#), or disparity in the rates of high school completion between:
 - (A) students who are educationally disadvantaged and students who are not educationally disadvantaged; and
 - (B) students at risk of dropping out of school, as defined by Section [29.081](#), and all other students; or
 - (2) support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act.
- (l) The commissioner shall adopt rules regarding the use of funds described by Subsection (k). The rules:
 - (1) must:
 - (A) permit a school district to use those funds for programs and services that reflect the needs of students at each campus in the district; and
 - (B) provide for streamlined reporting on the use of those funds; and
 - (2) may not prohibit the use of those funds for any purpose for which the use of those funds was authorized under former Section 42.152 as that section existed on September 1, 2018.
- (m) The State Board of Education shall adopt rules requiring a report on the use of funds under Subsection (k) as part of the annual audit under Section [44.008](#) and shall develop minimum

TEXAS EDUCATION CODE
TITLE 2: PUBLIC EDUCATION
SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT
CHAPTER 48. FOUNDATION SCHOOL PROGRAM
SUBCHAPTER C. STUDENT-BASED ALLOTMENTS

requirements for that report.

- (n) The commissioner annually shall review each report required under Subsection (m) for the preceding school year and:
 - (1) identify each school district that was not in compliance with Subsection (k) during that school year; and
 - (2) provide each district identified under Subdivision (1) a reasonable opportunity to comply with Subsection (k).

- (o) The commissioner, in the year following a determination under Subsection (n) that a school district was not in compliance with Subsection (k) for the 2021-2022 school year or a subsequent school year, shall withhold from the district's foundation school fund payment an amount equal to the amount of compensatory education funds the commissioner determines were not used in compliance with Subsection (k). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (k). In determining whether a school district is subject to the withholding of funding required under this subsection, the commissioner may consider the district's average use of funds for the three preceding school years.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER B. RULEMAKING

TGC, §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
TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER B. RULEMAKING

TGC, §2001.039. AGENCY REVIEW OF EXISTING RULES.

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES
CHAPTER 2155. PURCHASING: GENERAL RULES AND PROCEDURES
SUBCHAPTER B. GENERAL PURCHASING REQUIREMENTS, PROCEDURES, AND
PROGRAMS

TGC, §2155.076 PROTEST PROCEDURES.

- (a) The comptroller and each state agency by rule shall develop and adopt protest procedures for resolving vendor protests relating to purchasing issues. An agency's rules must be consistent with the comptroller's rules. The rules must include standards for maintaining documentation about the purchasing process to be used in the event of a protest.
- (b) A state agency that is not subject to Chapter [2001](#) shall provide public notice of its proposed and adopted protest rules and provide a procedure for public comment on the proposed rules.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 15, eff. September 1, 2019.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES
CHAPTER 2161. HISTORICALLY UNDERUTILIZED BUSINESSES
SUBCHAPTER A. GENERAL PROVISIONS

TGC, §2161.003 AGENCY RULES.

A state agency, including an institution of higher education, shall adopt the comptroller'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.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.23, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 81, eff. September 1, 2019.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT
CHAPTER 2260. RESOLUTION OF CERTAIN CONTRACT CLAIMS AGAINST THE STATE
SUBCHAPTER B. NEGOTIATION OF CLAIM

TGC, §2260.052 NEGOTIATION.

- (a) The chief administrative officer or, if designated in the contract, another officer of the unit of state government shall examine the claim and any counterclaim and negotiate with the contractor in an effort to resolve them. The negotiation must begin not later than the 120th day after the date the claim is received.
- (b) Repealed by Acts 2005, 79th Leg., Ch. 988, Sec. 8, eff. September 1, 2005.
- (c) Each unit of state government with rulemaking authority shall develop rules to govern the negotiation and mediation of a claim under this section. If a unit of state government does not have rulemaking authority, that unit shall follow the rules adopted by the attorney general. A model rule for negotiation and mediation under this chapter shall be provided for voluntary adoption by units of state government through the coordinated efforts of the State Office of Administrative Hearings and the office of the attorney general.

MINUTES

STATE BOARD OF EDUCATION

NOVEMBER 2020

Minutes

State Board of Education

November 20, 2020

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

KEVEN ELLIS, Lufkin
Chair of the State Board of Education
District 9

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

GEORGINA PÉREZ, El Paso
Secretary of the State Board of
Education
District 1

Board Members

LAWRENCE ALLEN, JR., Houston
District 4

PAM LITTLE, Fairview
District 12

DONNA BAHORICH, Houston
District 6

TOM MAYNARD, Florence
District 10

BARBARA CARGILL, Conroe
District 8

SUE MELTON-MALONE, Robinson
District 14

RUBEN CORTEZ, JR., Brownsville
District 2

KEN MERCER, San Antonio
District 5

AICHA DAVIS, Dallas
District 13

MARISA PEREZ-DIAZ, Converse
District 3

PATRICIA HARDY, Fort Worth
District 11

MATT ROBINSON, Friendswood
District 7

Committees of the State Board of Education

INSTRUCTION

Sue Melton-Malone, chair
Pam Little, vice chair
Aicha Davis
Georgina C. Pérez
Marty Rowley

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard, chair
Lawrence Allen, Jr., vice chair
Donna Bahorich
Patricia Hardy
Ken Mercer

SCHOOL INITIATIVES

Barbara Cargill, chair
Marisa Perez-Diaz, vice chair
Ruben Cortez, Jr.
Keven Ellis
Matt Robinson

Minutes
State Board of Education
November 20, 2020

The State Board of Education met at 9:02 a.m. on Friday, November 20, 2020, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Lawrence A. Allen, Jr.; Donna Bahorich; Barbara Cargill; Ruben Cortez, Jr.; Aicha Davis (virtual); Pat Hardy; Pam Little; Tom Maynard; Sue Melton-Malone; Ken Mercer; Georgina C. Pérez, secretary; Marisa B. Perez-Diaz; Matt Robinson; Marty Rowley, vice chair

Student Performance

The student performance was provided virtually by Chisolm Trail Middle School Choir in the Round Rock Independent School District (ISD).

Invocation

Pledge of Allegiance

Roll Call

Approval of Minutes

State Board of Education, September 2, 2020

State Board of Education, September 11, 2020

MOTION AND VOTE: *The State Board of Education unanimously approved the Minutes of the September 2 and September 11, 2020, meetings of the State Board of Education, as printed.*

The State Board of Education considered items in the following order: Item number 1, 2, 3, 5, 7, 6, 4, 9, 8, 10, 12, 13, 14, 11

1. Resolutions

Resolution Honoring Departing State Board of Education Member Donna Bahorich

The State Board of Education, by unanimous consent, adopted a resolution honoring departing State Board of Education member Donna Bahorich.

(ATTACHMENT 1, page 11)

Resolution Honoring Departing State Board of Education Member Barbara Cargill

The State Board of Education, by unanimous consent, adopted a resolution honoring departing State Board of Education member Barbara Cargill.

(ATTACHMENT 2, page 13)

Resolution Honoring Departing State Board of Education Member Ken Mercer

The State Board of Education, by unanimous consent, adopted a resolution honoring departing State Board of Education member Ken Mercer.

(ATTACHMENT 3, page 15)

Resolution Honoring Departing State Board of Education Member Marty Rowley

The State Board of Education, by unanimous consent, adopted a resolution honoring departing State Board of Education member Marty Rowley.

(ATTACHMENT 4, page 17)

Public Testimony

Public Testimony was provided by the following individuals:

NAME: Perla Munoz Hopkins
AFFILIATION: Self

NAME: Jacqueline Martinez
AFFILIATION: Self

NAME: Michael Shepard
AFFILIATION: Self

NAME: Sandra West
AFFILIATION: Self

2. Approval of Consent Agenda

Any agenda item may be placed on the consent agenda by any State Board of Education committee. The State Board of Education may elect to take separate action on any item on the consent agenda.

By unanimous consent, the State Board of Education approved the following items on the consent agenda.

(1) Decision on the Percentage Distribution of the Permanent School Fund
(Board agenda I-139)

The State Board of Education approved the percentage distribution rate to the Available School Fund from the Permanent School Fund for the 2022-2023 fiscal biennium of 4.18%, for projected amounts of \$1.717 billion annually and \$3.434 billion for the biennium.

(2) Approval of Update to Instructional Materials for Learning A–Z
(Board agenda II-8)

The State Board of Education approved the request from Learning A–Z to update content in three of its adopted products *Raz Plus ELL Texas Edition*, grade 2; *Raz Plus ELL Texas Edition*, grade 3; and *Raz Plus ELL Texas Edition*, grade 4.

(3) Approval of Costs to Administer the 2020-2021 State-Developed Assessments to Private School Students
(Board agenda III-1)

The State Board of Education approved the recommended per-student costs for administering the state assessments to private school students in 2020-2021.

(4) Ratification of the Purchases and Sales of the investment Portfolio of the Permanent School Fund for the Months of July, August, and September 2020.

(Board agenda page III-17)

The State Board of Education ratified the purchases and sales for the months of July, August, and September 2020, in the amounts of \$3,050,234,143 and \$3,358,086,350, respectively (ATTACHMENT 5, page 19)

(5) Approval of an Extension of the Standard Contract with NEPC, LLC and Authorization for Contract Execution by the Commissioner of Education

(Board agenda page III-18)

The State Board of Education approved renewal of the standard contract with NEPC, LLC beginning September 1, 2021 and ending August 31, 2024, and authorized contract execution by the Commissioner of Education.

(6) Approval of an Extension of the Standard Contract with Blackrock Investment Management, LLC, and Authorization for Contract Execution by the Commissioner of Education

(Board agenda page III-19)

The State Board of Education approved renewal of the standard contract with Blackrock Investment Management, LLC beginning September 1, 2021 and ending August 31, 2025, and authorized contract execution by the Commissioner of Education.

(7) Proposed Amendments to the Investment Procedures Manual

(Board agenda III-20)

The State Board of Education approved the amendments to the Investment Procedures Manual as presented by staff.

(8) Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guideline of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules (First Reading and Filing Authorization)

(Board agenda page III-27)

The State Board of Education approved for first reading and filing authorization proposed amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules.

(9) Authorization to Issue a Request for Qualifications for Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel for the Permanent School Fund

(Board agenda page III-27)

The State Board of education approved issuance of a Request for Qualifications for Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel for the Permanent School Fund.

(10) Authorization to Issue a Request for Proposals for High Yield Bonds Discretionary Investment Managers for the Permanent School Fund.

(Board agenda page III-28)

The State Board of Education approved issuance of a Request for Proposals for U.S. High Yield Fixed Income Discretionary Investment Managers for the Permanent School Fund.

(11) Report on the Permanent School Fund Liquid Account

(Board agenda page III-29)

The State Board of Education ratified the purchases and sales of the Permanent School Fund Liquid Account for the period September 1, 2019 through September 2020, in the amounts of \$3,561,837,642 and \$671,509,016, respectively (ATTACHMENT 6, page 21).

COMMITTEE OF THE FULL BOARD

3. Proposed New 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.11-116.17, Subchapter B, Middle School, §§116.25-116.28, and Subchapter C, High School, §§116.61-116.64

(Second Reading and Final Adoption)

(Board agenda page I-7)

MOTION AND VOTE: *It was moved by Mr. Rowley and carried unanimously that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A Elementary, §§116.11-116.17, Subchapter B, Middle School, §§116.25-116.28, and Subchapter C, High School, §§116.61-116.64, as recommended by the Committee of the Full Board.(ATTACHMENT 7, page 23)*

4. Proposed New 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40

(Second Reading and Final Adoption)

(Board agenda page I-58)

MOTION: *It was moved by Mr. Rowley that the State Board of Education approve final adoption of proposed new 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40, as amended and recommended by the Committee of the Full Board, with an effective date of August 1, 2022.*

MOTION AND VOTE: *It was moved by Mrs. Cargill and carried unanimously that the State Board of Education amend §115.16(b)(20) to read:*

“Reproductive and sexual health—~~anatomy, puberty, and reproduction, and pregnancy.~~ The student analyzes adolescent development, ~~the process of fertilization, and healthy fetal development.~~ The student is expected to:”

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mr. Maynard and carried that the State Board of Education suspend the board operating rules to consider amendments to Chapter 115.*

MOTION AND VOTE: *It was moved by Mrs. Cargill and carried that the State Board of Education add new §115.17(b)(22)(E) to read:*

“(E) identify significant milestones of fetal development”

MOTION AND VOTE: *It was moved by Mrs. Bahorich and carried unanimously that the State Board of Education amend §115.17(b)(6)(E) to read:*

“describe situations that call for professional mental ~~and behavioral~~ health services; and”

MOTION AND VOTE: *It was moved by Mrs. Bahorich and carried unanimously that the State Board of Education amend §115.26(b)(23)(G) to read:*

“identify why abstinence from sexual activity is the only method that is 100% effective in preventing pregnancy; STDs/STIs, including human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS); and the emotional risks associated with adolescent sexual activity;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Hardy and carried that the State Board of Education restore the phrase “dating/romantic” in every instance where it was amended by the Committee of the Full Board.*

VOTE: *A vote was taken on the motion that the State Board of Education approve final adoption of proposed new 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40, as amended and recommended by the Committee of the Full Board, as amended with an effective date of August 1, 2022. The motion carried unanimously.(ATTACHMENT 8, page 71)*

5. **Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41-112.45 (Second Reading and Final Adoption)**
(Board agenda page I-116)

MOTION AND VOTE: *It was moved by Mr. Rowley and carried unanimously that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020, as amended and recommended by the Committee of the Full Board; and*

Make an affirmative finding that immediate adoption of 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. (ATTACHMENT 9, page 131)

6. **Legislative Recommendations for the 87th Texas Legislature**
(Board agenda page I-141)

MOTION: *It was moved by Mr. Rowley that the State Board of Education approve legislative recommendations for the 87th Texas Legislature, as recommended by the Committee of the Full Board.*

MOTION AND VOTE: *It was moved by Mrs. Little and carried unanimously that the State Board of Education add the following recommendation:*

“Authorize the State Board of Education to impose administrative penalties on publishers who fail to follow the instructional materials process.”

VOTE: *A vote was taken on the motion that the State Board of Education approve legislative recommendations for the 87th Texas Legislature, as recommended by the Committee of the Full Board, as amended. The motion carried.*

7. **Report from the Commissioner of Education Regarding Instructional Materials Offered for Adoption under Proclamation 2021**
(Board agenda page I-142)

MOTION AND VOTE: *It was moved by Mr. Rowley and carried unanimously that the State Board of Education:*

Require that all publishers make corrections listed in the Proclamation 2021 Report of Required Corrections and the Report of Editorial Changes;

Require that all instructional materials meet established manufacturing standards and specifications;

Require that all electronic instructional materials comply with the Web Content Accessibility Guidelines, Level 2.0 AA and the technical standards required by the Federal Rehabilitation Act, Section 508;

Approve changes and corrections submitted in response to written comments and public testimony; and

Place instructional materials submitted for adoption on the adopted list as indicated on the Proclamation 2021 List of Instructional Materials Eligible for Adoption, as recommended by the Committee of the Full Board.

8. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation (First Reading and Filing Authorization)**
(Board agenda page I-159)

MOTION AND VOTE: *It was moved by Mr. Rowley and carried unanimously that the State Board of Education suspend 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 B, Graduation Requirements, §74.11, High School Graduation Requirements, as amended and recommended by the Committee of the Full Board.*

9. **Texas Certificate of High School Equivalency**
(Board agenda page I-165)

MOTION AND VOTE: *It was moved by Mr. Rowley and carried unanimously the State Board of Education approve the content of the Texas Certificate of High School Equivalency Request for Proposals (RFP) for test providers relating to 19 TAC Chapter 89, Texas Certificate of High School Equivalency, as recommended by the Committee of the Full Board.*

COMMITTEE ON INSTRUCTION

10. **Proposed Amendments to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty (Second Reading and Final Adoption)**
(Board agenda page II-1)

MOTION AND VOTE: *It was moved by Mrs. Melton-Malone and carried unanimously that the State Board of Education approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. (ATTACHMENT 10, page 149)

COMMITTEE ON SCHOOL INITIATIVES

11. **Recommended Revisions to the Framework for School Board Development**
(Board agenda page – IV-7)

MOTION: *It was moved by Mrs. Cargill that the State Board of Education adopt the recommended revisions to the School Board Member Training—Framework for School Board Development, as recommended by the Committee on School Initiatives.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried that the State Board of Education adopt the compromise recommendations developed by the Texas Association of School Boards and TEA staff.*

MOTION AND VOTE: *It was moved by Mr. Cortez and carried that the State Board of Education suspend the board operating rules to allow Dr. Phil Gore from the Texas Association of School Boards to address the board.*

MOTION AND VOTE: *It was moved by Dr. Robinson and carried that the State Board of Education amend the preamble to the School Board Member Training—Framework for School Board Development to read:*

“As a team, they will focus on the improvement of locally developed student outcomes, opportunities and experiences, through vision and goals, systems and processes, progress and accountability, advocacy and engagement, and synergy and teamwork.”

MOTION AND VOTE: *It was moved by Mrs. Cargill that the State Board of Education amend the Systems and Processes section to read:*

“Adopts a planning calendar and engages in a decision-making process consistent with state law and rule ~~that uses participation, information, research and evaluation~~ to help achieve the district’s vision.”

MOTION AND VOTE: *It was moved by Dr. Robinson that the State Board of Education amend the Progress and Accountability section to read:*

“Ensures progress toward achievement of district goals through a systematic, timely, and comprehensive review of relevant reports and student data ~~that are predictive of locally developed student outcome goals.~~”

The motion failed.

MOTION AND VOTE: *It was moved by Mr. Rowley and carried that the State Board of Education amend bullet point two under the Progress and Accountability section to read:*

“Ensures progress toward achievement of district goals through a systematic, timely, and comprehensive review of relevant reports and student data ~~that are predictive of~~ illustrate progress toward locally developed student outcome goals.”

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education amend bullet one under the Synergy and Teamwork section to read:*

“Recognizes its distinct role in establishing the vision and the goals, adopting policies that guide the district, setting priorities, establishing governance protocols to oversee management of the district, adopting and overseeing the annual budget, and hiring and evaluating the superintendent.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich and carried that the State Board of Education amend the preamble to the School Board Member Training—Framework for School Board Development and the Vision and Goals section to add “and provide support for” before “opportunities and experiences”*

VOTE: *A vote was taken on the motion that the State Board of Education adopt the recommended revisions to the School Board Member Training—Framework for School Board Development, as recommended by the Committee on School Initiatives, as substituted and amended. The motion carried unanimously. (ATTACHMENT 11, page 153)*

12. **Review of Proposed New 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate**
(Board agenda page IV-12)

MOTION AND VOTE: *It was moved by Mrs. Cargill and carried that the State Board of Education take no action on proposed new 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate, as recommended by the Committee on School Initiatives.*

13. **Review of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6–12 Assignments; Subchapter E, Grades 9–12 Assignments; Subchapter F, Special Education–Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments**

(Board agenda page IV-17)

MOTION AND VOTE: *It was moved by Mrs. Cargill and carried unanimously that the State Board of Education take no action on the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6–12 Assignments; Subchapter E, Grades 9–12 Assignments; Subchapter F, Special Education–Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments, as recommended by the Committee on School Initiatives.*

14. **Review of Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs**

(Board agenda page IV-93)

MOTION AND VOTE: *It was moved by Mrs. Cargill and carried unanimously that the State Board of Education take no action on the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, as recommended by the Committee on School Initiatives.*

REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS

Committee on Instruction

Mrs. Melton-Malone did not report on the Committee on Instruction.

Committee on School Finance/Permanent School Fund

Mr. Maynard did not report on the Committee on School Finance/Permanent School Fund.

Committee on School Initiatives

Mrs. Cargill did not report on the Committee on School Initiatives.

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

Dr. Ellis gave board members an opportunity to provide information regarding agenda items or other relevant information about public education.

The meeting adjourned at 1:12 p.m.

Georgina C. Pérez, Secretary

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RESOLUTION

WHEREAS Donna Bahorich may represent the geographically smallest State Board of Education District, serving part of Harris County, yet she has had a Texas-sized impact on the board and the state’s education system; and

WHEREAS since first elected in 2012, she has served on all three board standing committees and many ad hoc committees, including as chair of the Committee on School Initiatives, and twice appointed as chair of the State Board of Education by Governor Abbott; and

WHEREAS during her tenure as board chair from June 2015 to September 2019, Donna Bahorich led changes to the process that involved more Texans in the curriculum standards review and revision process, created an annual free education conference, increased the public's access to instructional materials, and spearheaded efforts to produce a new *Long-Range Plan for Public Education*; and

WHEREAS she steadfastly worked to make sure the board retained an active role in the charter school selection process; and

WHEREAS this active Republican proved to be an inclusive leader who worked tirelessly to bring together diverse groups of board members and education advocates to produce bipartisan results that were in the best interest of the students; and

WHEREAS Donna Bahorich became a role model for board members as she spent long hours studying issues and crafting amendments before each board meeting; and

WHEREAS her efforts have been widely recognized as she has received numerous “champion” and a “friend of education” awards now, therefore be it

RESOLVED, That the State Board of Education thanks this dedicated leader for her service to the board and her adopted state; and be it further

RESOLVED, That this resolution be presented to Donna Bahorich and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this twentieth day of November, two thousand and twenty, in Austin, Texas.

Keven Ellis, Chair

Georgina C. Pérez, Secretary

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R E S O L U T I O N

WHEREAS Barbara Cargill has provided distinguished service and strong leadership to the State Board of Education over fifteen years since first joining the board in January 2005; and

WHEREAS she was willing to take on any board assignment or project, even if it meant staying up to the wee hours of the morning perfecting an amendment or ensuring accuracy of student expectations; and

WHEREAS this diligent and thoughtful effort caused Governor Rick Perry to appoint her chair of the State Board of Education from 2011 to 2015, the maximum time permissible to serve in this role; and

WHEREAS as chair of the State Board of Education she consistently ran fair and efficient meetings; and

WHEREAS during her tenure she also served as chair of the Committee on School Initiatives, the Committee on Instruction, and the Long-Range Plan for Public Education Steering Committee, and served on numerous ad hoc committees; and

WHEREAS she worked successfully to strengthen the board's credibility and relationships with the Texas Legislature; and

WHEREAS Barbara Cargill created one of the board's favorite programs, the Student Heroes Award Program, which recognizes students who show kindness and compassion; now, therefore be it

RESOLVED, That after carefully and scientifically analyzing all the evidence, the State Board of Education concluded that it is grateful for Barbara Cargill's many years of service, her leadership, and friendship; and be it further

RESOLVED, That this resolution be presented to Barbara Cargill and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this twentieth day of November, two thousand and twenty, in Austin, Texas.

Keven Ellis, Chair

Georgina C. Pérez, Secretary

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RESOLUTION

WHEREAS Ken Mercer has faithfully served 1.6 million students in 13 counties of the Texas Hill Country- from San Antonio to South Austin since first elected to the State Board of Education in 2006; and

WHEREAS during his tenure, he has served on all the board’s standing committees, including providing leadership as the vice chair of the Committee on Instruction; and vice chair and later chair of the Committee on Planning and, as it is now known, the Committee on School Initiatives; and

WHEREAS Ken Mercer worked diligently to instill American patriotism and the study of the country’s founding fathers in the state’s curriculum standards; and

WHEREAS his love of “faith, family, and freedom” drove many of his decisions as a State Board member and State legislator; and

WHEREAS he has proven to be a passionate, loyal, and fierce protector of the Permanent School Fund; and

WHEREAS he has also shown his tender side, often being the first person to break into a round of “Happy Birthday” when celebrating a board member or staff member; and

WHEREAS Ken Mercer often broke the tension of intense debates by quietly asking those around him, “Are we having fun yet?” and now, therefore be it

RESOLVED, That the State Board of Education wishes Ken Mercer the fun and satisfaction of a well-deserved retirement and thanks him for his service on the board; and be it further

RESOLVED, That this resolution be presented to Ken Mercer and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this twentieth day of November, two thousand and twenty, in Austin, Texas.

Keven Ellis, Chair

Georgina C. Pérez, Secretary

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RESOLUTION

WHEREAS Marty Rowley has represented the people of the Panhandle, the South Plains, and the Permian Basin on the State Board of Education since 2013; and

WHEREAS this visionary leader played a central role in reinvigorating and completing a strategic plan for Texas public education, having served as chair of the Ad Hoc Committee on the Long-Range Plan for Public Education and on the Long-Range Plan Steering Committee; and

WHEREAS his colleagues recognized his leadership skills by repeatedly electing him vice chair of the board; and

WHEREAS Marty Rowley also served as vice chair and later chair of the Committee on School Initiatives; and

WHEREAS whether acting in a subcommittee, the Committee of the Full Board, or an ad hoc committee, Marty Rowley’s professional mediation skills helped him find ways to bring together board members and stakeholders with disparate views to find common ground; and

WHEREAS his legal skills helped untangle numerous complex issues and lengthy amendments; and

WHEREAS as a former minister, he may even have used the power of prayer a few times to help guide the board to decisions that would benefit all Texas children; now, therefore, be it

RESOLVED, That after judicially weighing the pros and cons of all available evidence, the State Board of Education issues this ruling expressing its gratitude to Marty Rowley for his leadership, common sense, and many years of service; and be it further

RESOLVED, That this resolution be presented to Marty Rowley and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this twentieth day of November, two thousand and twenty, in Austin, Texas.

Keven Ellis, Chair

Georgina C. Pérez, Secretary

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
(Including External Manager's Trades)
For July 1, 2020 through September 30, 2020**

<u>Purchases/Capital Calls:</u>		
Long Term Fixed Income		\$ 1,700,515,644
Public Market Equities		872,676,692
Alternative Investments		<u>477,041,807</u>
TOTAL		<u>\$ 3,050,234,143</u>
 <u>Sales/Distributions:</u>		
Long Term Fixed Income		\$ 478,945,622
Public Market Equities		204,241,846
Alternative Investments		<u>2,674,898,882</u>
TOTAL		<u>\$ 3,358,086,350</u>

General Land Office Contributions:

FY 2019 Cumulative August 2019	FY 2020 Cumulative August 2020
\$255,000,000	\$10,000,000
FY 2020 Cumulative September 2019	FY 2021 Cumulative September 2020
\$0	\$0

Based on the above information provided by staff including a report that deposits to the Permanent School Fund from the General Land Office were \$255,000,000 through August 2019 for fiscal year 2019 versus \$10,000,000 through August 2020 for fiscal year 2020, and the recommendation of the Executive Administrator and Chief Investment Officer and the Commissioner of Education; it is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the months of July 2020, August 2020 and September 2020 Permanent School Fund portfolio purchases of \$3,050,234,143 and sales of \$3,358,068,350.

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
FOR PSF LIQUID ACCOUNTS
For September 1, 2019 through September 30, 2020**

	<u>September 1, 2019 - September 30, 2020</u>
<u>Purchases:</u>	
Fixed Income	\$ 3,359,336,963
Public Market Equities	<u>202,500,679</u>
TOTAL	<u><u>\$ 3,561,837,642</u></u>
 <u>Sales:</u>	
Fixed Income	\$ 667,126,969
Public Market Equities	<u>4,382,047</u>
TOTAL	<u><u>\$ 671,509,016</u></u>

Based on the above information provided by staff and the recommendation of the Executive Administrator and Chief Investment officer and the Commissioner of Education: It is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the period September 1, 2019 through September 30, 2020 Permanent School Fund Liquid Account purchases of \$3,561,837,642 and sales of \$671,509,016.

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ATTACHMENT
Text of Proposed New 19 TAC

Chapter 116. Texas Essential Knowledge and Skills for Physical Education

Subchapter A. Elementary

§116.11. Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary School, Adopted 2020.

- (a) The provisions of §§116.12-116.17 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for physical education as adopted in §§116.12-116.17 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§116.12-116.17 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§116.12-116.17 of this subchapter shall be implemented for the following school year.
- (e) Sections 116.1-116.7 of this subchapter shall be superseded by the implementation of §§116.11-116.17 of this subchapter.

§116.12. Physical Education, Kindergarten, Adopted 2020.

- (a) Introduction.
 - (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and

skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.

- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
- (5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.

- (6) 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.
- (b) Knowledge and skills.
- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:
- (A) practice proper foot patterns and form and maintain balance while hopping, galloping, running, sliding, skipping, and walking;
 - (B) practice correct technique while jumping in place, forward and backward, and side to side;
 - (C) demonstrate visual tracking and tracing, simple balancing, cross lateralization, and sequencing of two skills; and
 - (D) spin and roll at different levels, speeds, and positions.
- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:
- (A) maintain balance while bearing weight using different bases of support; and
 - (B) practice bending, stretching, twisting, and curling while maintaining balance.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) self-toss an object and throw underhand with opposite foot forward;
 - (B) catch a self-dropped ball before it bounces twice and catch a self-tossed object before it hits the ground;
 - (C) practice dribbling with one hand;
 - (D) tap a ball using the inside of the foot;
 - (E) kick a stationary ball from a stationary position;
 - (F) volley a lightweight object to self;
 - (G) strike a lightweight object using hand or short-handled implement;
 - (H) jump at least once with a self-turned rope; and
 - (I) demonstrate swinging a long rope back and forth with a partner.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) differentiate between personal and general space while moving to simple rhythms and maintaining balance;
 - (B) demonstrate a variety of pathways, shapes, and levels while maintaining balance; and
 - (C) demonstrate clear contrast when moving in different speeds and directions while maintaining balance.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to mirror and follow teacher movement and basic rhythm patterns.

- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) demonstrate the skills of chasing, fleeing, and dodging to avoid or catch others during a variety of games while maintaining appropriate space and speed;
 - (B) practice the correct techniques for motor development skills following teacher direction; and
 - (C) demonstrate safe practices by following rules, procedures, and directions during class and activities.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to discuss outdoor recreation, health, and fitness activities in school and the community.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) discuss the immediate effect of physical activity on the heart and lungs;
 - (B) describe the importance of daily active play; and
 - (C) participate in exercises that promote health-related fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) describe the importance of goal setting; and
 - (B) identify how to measure improvement in physical skills such as counting the number of times a student can hop while maintaining balance.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) recognize that eating a variety of foods produces energy for physical activity; and
 - (B) identify the best source of hydration during physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) identify proper clothing and footwear for physical activity; and
 - (B) identify safety precautions, including pedestrian, water, sun, and cycling safety, with teacher guidance.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) give examples of consequences resulting from personal actions;
 - (B) demonstrate respect for differences and similarities in abilities of self and others; and
 - (C) identify personal impulses and emotions with teacher guidance.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:

- (A) demonstrate respect and cooperation through words and actions with teacher guidance; and
- (B) communicate feelings and thoughts appropriately with teacher guidance.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to explain why some physical activities are challenging.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to listen respectfully and respond appropriately to corrective feedback with teacher guidance.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
 - (A) participate in moderate to vigorous physical activity on a regular basis; and
 - (B) identify physical activity for personal enjoyment with teacher guidance.

§116.13. Physical Education, Grade 1, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical

activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.

- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
- (5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.
- (6) 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.

(b) Knowledge and skills.

- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:
 - (A) practice proper foot patterns and maintain balance while hopping, galloping, running, sliding, and skipping;

- (B) practice correct technique while jumping in place, forward and backward, side to side, and quarter turns while maintaining balance;
 - (C) demonstrate visual tracking and tracing, simple balancing, cross lateralization, and sequencing of three skills; and
 - (D) spin and roll at different levels, speeds, and positions.
- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:
- (A) maintain balance standing on one foot for five seconds while placing the free leg in a variety of different positions; and
 - (B) demonstrate bending, stretching, twisting, curling, and swaying while maintaining balance.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) demonstrate key elements of self-tossing and throwing underhand while stepping with the opposite foot forward to a target;
 - (B) demonstrate key elements of catching an accurately and softly thrown large ball and a self-tossed object;
 - (C) practice dribbling continuously with one hand while stationary using preferred hand;
 - (D) tap or dribble a ball using the inside of the foot while walking;
 - (E) approach and kick a stationary ball;
 - (F) volley a lightweight object to self and partner;
 - (G) strike an object using a short-handled implement, projecting the object upward;
 - (H) jump consecutively with a self-turned rope; and
 - (I) turn a long rope.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) move in personal and general space to rhythms and beats while maintaining balance;
 - (B) travel over, under, around, and through using a variety of pathways, shapes, and levels; and
 - (C) differentiate between fast and slow speeds, strong and light force, and various directions.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to mirror and follow teacher movement and basic rhythm patterns in four counts.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) apply the skills of chasing, fleeing, and dodging to avoid or catch others while maintaining appropriate space and speed during a variety of games;
 - (B) identify and follow teacher instructions to improve performance for specific motor development skills; and

- (C) demonstrate safe practices by using equipment appropriately and respecting personal space with teacher guidance.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to identify outdoor recreation, health, and fitness activities in school and the community.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
 - (A) identify the immediate effect of physical activity on the heart and lungs;
 - (B) explain the importance of warm-ups and cool-downs for physical activity; and
 - (C) demonstrate exercises that promote health-related fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
 - (A) develop a health-related goal with teacher guidance; and
 - (B) explain how to measure improvement in physical skills with or without a measuring tool.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
 - (A) identify healthy foods that produce energy for physical activity; and
 - (B) identify different hydration options, including water, that enhance physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
 - (A) identify proper clothing, footwear, and safety equipment for a variety of physical activities; and
 - (B) identify and describe safety precautions, including pedestrian, water, sun, and cycling safety with teacher guidance.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
 - (A) describe how personal actions may have positive or negative consequences;
 - (B) demonstrate respect for differences and similarities in the abilities of self and others; and
 - (C) identify personal impulses and emotions with teacher guidance.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
 - (A) demonstrate respect and cooperation through words and actions with self and others with teacher guidance; and
 - (B) communicate feelings and thoughts appropriately with teacher guidance.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to explain how, with practice, challenges in physical activities can turn into successes.

- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to listen respectfully and respond appropriately to corrective feedback with teacher guidance.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
 - (A) participate in moderate to vigorous physical activity on a regular basis; and
 - (B) describe physical activity for personal enjoyment with teacher guidance.

§116.14. Physical Education, Grade 2, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and

student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.

- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
- (5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.
- (6) 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.
- (b) Knowledge and skills.
- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate skills. The student is expected to:
- (A) practice and apply correct technique while hopping, galloping, running, sliding, and skipping;
- (B) demonstrate correct jumping and landing technique while consecutively jumping in place, forward and backward, side to side, half turns, and in tuck position;
- (C) demonstrate basic balancing, cross lateralization, and sequencing of three skills with repetition; and
- (D) spin and roll at different levels, speeds, and positions.

- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate skills. The student is expected to:
- (A) demonstrate maintaining balance standing on one foot while placing the free leg in a variety of different positions for eight seconds; and
 - (B) differentiate between bending, stretching, twisting, curling, pushing, pulling, and swaying.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) demonstrate key elements in underhand throwing to a partner and overhand throwing to a target with opposite foot forward;
 - (B) demonstrate key elements when catching an accurately and softly thrown large ball without trapping against the body;
 - (C) demonstrate key elements of hand dribbling while walking;
 - (D) dribble a ball with control using both feet while walking;
 - (E) kick a moving ball using a continuous running approach;
 - (F) volley a lightweight object with consecutive hits to self or partner;
 - (G) strike a stationary object off the ground or an elevated surface with a hand or short- or long-handled implement consecutively;
 - (H) jump forward and backward with a self-turned rope; and
 - (I) demonstrate turning and jumping a long rope.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) demonstrate locomotor, non-locomotor, and manipulative skills safely in personal and general space;
 - (B) combine pathways, shapes, and levels into simple sequences; and
 - (C) combine speed and direction as directed by the teacher.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to demonstrate simple rhythmic sequences using various locomotor and coordination skills in eight counts.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) apply the skills of chasing, fleeing, and dodging to avoid or catch others during a variety of games at low, middle, and high levels with appropriate speed and direction;
 - (B) participate in appropriate drills and activities to enhance the learning of specific motor development skills; and
 - (C) demonstrate safe practices by using equipment appropriately and respecting personal space with minimal teacher guidance.

- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to describe outdoor recreation, health, and fitness activities in school and the community.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) list the benefits of regular physical activity on the heart and lungs;
 - (B) define frequency and endurance as it relates to physical activities; and
 - (C) demonstrate correct technique of exercises that promote health-related fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) develop health-and skill-related goals with teacher guidance; and
 - (B) identify how to measure improvement and track progress in physical skills with a measuring tool.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) identify the types of food that produce energy to enhance physical activity; and
 - (B) explain the need for proper hydration to enhance physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) explain how proper attire and safety equipment promote safe participation and prevent injury in a variety of physical activities; and
 - (B) identify and explain safety precautions, including pedestrian, water, sun, cycling, and skating safety.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) differentiate between the positive and negative consequences of personal actions;
 - (B) explain and demonstrate respect for differences and similarities in abilities of self and others; and
 - (C) identify self-management skills to control personal impulses and emotions.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) identify the causes of problems and propose solutions with teacher guidance; and
 - (B) communicate feelings and thoughts appropriately without cue.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to explain how practicing challenging physical activities can build confidence and minimize frustration when learning skills.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to listen respectfully and respond appropriately to specific corrective feedback with teacher guidance.

- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
- (A) participate in moderate to vigorous physical activity on a regular basis; and
 - (B) identify and select physical activities for personal enjoyment.

§116.15. Physical Education, Grade 3, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
- (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate,

and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.

(4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.

(5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.

(6) 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.

(b) Knowledge and skills.

(1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:

(A) demonstrate correct technique while hopping, galloping, running, sliding, skipping, and leaping;

(B) demonstrate correct jumping and landing technique from different heights;

(C) demonstrate intermediate balancing to include equipment, cross lateralization using a variety of coordination skills, and sequencing of three skills with repetition; and

(D) spin and roll with control at different levels, speeds, and positions with manipulatives.

(2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:

(A) demonstrate moving in and out of a balanced position with control during dynamic activities; and

- (B) combine bending, stretching, twisting, curling, pushing, pulling, and swaying in a variety of activities.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) demonstrate key elements in underhand and overhand throwing to a partner with accuracy;
- (B) demonstrate key elements when catching an accurately and softly thrown large ball with a partner without trapping against the body;
- (C) demonstrate key elements of hand dribbling while slowly jogging and maintaining ball control;
- (D) dribble a ball with control using both feet while slowly jogging;
- (E) kick a moving ball on the ground and in the air using a continuous running approach;
- (F) demonstrate correct technique in volleying to a wall or partner and over an object or net;
- (G) demonstrate correct technique when striking a moving object over a low net or to a wall with a hand or short- or long-handled implement;
- (H) jump a self-turned rope using a variety of basic skills; and
- (I) enter and exit a turned long rope using basic jumping skills.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) demonstrate locomotor, non-locomotor, and manipulative skills safely in personal and open space;
- (B) combine pathways and levels into various movement patterns in a wide variety of physical activities; and
- (C) combine speed, direction, and force as directed by teacher.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to demonstrate various rhythmic combinations of locomotor skills of eight counts in repeatable patterns when leading or following a partner.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) combine the skills of chasing, fleeing, and dodging to avoid or catch others during a variety of games;
- (B) demonstrate specific movement skills to improve performance in designated dynamic activities; and
- (C) explain and follow rules, procedures, and safe practices during games and activities.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to participate in introductory outdoor recreational skills and activities such as rock climbing, hiking, paddle sports, disc golf, or challenge courses.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:

- (A) describe the benefits of regular physical activity, including stress management;
 - (B) identify the importance of frequency and intensity during endurance activities; and
 - (C) explain and demonstrate the correct techniques of health-related fitness components.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) describe the importance of setting personal fitness goals in improving health-related fitness; and
 - (B) identify how to measure improvement and track progress for health-related fitness.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) differentiate between healthy and unhealthy foods and their impact on sustainable energy for physical activity; and
 - (B) differentiate between water and processed sugar or high-calorie drinks and their impact on sustainable energy for physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) select proper attire and safety equipment that promote safe participation and prevent injury in a variety of physical activities; and
 - (B) exhibit correct safety precautions, including pedestrian, water, sun, cycling, skating, and scooter safety.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) explain that personal actions have consequences for self and others;
 - (B) demonstrate respect for differences and similarities in abilities of self and others; and
 - (C) explain and demonstrate self-management skills to control personal impulses and emotions.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) demonstrate respect and cooperation through words and actions during various group activities; and
 - (B) identify the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to explain how practicing challenging physical activities can build confidence and minimize frustration when learning a variety of new skills.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to listen respectfully to make appropriate changes in performance based on feedback.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:

- (A) differentiate among types of and participate in moderate to vigorous physical activity for a sustained period of time on a regular basis using technology when available; and
- (B) select and participate in physical activity for personal enjoyment.

§116.16. Physical Education, Grade 4, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student

physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.

(4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.

(5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.

(6) 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.

(b) Knowledge and skills.

(1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:

(A) demonstrate and apply correct technique in a variety of locomotor skills during dynamic activities;

(B) demonstrate correct jumping and landing technique while performing a long jump and a full turn jump;

(C) demonstrate intermediate balancing to include equipment, cross lateralization using a variety of coordination skills, and sequencing of four skills with repetition; and

(D) spin and roll with control at different levels, speeds, and positions with manipulatives.

(2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:

(A) transfer body weight over, under, and on equipment with good control; and

(B) move into and out of various combinations of bending, stretching, twisting, curling, pushing, pulling, and swaying in a variety of activities.

- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) practice the key elements of manipulative skills, including eye on target, follow-through, body weight transfer, and body position, during dynamic activities;
 - (B) practice the key elements of catching a ball at a variety of levels above and below the waist;
 - (C) demonstrate key elements of hand dribbling with dominant and non-dominant hand while changing both speed and direction;
 - (D) dribble a ball with control alternating feet while changing both speed and direction with a partner;
 - (E) identify and demonstrate the key elements in kicking patterns, including body position, weight transfer, and follow-through;
 - (F) demonstrate correct technique in underhand and overhead volleying to a wall, net, or partner;
 - (G) demonstrate correct technique when striking an object with a hand or short- or long-handled implement with a partner;
 - (H) jump a self-turned rope using a variety of intermediate skills; and
 - (I) demonstrate entering and exiting a turned long rope using intermediate jumping skills.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) demonstrate the appropriate use of open space and closing space during dynamic activities;
 - (B) demonstrate appropriate use of pathways and levels during dynamic activities and lead-up games; and
 - (C) apply speed, direction, and force during dynamic activities and lead-up games.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to demonstrate a rhythmic routine with appropriate steps and movement patterns individually or in a group.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) explain fundamental components and strategies of dynamic activities and lead-up games;
 - (B) practice and demonstrate specific movement skills in designated dynamic activities and lead-up games with a partner or a small group; and
 - (C) exhibit appropriate sporting behavior during independent games and activities.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to participate in a variety of outdoor recreational skills and activities such as camping, backpacking, fishing, rock climbing, hiking, paddle sports, disc golf, cornhole, bocce ball, or croquet.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:

- (A) describe the benefits of regular physical activity on overall health and wellness;
 - (B) demonstrate frequency and intensity during endurance activities; and
 - (C) identify and demonstrate the components of health- and skill-related fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) develop personal fitness goals for health-related fitness; and
 - (B) track progress and analyze data for health-related fitness activities.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) examine the relationship between nutrition and optimal physical performance; and
 - (B) explain the importance of proper hydration before, during, and after physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) work independently to select proper attire and safety equipment that promote safe participation and prevent injury in dynamic activities and lead-up games; and
 - (B) apply correct safety precautions, including pedestrian, water, sun, cycling, skating, and scooter safety.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) accept and take responsibility for personal actions that affect self and others;
 - (B) demonstrate respect for differences and similarities in abilities of self and others; and
 - (C) demonstrate self-management skills to control personal impulses and emotions during dynamic activities and lead-up games.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) discuss ways to resolve conflict in socially acceptable ways and respond to winning and losing with dignity and understanding;
 - (B) identify effective communication to enhance healthy interactions while settling disagreements; and
 - (C) demonstrate respect for the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to identify ways to accept individual challenges and use self-management skills to persevere in a positive manner when learning a variety of new skills.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to listen respectfully to make appropriate changes in performance based on feedback from teacher and peers.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:

- (A) differentiate among types of and participate in moderate to vigorous physical activities for a sustained period of time on a regular basis using technology when available; and
- (B) participate in a variety of physical activities in the school and community for personal enjoyment.

§116.17. Physical Education, Grade 5, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all

physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.

- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for various ages and ability levels of students. Basic equipment for quality instruction includes, but is not limited to, the following list: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
 - (5) In Kindergarten-Grade 5, students learn fundamental movement skills and cues; begin to understand that the body functions in relation to physical activity; develop body control; become aware of the health-related fitness components; begin applying strategies, rules, etiquette, and conflict resolution techniques in dynamic situations; and identify safety practices and protocols while being physically active. Students engage in activities that develop basic levels of strength, endurance, and flexibility. Activities are presented to complement a student's natural inclination to view physical activity as challenging and enjoyable.
 - (6) 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.
- (b) Knowledge and skills.
- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:
 - (A) demonstrate and apply correct technique in a variety of locomotor skills and combinations during lead-up activities;
 - (B) demonstrate correct jumping and landing technique while performing a long jump and a full turn jump in both directions; and
 - (C) demonstrate advanced balancing to include equipment, cross lateralization during increasingly complex movements, and sequencing of four or more skills with repetition.
 - (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:
 - (A) maintain balance and transfer body weight with control during dynamic activities and lead-up games; and

- (B) perform a combination of bending, stretching, twisting, curling, pushing, pulling, and swaying in a variety of activities.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) demonstrate the key elements of manipulative skills, including eye on target, follow-through, body weight transfer, and body position, during games and activities;
- (B) demonstrate the key elements of catching while moving during games and activities;
- (C) demonstrate key elements of hand dribbling with either hand when stationary while protecting the ball from a defender during dynamic activities and lead-up games;
- (D) combine foot dribbling with other skills during dynamic activities and lead-up games;
- (E) demonstrate appropriate form when kicking and punting during dynamic activities and lead-up games;
- (F) demonstrate correct technique in volleying in dynamic activities and lead-up games;
- (G) demonstrate correct technique when striking an object with a hand or short- or long-handled implement in dynamic activities and lead-up games;
- (H) jump a self-turned rope in a routine using a variety of advanced skills; and
- (I) demonstrate entering and exiting a turned long rope using advanced jumping skills.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) demonstrate the appropriate use of open space and closing space in small groups during dynamic activities and lead-up games;
- (B) apply appropriate use of pathways and levels in small groups during dynamic activities and lead-up games; and
- (C) apply speed, direction, and force with a short-handled implement during dynamic activities and lead-up games.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to create rhythmic routines in counts of eight using basic steps and coordinated movement patterns individually or in a group.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) identify and demonstrate the relationships among a variety of game skills, including preparation, movement, follow-through, and recovery, used in net or wall, invasion, target, fielding, or striking games;
- (B) demonstrate specific movement skills in designated dynamic activities and lead-up games with a partner or group; and
- (C) engage appropriately in physical activity, sporting behavior, and game etiquette without teacher cue.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to participate in outdoor recreational skills and activities such as rock climbing, orienteering, hiking, paddle sports, archery, cycling, or challenge courses.

- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) describe the benefits of moderate to vigorous physical activity on overall health and wellness;
 - (B) describe the frequency, intensity, time, and type (FITT) principle and how it improves fitness; and
 - (C) differentiate between health-related and skill-related fitness components.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) analyze personal fitness goals for self-improvement; and
 - (B) track progress and analyze data, with teacher guidance, to target areas needing improvement.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) identify healthy foods that enhance physical activity; and
 - (B) explain the importance of proper hydration before, during, and after physical activity.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) describe and select proper attire and safety equipment that promote safe participation and prevent injury in dynamic activities and games; and
 - (B) demonstrate correct safety precautions, including water, sun, cycling, skating, and scooter safety.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) accept and take responsibility for personal actions that affect self and others during dynamic activities and lead-up games;
 - (B) accept responsibility and demonstrate respect for differences and similarities in abilities of self and others during dynamic activities and lead-up games; and
 - (C) apply self-management skills to demonstrate self-control of impulses and emotions during dynamic activities and lead-up games.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) explain the importance of and demonstrate how to resolve conflict in socially acceptable ways and respond to winning and losing with dignity and understanding;
 - (B) identify and describe effective communication to enhance healthy interactions while settling disagreements; and
 - (C) identify and describe the concepts of empathy and mutual respect for the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to discuss the importance of accepting individual

challenges and use self-management skills to persevere in a positive manner during dynamic activities and lead-up games.

(15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to apply appropriate changes to performance based on feedback from peers.

(16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:

(A) differentiate among types of and participate in moderate to vigorous physical activity for a sustained period of time on a regular basis using technology when available; and

(B) analyze the level of personal enjoyment in a variety of activities in the school and community.

Chapter 116. Texas Essential Knowledge and Skills for Physical Education

Subchapter B. Middle School

§116.25. Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School, Adopted 2020.

- (a) The provisions of §§116.26-116.28 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for physical education as adopted in §§116.26-116.28 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§116.26-116.28 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§116.26-116.28 of this subchapter shall be implemented for the following school year.
- (e) Sections 116.21-116.24 of this subchapter shall be superseded by the implementation of §§116.25-116.28 of this subchapter.

§116.26. Physical Education, Grade 6, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-

discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.

- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ages and ability levels. Basic equipment for quality instruction includes, but is not limited to, the following: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
- (5) In Grades 6-8 physical education, students apply sport concepts; recognize key elements for success; develop plans for health-related fitness, skill-related fitness, and skill improvement; apply knowledge of safety practices and self-management; and understand in greater detail the function of the body. Students learn to use technology to assist in measuring and monitoring personal performance. An emphasis is placed on opportunities for participation, activity choices, enjoyment, and challenge, both in and out of school.

- (6) 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.
- (b) Knowledge and skills.
- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:
- (A) perform a variety of locomotor skills and combinations during dynamic activities and games; and
 - (B) demonstrate correct jumping and landing technique during dynamic activities, game situations, and sports.
- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:
- (A) demonstrate balance with control during dynamic activities and games; and
 - (B) demonstrate proper body positioning, proficiency, footwork, and offensive and defensive skills during dynamic activities and games.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) demonstrate correct technique when throwing to a moving target;
 - (B) demonstrate correct catching technique from different levels and trajectories with a variety of objects;
 - (C) demonstrate correct hand dribbling technique when changing both speed and direction while maintaining ball control;
 - (D) demonstrate correct foot dribbling technique with control while changing both speed and direction during dynamic activities and game situations;
 - (E) demonstrate correct technique in kicking and punting with accuracy during dynamic activities and lead-up games;
 - (F) demonstrate correct technique in volleying to a target with control and accuracy;
 - (G) demonstrate correct technique when striking an object with speed, accuracy, force, and distance using a hand or handled implement during dynamic activities and lead-up games; and
 - (H) create and perform a jump rope routine using a variety of advanced skills.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) demonstrate the appropriate use of open space and closing space during dynamic activities, games, and sports; and
 - (B) apply speed, direction, and force with a long-handled implement during dynamic activities, games, and sports.
- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to perform rhythmic routines with intermediate steps and movement patterns.

- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) demonstrate offensive and defensive strategies used in net or wall, invasion, target, striking, and fielding games;
 - (B) demonstrate combinations of locomotor, manipulative, and game skills in dynamic activities to achieve individual or team goals; and
 - (C) demonstrate appropriate sporting behavior with teammates, opponents, and officials.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to participate in self-selected, organized outdoor recreational skills, activities, and games.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) describe the long-term benefits of moderate to vigorous physical activity on overall health and wellness;
 - (B) describe the frequency, intensity, time, and type (FITT) principle and how it improves fitness in relation to aerobic and anaerobic activities; and
 - (C) describe health-related and skill-related fitness components and their impact on personal fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) develop an individual fitness plan using personal fitness goals; and
 - (B) analyze results of fitness assessments to identify strategies for self-improvement.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) identify macronutrients, including carbohydrates, fats, and proteins, and examine their relationship to optimal physical performance; and
 - (B) identify how environmental temperature and humidity each contribute to dehydration and heat illness.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) perform, without cue, the selection and use of proper attire and safety equipment that promote safe participation and prevent injury in dynamic activities, games, and sports; and
 - (B) perform, without cue, the correct safety precautions, including water, sun, cycling, skating, and scooter safety.
- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) explain the importance of and accept responsibility for personal actions that affect self and others during game situations and sports;

- (B) explain the importance of and accept responsibility and demonstrate respect for differences and similarities in abilities of self and others during dynamic activities and lead-up games; and
 - (C) apply self-management skills to demonstrate self-control of impulses and emotions, without cue, during games, situations, and sports.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) discuss the importance of and resolve conflict, without cue, in socially acceptable ways, and respond to winning and losing with dignity and understanding;
 - (B) explain and demonstrate effective communication to enhance healthy interactions while settling disagreements; and
 - (C) demonstrate empathy and mutual respect for the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to discuss the importance of accepting individual challenges and demonstrate self-management skills to persevere in a positive manner during game situations and sports.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to analyze feedback to make appropriate changes to improve performance.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
- (A) develop a plan using available technology to participate in moderate to vigorous physical activity for a sustained period of time on a regular basis; and
 - (B) describe how participation in a variety of physical activities builds confidence and increases personal enjoyment.

§116.27. Physical Education, Grade 7, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
- (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).

- (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ages and ability levels. Basic equipment for quality instruction includes, but is not limited to, the following: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.
- (5) In Grades 6-8 physical education, students apply sport concepts; recognize key elements for success; develop plans for health-related fitness, skill-related fitness, and skill improvement; apply knowledge of safety practices and self-management; and understand in greater detail the function

of the body. Students learn to use technology to assist in measuring and monitoring personal performance. An emphasis is placed on opportunities for participation, activity choices, enjoyment, and challenge, both in and out of school.

- (6) 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.

(b) Knowledge and skills.

- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:

(A) combine and apply a variety of locomotor skills during dynamic fitness, sport, and rhythmic activities; and

(B) apply correct jumping and landing technique during dynamic activities, game situations, and sports.

- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:

(A) move between positions with controlled balance during dynamic activities, game situations, and sports; and

(B) demonstrate proper body positioning, proficiency, and footwork and perform offensive and defensive skills during dynamic activities, game situations, and sports.

- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:

(A) apply correct throwing techniques with distance, power, and accuracy while both partners are moving during dynamic activities, game situations, and sports;

(B) apply correct catching technique with a variety of objects from different levels and trajectories during dynamic activities, game situations, and sports;

(C) apply offensive and defensive patterns in game strategies while hand dribbling;

(D) apply offensive and defensive foot dribbling strategies during game situations and sports;

(E) apply correct technique in kicking and punting with control, distance, and accuracy during game situations and sports;

(F) apply correct technique in volleying with both control and accuracy during game situations and sports;

(G) apply correct technique when striking an object with speed, accuracy, force, and distance during game situations and sports; and

(H) create and perform a jump rope routine using a variety of skills that require agility, speed, and endurance.

- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:

(A) execute the appropriate use of open space and closing space during dynamic activities, games, and sports; and

(B) execute the appropriate use of speed, direction, and force with or without an implement during dynamic activities, games, and sports.

- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to perform rhythmic routines with advanced steps and movement patterns with a partner.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) apply offensive and defensive strategies used in net or wall, invasion, target, striking, and fielding games and sports;
 - (B) apply combinations or sequences of game skills to achieve individual or team goals; and
 - (C) demonstrate self-responsibility and appropriate sporting behavior in game situations and sports.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to demonstrate a variety of correct techniques for outdoor recreational skills, activities, and games.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) analyze the long-term benefits of moderate to vigorous physical activity on overall health and wellness;
 - (B) apply basic frequency, intensity, time, and type (FITT) principle in a variety of aerobic and anaerobic activities; and
 - (C) apply health-related and skill-related fitness components and explain how each component impacts personal fitness.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) create a collaborative physical fitness plan to target areas for improvement in health-related fitness; and
 - (B) monitor and evaluate personal fitness goals and make appropriate changes for improvement.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) evaluate healthy food choices that show a balanced daily intake of macronutrients to enhance physical performance; and
 - (B) analyze and determine the appropriate times to consume traditional sports drinks that have the appropriate carbohydrate and sodium content.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) perform, without cue, the selection and use of proper attire and safety equipment that promote safe participation and prevent injury in dynamic activities, games, and sports; and
 - (B) perform, without cue, the correct safety precautions, including water, sun, cycling, skating, and scooter safety.

- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) discuss the importance of and accept responsibility and demonstrate respect for differences and similarities in abilities of self and others during game situations and sports; and
- (B) analyze self-management skills to demonstrate self-control of impulses and emotions, without cue, during game situations and sports.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) discuss the importance of and resolve conflict, without cue, in socially acceptable ways, and respond to winning and losing with dignity and understanding;
- (B) communicate effectively to enhance healthy interactions while settling disagreements; and
- (C) demonstrate empathy and mutual respect for the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to develop and apply a plan of action and make effective decisions when faced with challenges, obstacles, or difficulties during game situations and sports.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to provide constructive feedback to peers following teacher guidelines to improve performance.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
- (A) implement a plan using available technology to participate in moderate to vigorous physical activity for a sustained period of time on a regular basis; and
- (B) evaluate self-selected physical activities for personal enjoyment.

§116.28. Physical Education, Grade 8, Adopted 2020.

(a) Introduction.

- (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
- (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
- (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit

the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).

- (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in utilizing strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to age-appropriate physical education equipment is essential to quality instruction. Basic, age-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Without basic, age-appropriate equipment, students will not have the necessary experiences to become physically literate, lifelong learners. All equipment should be age appropriate for the grade levels to be taught. The term "age appropriate" means that the equipment must include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ages and ability levels. Basic equipment for quality instruction includes, but is not limited to, the following: sports balls, including fleece balls, foam balls, tennis balls, beach balls, volleyballs, basketballs, soccer balls, footballs, baseballs, softballs, and unity balls; striking implements, including golf clubs, hockey sticks, baseball bats, pool noodles, tennis rackets, racquetball rackets, pickleball paddles, lollipop paddles, and ping pong paddles; goals for various sports, including soccer goals and basketball goals; nets and standards for a variety of sports, including volleyball, pickleball, badminton, and tennis; fitness-related equipment; other basic equipment, including scarves, bean bags, hula hoops, jump ropes, and scooters; classroom management equipment, including cones, mats, pinnies, poly spots, and ball inflators; and technology, including microphones, projectors, speakers, heart rate monitors, timers, and other technology appropriate for instruction.

- (5) In Grades 6-8 physical education, students apply sport concepts; recognize key elements for success; develop plans for health-related fitness, skill-related fitness, and skill improvement; apply knowledge of safety practices and self-management; and understand in greater detail the function of the body. Students learn to use technology to assist in measuring and monitoring personal performance. An emphasis is placed on opportunities for participation, activity choices, enjoyment, and challenge, both in and out of school.
- (6) 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.
- (b) Knowledge and skills.
- (1) Movement patterns and movement skills--locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate locomotor skills. The student is expected to:
- (A) combine and apply a variety of locomotor skills during dynamic fitness, sport, and rhythmic activities; and
- (B) combine correct jumping and landing technique during dynamic activities, game situations, and sports.
- (2) Movement patterns and movement skills--non-locomotor skills. The physically literate student demonstrates competency in fundamental movement patterns and developmentally appropriate non-locomotor skills. The student is expected to:
- (A) combine and apply balance with control during dynamic activities, game situations, and sports; and
- (B) demonstrate proper body positioning, proficiency, and footwork and perform offensive and defensive skills during dynamic activities, game situations, and sports.
- (3) Movement patterns and movement skills--manipulative skills. The physically literate student demonstrates competency in developmentally appropriate manipulative skills. The student is expected to:
- (A) combine appropriate throwing techniques during game situations and sports;
- (B) apply appropriate catching technique from different levels and trajectories with an implement during game situations and sports;
- (C) perform, without cue, key elements in hand dribbling during game situations and sports;
- (D) perform, without cue, key elements in foot dribbling during game situations and sports;
- (E) apply correct technique in kicking and punting during game situations and sports with control, distance, and accuracy;
- (F) perform, without cue, key elements in volleying during game situations and sports;
- (G) perform, without cue, key elements in striking during game situations and sports; and
- (H) create and perform a jump rope routine with a partner or a small group using a variety of skills that include agility, speed, and endurance.
- (4) Movement patterns and movement skills--spatial and body awareness. The physically literate student demonstrates competency in spatial and body awareness, including pathways, shapes, levels, speed, direction, and force. The student is expected to:
- (A) perform, without cue, the appropriate use of open space and closing space during dynamic activities, games, and sports; and
- (B) perform, without cue, the appropriate speed, direction, and force with or without an implement during dynamic activities, games, and sports.

- (5) Movement patterns and movement skills--rhythmic activities. The physically literate student demonstrates competency in rhythmic activities and rhythmic combinations. The student is expected to create and perform with a small group a rhythmic routine with varying tempos using advanced steps and movement patterns.
- (6) Performance strategies--games and activities. The physically literate student demonstrates competency in performance strategies in invasion, target, net or wall, fielding, striking, and cooperative games. The student is expected to:
- (A) perform, without cue, offensive and defensive strategies used in net or wall, invasion, target, striking, and fielding games and sports;
 - (B) perform, without cue, combinations or sequences of game skills to achieve individual or team goals; and
 - (C) follow rules, demonstrate appropriate sporting behavior, self-officiate, and respect consequences for the game being played without cue.
- (7) Performance strategies--outdoor and recreational pursuits. The physically literate student demonstrates competency in outdoor and recreational pursuits. The student is expected to engage in a variety of self-selected outdoor recreational activities and games.
- (8) Health, physical activity, and fitness--fitness principles. The physically literate student demonstrates and recognizes a health-enhancing, physically active lifestyle. The student is expected to:
- (A) perform a variety of lifelong physical activities and explain their effects on overall health and wellness;
 - (B) perform basic frequency, intensity, time, and type (FITT) principle in a variety of self-selected aerobic and anaerobic activities; and
 - (C) develop and analyze a personal fitness plan using health-related and skill-related fitness components.
- (9) Health, physical activity, and fitness--analyze data. The physically literate student demonstrates competency in the ability to analyze data used during fitness performance. The student is expected to:
- (A) create and implement a personal physical fitness plan and analyze the results for effectiveness; and
 - (B) evaluate personal fitness goals and make appropriate changes for improvement.
- (10) Health, physical activity, and fitness--nutrition and hydration. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The student is expected to:
- (A) develop a healthy food choice plan that enhances physical performance; and
 - (B) determine hydration needs, without cue, based on physical performance and environmental factors.
- (11) Health, physical activity, and fitness--environmental awareness and safety practices. The physically literate student demonstrates competency in environmental awareness and understands safety practices. The student is expected to:
- (A) perform, without cue, the selection and use of proper attire and safety equipment that promote safe participation and prevent injury in dynamic activities, games, and sports; and
 - (B) perform, without cue, the correct safety precautions, including pedestrian, water, sun, cycling, skating, and scooter safety.

- (12) Social and emotional health--personal responsibility and self-management. The physically literate student demonstrates competency in personal responsibility. The student is expected to:
- (A) discuss the importance of and accept responsibility and demonstrate respect for differences and similarities in abilities of self and others during game situations and sports; and
 - (B) evaluate self-management skills to demonstrate self-control of impulses and emotions, without cue, during games, situations, and sports.
- (13) Social and emotional health--resolving conflict and social interaction. The physically literate student demonstrates competency in resolving conflict and social interaction. The student is expected to:
- (A) discuss the importance of and resolve conflict, without cue, in socially acceptable ways, and respond to winning and losing with dignity and understanding;
 - (B) communicate effectively to enhance healthy interactions while settling disagreements; and
 - (C) demonstrate empathy and mutual respect for the feelings of others.
- (14) Social and emotional health--perseverance. The physically literate student perseveres while addressing challenges. The student is expected to develop and apply a plan of action and make effective decisions when faced with challenges, obstacles, or difficulties during game situations and sports.
- (15) Social and emotional health--accepting and providing constructive feedback. The physically literate student accepts and provides constructive feedback. The student is expected to provide constructive feedback to peers using a positive tone to improve performance.
- (16) Lifetime wellness--application of lifetime wellness. The physically literate student identifies the value of lifetime wellness. The student is expected to:
- (A) implement a plan using available technology to participate in moderate to vigorous physical activity for a sustained period of time on a regular basis; and
 - (B) participate in self-selected physical activities for personal enjoyment.

Chapter 116. Texas Essential Knowledge and Skills for Physical Education

Subchapter C. High School

§116.61. Implementation of Texas Essential Knowledge and Skills for Physical Education, Adopted 2020.

- (a) The provisions of §§116.62-116.64 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for physical education as adopted in §§116.62-116.64 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§116.62-116.64 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§116.62-116.64 of this subchapter shall be implemented for the following school year.
- (e) Sections 116.51-116.56 of this subchapter shall be superseded by the implementation of §§116.61-116.64 of this subchapter.

§116.62. Lifetime Fitness and Wellness Pursuits (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course.
- (b) Introduction.
 - (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-

discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.

- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in using strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
 - (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities, and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
 - (4) Access to course-appropriate physical education equipment is essential to quality instruction. Course-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Equipment should include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ability levels.
 - (5) The Lifetime Fitness and Wellness Pursuits course offers current approaches for the foundation of personal fitness, physical literacy, lifetime wellness, and healthy living. Students in Lifetime Fitness and Wellness Pursuits will apply the knowledge and skills to demonstrate mastery of the concepts needed to achieve lifetime wellness. Students will participate in a variety of physical activities for attaining personal fitness and lifetime wellness.
 - (6) 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) Movement patterns and movement skills. While participating in physical activity, the physically literate student applies physiological and biomechanical principles to improve health-related fitness. The student is expected to:
 - (A) apply physiological and fitness principles related to exercise and training, including warm-up and cool-down, overload, frequency, intensity, time, and specificity; and
 - (B) apply basic biomechanical principles related to exercise and training, including force, leverage, and type of contraction.
 - (2) Performance strategies. During physical activity, the physically literate student applies skills, techniques, and safety practices associated with physical activity. The student is expected to:

- (A) apply appropriate procedures to ensure safety;
 - (B) apply appropriate practices and procedures to improve skills in various fitness activities;
 - (C) perform skills and appropriate techniques at a basic level of competency;
 - (D) modify movement during performance using appropriate internal and external feedback; and
 - (E) explain various methods to achieve personal fitness, including interval training, circuit training, high-intensity interval training (HIIT), and functional fitness training.
- (3) Health, physical activity, and fitness. The physically literate student applies fitness principles that encompass personal fitness programs, nutrition, technology, and environmental awareness. The student is expected to:
- (A) demonstrate appropriate safety procedures, including wearing proper attire, using equipment safely, practicing exercise etiquette, and recognizing situational environmental hazards;
 - (B) identify and describe exercise techniques that may be harmful or unsafe;
 - (C) explain the relationships among hydration, physical activity, and environmental conditions;
 - (D) explain the relationship between physical fitness and wellness;
 - (E) participate in a variety of activities that develop health-related physical fitness;
 - (F) describe training principles appropriate to enhance cardiorespiratory endurance, muscular strength and endurance, and flexibility;
 - (G) exhibit a basic level of competency in two or more aerobic and two or more anaerobic activities;
 - (H) select and use appropriate technology tools to evaluate, monitor, and improve health-related fitness;
 - (I) design and implement a personal fitness program that includes health-related fitness components;
 - (J) measure and evaluate personal skill-related components of physical fitness, including agility, balance, coordination, power, reaction time, and speed; and
 - (K) measure and evaluate personal fitness in terms of health-related fitness components.
- (4) Social and emotional health. During physical activity, the physically literate student develops positive self-management and social skills needed to work independently and with others. The student is expected to:
- (A) describe and analyze the relationship between physical activity and social and emotional health;
 - (B) discuss how improvement is possible with appropriate practice;
 - (C) identify and respond to challenges, successes, conflicts, and failures in physical activities in socially appropriate ways;
 - (D) explain how to accept successes and performance limitations of self and others by exhibiting appropriate behavior and response; and
 - (E) evaluate the impact of the use of technology on social and emotional health.
- (5) Lifetime wellness. The physically literate student comprehends practices that will impact daily performance, physical activity, and health throughout the lifespan. The student is expected to:
- (A) describe how sleep is essential to optimal performance and recovery;

- (B) identify myths associated with physical activity and nutritional practices;
- (C) explain the relationship between nutritional practices and physical activity;
- (D) explain the risks of over training;
- (E) evaluate consumer issues and trends related to physical fitness such as marketing claims promoting fitness and nutritional products, services, and supplements; and
- (F) analyze how nutrition, exercise, and other factors impact body composition.

§116.63. Lifetime Recreation and Outdoor Pursuits (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course.
 - (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).
 - (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
 - (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
 - (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in using strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
 - (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and

student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities, and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.

- (4) Access to course-appropriate physical education equipment is essential to quality instruction. Course-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Equipment should include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ability levels.
- (5) The Lifetime Recreation and Outdoor Pursuits course provides opportunities for students to develop competency in five or more lifelong recreational and outdoor pursuits for enjoyment and challenge. Students in Lifetime Recreation and Outdoor Pursuits participate in activities that promote physical literacy, respect for and connection to nature and the environment, and opportunities for enjoyment for a lifetime. Students will experience opportunities that enhance self-worth and support community engagement.
- (6) 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) Movement patterns and movement skills. The student demonstrates competency in five or more lifetime recreational and outdoor pursuits such as backpacking, camping, hiking, navigation, water sports, paddle sports, boater education, water safety education, angler education, hunter education, archery, outdoor survival and safety, climbing, adventure activities, challenge course or team building, lawn games, skating, skiing, cycling, and disc sports. The student is expected to:
 - (A) demonstrate execution of basic skills in lifetime recreation and outdoor pursuits;
 - (B) apply the rules and strategies of the selected lifetime recreation and outdoor pursuits; and
 - (C) design a conditioning program for the selected lifetime recreation and outdoor pursuits.
- (2) Performance strategies. The physically literate student applies movement concepts and principles to the learning, development, and execution of motor skills applicable to the selected lifetime recreational and outdoor pursuits. The student is expected to:
 - (A) modify movement during performance using appropriate internal and external feedback; and
 - (B) identify critical elements for a successful performance during a specific activity.
- (3) Health, physical activity, and fitness. The physically literate student exhibits a physically active lifestyle that improves health and provides opportunities for enjoyment and challenge. The student is expected to:
 - (A) participate in lifetime recreational and outdoor pursuits that provide for enjoyment and challenge;
 - (B) describe training principles for enhancing flexibility, muscular strength and endurance, and cardiorespiratory endurance;
 - (C) establish realistic and challenging health-related fitness goals;

- (D) select and use appropriate technology tools to evaluate, monitor, and improve health-related fitness;
 - (E) analyze health and fitness benefits derived from participation in lifetime recreational and outdoor pursuits; and
 - (F) design and participate in a personal health-related fitness program that has the potential to meet identified activity goals.
- (4) Social and emotional health. The physically literate student articulates the benefit of time spent in recreation or outdoor pursuits to promote mental, social, and emotional health. The student is expected to:
- (A) demonstrate teamwork such as leadership, problem solving, trust, creativity, cooperation, conflict resolution, and communication while engaging in selected lifetime recreation and outdoor pursuits;
 - (B) demonstrate etiquette appropriate for selected lifetime recreation and outdoor activities;
 - (C) evaluate the impact of the use of technology on social and emotional health;
 - (D) analyze and summarize critical information on the mental, social, and emotional health benefits of engagement in outdoor pursuits; and
 - (E) design a personal wellness plan that includes time engaging in outdoor pursuits.
- (5) Lifetime wellness. The physically literate student recognizes the relationship between lifetime recreation or outdoor pursuits and health. The student is expected to:
- (A) list and describe safety equipment used in selected lifetime recreation and outdoor pursuits;
 - (B) explain and follow safety procedures during selected lifetime recreation and outdoor pursuits;
 - (C) identify and apply the health-related fitness principles to selected lifetime recreation and outdoor pursuits;
 - (D) describe how sleep is essential to optimal performance and recovery;
 - (E) analyze the advantages and disadvantages of lifetime recreation and outdoor pursuits and their effects on personal fitness;
 - (F) provide evidence of developing and maintaining health-related fitness; and
 - (G) design safe practices and procedures to improve skill during an activity.

§116.64. Skill-Based Lifetime Activities (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for completion of this course.
- (b) Introduction.
 - (1) Physical education is the foundation of a well-balanced curriculum. "It is an academic subject with a planned and sequential K-12 curriculum based on the national standards for physical education. Physical education provides cognitive content and instruction designed to develop motor skills, knowledge, and behaviors for physical activity and physical fitness. Supporting schools to establish daily physical education can provide students with the ability and confidence to be physically active for a lifetime" (Centers for Disease Control and Prevention (CDC), CDC Healthy Schools, May 2019).
 - (A) Physical education is designed to develop motor skills, knowledge, and behaviors for active living, physical fitness, sportsmanship, self-efficacy, and emotional intelligence. Physical education addresses the three domains of learning: cognitive skills related to the knowledge of movement, affective skills related to feelings and attitudes about

movement, and psychomotor skills related to the manual or physical skills in movement literacy (SHAPE America, 2014, p. 4).

- (B) Physically literate students have the ability to develop a lifetime of wellness. Physical literacy can be described as the ability to move with competence and confidence, to acquire knowledge and understanding, and to value and take responsibility for engagement in a wide variety of physical activities in multiple environments that benefit the healthy development of the whole person (Mandigo, Francis, Lodewyk & Lopez, 2012, and Whitehead, 2016).
- (C) Research shows physical education is important to the development of the whole child and increases a lifetime of wellness. The Association for Supervision and Curriculum Development and the National Academy of Medicine support the belief that physical education, taught at a developmentally appropriate level, improves physical fitness and skill development, supports and improves academic achievement, reinforces self-discipline and teacher goal setting, reduces stress and increases blood flow to the brain, strengthens peer relationships, and improves self-confidence and self-esteem.
- (2) The physical education standards are categorized into five strands that are of equal importance and value. The movement patterns and movement skills strand guides the physically literate student in the development of fundamental movement patterns, spatial and body awareness, and rhythmic activities. The performance strategies strand guides the physically literate student in using strategies in fundamental components of games, activities, and outdoor and recreational pursuits. The health, physical activity, and fitness strand encompasses health-related fitness, environmental awareness, and safety practices that guide students to a health-enhancing, physically active lifestyle. The physically literate student demonstrates skills and mechanics used during physical activity and analyzes data used during fitness performance. The physically literate student recognizes the correlation between nutrition, hydration, and physical activity. The social and emotional health strand incorporates working with others, responding to class expectations, and applying self-management skills. The lifetime wellness strand engages students in physical activity for the purposes of self-expression, enjoyment, and challenge.
- (3) Quality physical education programs include a comprehensive curriculum, physical activity, safety policies, safe environments, qualified physical education specialists instructing the class, and student assessment and do not use physical activity as a form of punishment. Texas state law outlines state requirements that support these essential components. In accordance with state law, physical education curriculum and instruction must be sequential, developmentally appropriate, and designed to meet the needs of all students, including students with disabilities, and of all physical ability levels. At least 50% of the physical education class must be used for actual student physical activity at a moderate or vigorous intensity level, which aligns with additional state requirements for a minimum number of minutes for moderate or vigorous physical activity in Kindergarten-Grade 8. Required student-to-teacher ratios of 45-to-1 ensure the proper supervision and safety of students in physical education classes, and school districts must identify how student safety will be maintained if that ratio is exceeded. State law also requires that school districts and charter schools annually assess the physical fitness of students in Grade 3 or higher who are enrolled in a physical education course.
- (4) Access to course-appropriate physical education equipment is essential to quality instruction. Course-appropriate equipment for all students is imperative for the development of motor skills, manipulative skills, and eventually becoming a physically literate, lifelong learner. Equipment should include a variety of sizes, weights, and textures to provide differentiated experiences for students of various ability levels.
- (5) The Skill-Based Lifetime Activities course offers students the opportunity to demonstrate mastery in basic sport skills, basic sport knowledge, and health and fitness principles. Students experience opportunities that promote physical literacy and lifetime wellness. Students in Skill-Based Lifetime Activities participate in a minimum of one lifelong activity from each of the following five categories during the course.

- (A) Target games are activities in which students send an object toward a target.
- (B) Striking and fielding games are activities in which students strike an object in order to score points within a game.
- (C) Fitness activities provide opportunities for students to apply fitness principles to accomplish an objective.
- (D) Rhythmic activities provide opportunities for students to demonstrate or create movement sequences with rhythm.
- (E) Innovative games and activities with international significance are those games and activities that use new or innovative equipment, have been created by students, or are played internationally.

(c) Knowledge and skills.

- (1) Movement patterns and movement skills. The physically literate student applies movement skills while participating in a minimum of five lifelong activities, including one from each of the following categories: target, striking and fielding, fitness, rhythmic, and innovative games and activities with international significance. The student is expected to:
 - (A) exhibit a level of competency in one or more target activities such as archery, disc golf, backyard target games, bowling, and golf;
 - (B) exhibit a level of competency in one or more striking and fielding activities such as kickball, softball, baseball, and racquet sports;
 - (C) exhibit a level of competency in one or more fitness activities that promote cardiorespiratory endurance, muscular strength, muscular endurance, and flexibility;
 - (D) exhibit a level of competency in one or more rhythmic activities; and
 - (E) exhibit a level of competency in one or more innovative games and activities with international significance such as cricket, futsal, speed ball, and team handball.
- (2) Performance strategies. The physically literate student applies tactics and strategies to be successful in skill-based lifetime activities. The student is expected to:
 - (A) perform skills and strategies consistently;
 - (B) modify movement during performance using appropriate internal and external feedback;
 - (C) describe appropriate practice procedures to improve skill and strategy in a sport;
 - (D) identify the critical elements for successful performance;
 - (E) demonstrate proper officiating techniques, including hand signals, verbal communication, and application of rules, to ensure safe participation in activities; and
 - (F) keep score accurately during games or activities.
- (3) Health, physical activity, and fitness. The physically literate student applies knowledge of health and fitness principles to participation in skill-based lifetime activities. The student is expected to:
 - (A) establish realistic and challenging health-related fitness goals for selected skill-based lifetime activities;
 - (B) apply appropriate safety procedures to prevent or reduce injuries in skill-based lifetime activities; and
 - (C) analyze health and fitness benefits derived from participating in skill-based lifetime activities.
- (4) Social and emotional health. The physically literate student applies principles for social and emotional health to participation in selected skill-based lifetime activities. The student is expected to:

- (A) acknowledge good play from an opponent during competition;
 - (B) explain the importance of accepting the roles and decisions of officials;
 - (C) explain the importance of accepting successes and performance limitations of self and others;
 - (D) discuss the importance of accepting personal responsibility to create and maintain a physically and emotionally safe and nonthreatening environment while officiating; and
 - (E) discuss and apply ways to respond to challenges, successes, and failures in physical activities in socially appropriate ways.
- (5) Lifetime wellness. The physically literate student applies wellness principles to participation in selected skill-based lifetime activities. The student is expected to
- (A) select and participate in at least one skill-based lifetime activity that provides for enjoyment and challenge from each category, including target, striking and fielding, fitness, rhythmic, and innovative games and activities with international significance; and
 - (B) describe how sleep is essential to optimal performance and recovery.

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ATTACHMENT
Text of Proposed New 19 TAC

Chapter 115. Texas Essential Knowledge and Skills for Health Education

Subchapter A. Elementary

§115.11. Implementation of Texas Essential Knowledge and Skills for Health Education, Adopted 2020.

- (a) The provisions of §§115.12-115.17 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for health education as adopted in §§115.12-115.17 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§115.12-115.17 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§115.12-115.17 of this subchapter shall be implemented for the following school year.
- (e) Sections 115.1-115.7 of this subchapter shall be superseded by the implementation of §§115.11-115.17 of this subchapter.

§115.12. Health Education, Kindergarten, Adopted 2020.

- (a) Introduction.
 - (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
 - (2) There are essential skills that repeat throughout the five strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.
 - (3) In Kindergarten-Grade 3, students gain an understanding of health information and skills through five strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; and alcohol, tobacco, and other drugs.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full

potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.

- (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying **prevention**, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and **other** trusted adults.

(4) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(5) Students should first seek guidance in the area of health from a parent or legal guardian.

(b) Knowledge and skills.

- (1) Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to name the five senses.
- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
 - (A) name people who can provide health care guidance such as parents, family members, **other** trusted adults, teachers, and health care professionals;
 - (B) identify personal hygiene and health habits that help individuals stay healthy such as hand washing and brushing teeth;
 - (C) discuss ways in which germs are transmitted, methods of preventing the spread of germs, and the importance of immunization; and
 - (D) identify head lice and biting insects that may cause illness and their proper removal and care.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:

- (A) identify their own feelings and emotions;
 - (B) describe and practice calming and self-management strategies;
 - (C) discuss how friends can influence a person's behavior;
 - (D) demonstrate skills for making new acquaintances;
 - (E) demonstrate respect and communicate appropriately with individuals; and
 - (F) identify and practice ways to solve conflicts with a friend.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) describe positive social skills and personal qualities such as truth, kindness, reliability, and respectfulness; and
 - (B) discuss the meaning of goals and identify at least one health-related goal.
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to discuss how to treat peers with different learning needs with dignity.
- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student identifies and explains healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) demonstrate an understanding that the human body is composed mostly of water and explain the importance of drinking water daily;
 - (B) identify healthy portion sizes for common food items;
 - (C) identify types of foods that help the body grow, including fruits and vegetables, dairy, and protein; and
 - (D) identify healthy and unhealthy snack choices.
- (7) Healthy eating and physical activity--risk and protective factors. The student identifies and explains risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) describe basic facts of food allergy safety such as not sharing food and explain the importance of respecting others who have allergies; and
 - (B) identify habits that help individuals stay healthy such as getting the proper amount of sleep and daily physical activity.
- (8) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to:
- (A) discuss and demonstrate procedures for responding to emergencies, including reporting to a parent or another trusted adult or contacting 911; and
 - (B) identify the purpose and demonstrate the proper use of protective equipment such as seat belts, booster seats, and bicycle helmets.
- (9) Injury and violence prevention and safety--healthy relationships and conflict-resolution skills. The student differentiates between healthy and unhealthy relationships and demonstrates effective strategies to address conflict. The student is expected to:
- (A) identify roles and characteristics of a trusted adult;

- (B) identify and role play refusal skills such as saying "no" to protect personal space and to avoid unsafe situations [and practice telling a parent or trusted adult if threatened] ; and
 - (C) identify personal space and appropriate boundaries.
- (10) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) name safe play environments; [and]
 - (B) name objects that may be dangerous such as knives, scissors, and screwdrivers and explain how they can be harmful ; and [;]
 - (C) recall personal home address as part of a personal safety plan.
- (11) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to identify situations when one should get help from a teacher, parent, or other trusted adult when made to feel bullied, uncomfortable, or unsafe in a digital or online environment.
- (12) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) identify bullying behaviors and the role of the bystander;
 - (B) identify ways to discourage bullying;
 - (C) describe appropriate actions to take in response to bullying such as telling a parent or another [a] trusted adult; and
 - (D) explain and practice how to get help from a parent or another trusted adult when made to feel uncomfortable or unsafe by another person.
- (13) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) discuss the proper usage of medications; and
 - (B) discuss the harmful effects of alcohol, tobacco, and drugs on physical health.
- (14) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to identify [role-play] refusal skills and how to get help from a parent or another trusted adult in unsafe situations involving the use or misuse of alcohol, tobacco, and other drugs.

§115.13. Health Education, Grade 1, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the five strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various

influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.

- (3) In Kindergarten-Grade 3, students gain an understanding of health information and skills through five strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; and alcohol, tobacco, and other drugs.
- (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
- (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
- (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying **prevention**, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and **other** trusted adults.
- (4) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (5) Students should first seek guidance in the area of health from a parent or legal guardian.
- (b) Knowledge and skills.
- (1) Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to demonstrate use of the five senses.

- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
- (A) identify types of health care professionals and describe the services they provide such as medical checkups, dental exams, and vision and hearing screenings;
 - (B) describe personal hygiene and health habits that enhance individual health such as personal hygiene, oral hygiene, and getting enough sleep;
 - (C) describe ways in which germs are transmitted, methods of preventing the spread of germs, and the importance of immunization; and
 - (D) describe where head lice and biting insects that may cause illness, including ticks and mosquitos, are commonly encountered and how to avoid them.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) identify their own feelings and emotions;
 - (B) discuss and explain how emotions can interrupt thinking and the self-management process;
 - (C) describe and practice calming and self-management strategies;
 - (D) describe ways in which peers and families can work together to build healthy relationships;
 - (E) describe ways to build and maintain friendships;
 - (F) identify ways to respectfully communicate verbally and nonverbally;
 - (G) identify feelings and emotions expressed by others; and
 - (H) identify and practice ways to solve conflicts with friends and peers.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) discuss ways to be kind to self and how to identify areas for growth; and
 - (B) explain the importance of goal setting and task completion.
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) discuss and demonstrate how to treat peers with different learning needs with dignity and respect;
 - (B) identify situations that can create positive stress and positive emotions; and
 - (C) discuss the signs and symptoms associated with negative stress such as loss or grief.
- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student identifies and explains healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) explain that fruits, proteins, vegetables, and dairy provide essential vitamins and minerals;
 - (B) identify recommended portion sizes by comparing portions to familiar objects such as a golf ball for a cookie or a frisbee for a dinner plate;

- (C) identify the food groups and classify examples of foods into each group; and
- (D) identify ingredients that make foods and drinks unhealthy such as added sugar and other sweeteners.
- (7) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to identify examples of health information provided by various media and how the examples affect nutritional habits and physical activity.
- (8) Healthy eating and physical activity--risk and protective factors. The student identifies and explains risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) identify common food allergies and explain the importance of respecting others who have allergies; and
- (B) describe habits that improve individual health such as getting enough sleep, eating nutritious foods, and exercising.
- (9) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to:
- (A) discuss and demonstrate strategies to keep self and others safe by staying away from dangerous situations and reporting to a parent or **another** trusted adult or contacting 911; and
- (B) identify the purpose and demonstrate proper use of protective equipment such as seat belts, booster seats, and bicycle helmets.
- (10) Injury and violence prevention and safety--healthy relationships and conflict-resolution skills. The student differentiates between healthy and unhealthy relationships and demonstrates effective strategies to address conflict. The student is expected to:
- (A) practice refusal skills to protect personal space and avoid unsafe situations; **[and]**
- (B) identify appropriate personal boundaries, privacy, and space ; **and** [2]
- (C) **recall parents'/caregivers' phone numbers as part of a personal safety plan.**
- (11) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) describe the difference between safe and unsafe environments; and
- (B) identify ways to avoid weapons [**-drugs,**] and harming oneself or others by staying away from dangerous situations and reporting to a parent or **another** trusted adult.
- (12) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to demonstrate how to get help from a teacher, parent, or **other** trusted adult when made to feel bullied, uncomfortable, or unsafe in a digital or online environment.
- (13) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) describe consequences for both the victim and the bully and the impact of bullying on the victim;
- (B) discuss ways of discouraging bullying;
- (C) explain the differences between teasing, joking, and playing around and bullying; and

- (D) identify how to get help from a parent or **another** trusted adult when made to feel uncomfortable or unsafe by another person.
- (14) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
 - (A) identify the difference between over-the-counter and prescription drugs; and
 - (B) identify and describe the harmful effects of alcohol, tobacco, other drugs, and dangerous substances such as inhalants, vaping products, and household products on physical health.
- (15) Alcohol, tobacco, and other drugs--treatment. The student understands how to seek emergency help for self and others in poisoning and overdose situations. The student is expected to describe what poisoning or overdose could look like and identify how to respond, including who to contact for help.
- (16) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to identify how to get help from a parent or **another** trusted adult related to alcohol, tobacco, and drug abuse.
- (17) Alcohol, tobacco, and other drugs--prevention. The student demonstrates refusal skills to avoid substance use and misuse. The student is expected to identify unsafe situations and practice strategies to avoid risky behaviors related to alcohol, tobacco, and other drugs.

§115.14. Health Education, Grade 2, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the five strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.
- (3) In Kindergarten-Grade 3, students gain an understanding of health information and skills through five strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; and alcohol, tobacco, and other drugs.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understanding the

relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.

- (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying prevention, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.

(4) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(5) Students should first seek guidance in the area of health from a parent or legal guardian.

(b) Knowledge and skills.

- (1) Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to describe ways to protect the five senses such as wearing sunglasses or using a safe volume setting on audio devices.
- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
 - (A) describe the importance of individual health maintenance activities such as regular medical checkups, dental exams, and vision and hearing screenings;
 - (B) explain actions an individual should take when not feeling well;
 - (C) discuss the importance of practicing personal hygiene and health habits;
 - (D) explain ways in which germs are transmitted, methods of preventing the spread of germs, and the importance of immunization;
 - (E) identify common illnesses and diseases, including asthma, diabetes, and epilepsy, and their symptoms; and
 - (F) discuss the signs and symptoms of illness that may occur after contact with biting insects, including ticks and mosquitos.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:

- (A) communicate needs, wants, and emotions in healthy ways;
 - (B) describe and practice calming and self-management strategies;
 - (C) discuss and explain how thoughts and emotions are related;
 - (D) explain the effect of peer influence on an individual's social and emotional health;
 - (E) describe the qualities of a good friend;
 - (F) describe and demonstrate respectful ways to communicate with family members, peers, teachers, and others;
 - (G) identify the feelings and perspectives of others by interpreting their verbal and nonverbal cues; and
 - (H) identify ways to prevent and repair broken friendships.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) discuss ways to be kind to self and others;
 - (B) define personal growth and identify areas for one's personal growth; and
 - (C) list the steps and describe the importance of goal setting and task completion.
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) identify strategies for managing different learning needs of self and others; and
 - (B) identify positive and negative stressors and how they impact emotions and learning.
- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student identifies and explains healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) identify types of nutrients;
 - (B) use familiar objects to identify healthy food portions from different food groups;
 - (C) identify healthy and unhealthy choices within the food groups; and
 - (D) identify the benefits of making healthy beverage choices, including water and milk, and limiting sweetened beverages such as soda and sports drinks.
- (7) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to identify various media that provide health information and how media can influence an individual's health choices such as television advertisements for fast foods and breakfast cereals.
- (8) Healthy eating and physical activity--risk and protective factors. The student identifies and explains risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) identify signs and symptoms of common food allergies; and
 - (B) identify the benefits of establishing healthy eating and physical activity habits that will last a lifetime.
- (9) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The

student is expected to describe steps one can take to reduce hazards, avoid accidents, and prevent accidental injuries for self and others.

- (10) Injury and violence prevention and safety--healthy relationships and conflict-resolution skills. The student differentiates between healthy and unhealthy relationships and demonstrates effective strategies to address conflict. The student is expected to:
- (A) demonstrate refusal skills to protect personal space and avoid unsafe situations; and
 - (B) discuss the importance of telling a parent or **another** trusted adult when privacy or personal boundaries are not respected or when the student is made to feel unsafe.
- (11) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) describe unsafe situations, including interacting with strangers;
 - (B) explain ways to avoid weapons and report the presence of unsupervised weapons to a parent or **another** trusted adult; **[and]**
 - (C) identify the hazards of unsupervised and improper handling of guns and other weapons **;** **and [.]**
 - (D) **identify two trusted adults not part of the immediate family and recall their phone numbers as part of a personal safety plan.**
- (12) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) identify unsafe requests made in a digital or online environment and how to take appropriate action;
 - (B) explain why obtaining help, especially from parents or **other** trusted adults, is critical when making decisions regarding digital and online use; and
 - (C) identify consequences that result from cyberbullying and inappropriate digital and online usage.
- (13) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) describe consequences for the bully and the impact of bullying on the victim;
 - (B) describe the difference between reporting and tattling; and
 - (C) explain why obtaining assistance, especially from parents or **other** trusted adults, can be helpful when making decisions about personal safety.
- (14) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) describe the purposes of prescription and over-the-counter drugs and their intended benefits; and
 - (B) explain the harmful effects on physical health and how to avoid alcohol, tobacco, other drugs, and dangerous substances such as inhalants, vaping products, and household products.
- (15) Alcohol, tobacco, and other drugs--treatment. The student understands how to seek emergency help for self and others in poisoning and overdose situations. The student is expected to describe

what poisoning or overdose could look like and identify how to respond, including who to contact for help.

- (16) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) identify unsafe requests related to alcohol, tobacco, and other drugs made by friends; and
 - (B) identify a trusted adult such as a parent, teacher, or law enforcement officer.
- (17) Alcohol, tobacco, and other drugs--prevention. The student demonstrates refusal skills to avoid substance use and misuse. The student is expected to identify ways to avoid unsafe situations related to alcohol, tobacco, and other drugs and demonstrate refusal skills.

§115.15. Health Education, Grade 3, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the five strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.
- (3) In Kindergarten-Grade 3, students gain an understanding of health information and skills through five strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; and alcohol, tobacco, and other drugs.
- (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
 - (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.

- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying prevention, first aid, and the identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.
- (4) Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (5) Students should first seek guidance in the area of health from a parent or legal guardian.
- (b) Knowledge and skills.
- (1) Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to name, locate, and describe the primary functions and major components of body systems, including the skeletal, muscular, circulatory, and respiratory systems.
- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
- (A) explain the importance of seeking assistance in making decisions about health;
- (B) describe methods of accessing information about health;
- (C) identify the benefits of decision making about personal health;
- (D) identify the importance of taking personal responsibility for developing and maintaining personal hygiene and health habits;
- (E) explain ways in which germs are transmitted, methods of preventing the spread of germs, and the importance of immunization;
- (F) identify that there are diseases such as allergies, asthma, diabetes, and epilepsy that are not caused by germs; and
- (G) identify common vectors, including ticks and mosquitos, and explain how and when to perform a self-check for vectors.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) communicate needs, wants, and emotions in healthy ways;
- (B) describe strategies for assessing thoughts and applying calming and self-management practices;
- (C) discuss and explain how the brain develops through maturation;
- (D) distinguish between healthy and harmful influences of friends and others;
- (E) describe the characteristics of healthy and unhealthy friendships;

- (F) describe the value of respectful communication;
 - (G) discuss how others may experience situations differently than oneself; and
 - (H) demonstrate strategies for resolving conflicts.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) define self-esteem and ways it is formed ,including identifying areas for one's personal growth ; and
 - (B) describe the importance of seeking guidance from a parent or another trusted adult in setting goals.
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student will develop and use appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) describe methods for managing challenges related to long-term health conditions;
 - (B) describe strategies to support others in managing different learning needs;
 - (C) describe positive outcomes of stress, including creativity, focus, energy, drive, and purpose;
 - (D) describe and practice healthy behaviors that reduce stress; and
 - (E) describe the importance of acceptance of oneself and others.
- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student identifies and explains healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) classify foods by the nutrients they provide;
 - (B) plan a balanced meal that follows government nutrition guidelines;
 - (C) examine nutrition labels to identify the difference between foods containing natural sugars and foods with added sugars or sweeteners; and
 - (D) identify and categorize foods based on saturated and unsaturated fat content.
- (7) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to describe the importance of accessing health information through a variety of credible health resources.
- (8) Healthy eating and physical activity--risk and protective factors. The student identifies and explains risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) identify the common food allergens listed on food packaging; and
 - (B) describe how healthy and unhealthy behaviors affect body systems and demonstrate refusal skills in dealing with unhealthy eating situations.
- (9) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to develop a home-safety and emergency response plan such as a fire safety plan.
- (10) Injury and violence prevention and safety--healthy relationships and conflict-resolution skills. The student differentiates between healthy and unhealthy relationships and demonstrates effective

strategies to address conflict. The student is expected to identify refusal skills such as saying "no" when privacy, personal boundaries, or personal space are not respected.

- (11) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) identify reasons for avoiding violence, gangs, weapons, and drugs;
 - (B) identify characteristics of safe home, school, and community environments; ~~and~~
 - (C) discuss the hazards of unsupervised and improper handling of guns and other weapons ; ~~and~~ [;]
 - (D) create a personal safety plan.
- (12) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) identify and discuss the need for safety awareness in a digital or online environment;
 - (B) identify appropriate ways to communicate in digital and online environments;
 - (C) discuss who is appropriate to communicate with and what is appropriate information to share in digital and online environments; ~~and~~
 - ~~(D) describe the importance of taking personal responsibility in digital and online environments; and]~~
 - (D) ~~(E)~~ explain consequences that result from cyberbullying and inappropriate digital and online usage.
- (13) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) describe how to effectively respond to bullying and cyberbullying of oneself or others;
 - (B) explain the importance of seeking assistance in making decisions about personal safety; ~~and~~
 - (C) define [~~identify examples of~~] abuse and neglect [~~and describe how to respond~~] .
- (14) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) identify misuse and proper use of over-the-counter and prescription drugs; and
 - (B) describe the harmful effects of alcohol, tobacco, other drugs, and dangerous substances, including inhalants, vaping products, and household products, on physical health.
- (15) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to describe the harmful effects of alcohol, tobacco, other drugs, and dangerous substances such as inhalants and household products on mental and social health.
- (16) Alcohol, tobacco, and other drugs--treatment. The student understands how to seek emergency help for self and others in poisoning and overdose situations. The student is expected to describe the signs of poisoning or overdose and identify how to respond, including who to contact for help.
- (17) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:

- (A) describe how friends can influence a person's decision to use or not use alcohol or drugs; and
 - (B) describe the difference between reporting and tattling and why it is important to report the use of alcohol, tobacco, and other drugs by friends or peers.
- (18) Alcohol, tobacco, and other drugs--prevention. The student demonstrates refusal skills to avoid substance use and misuse. The student is expected to demonstrate refusal skills related to alcohol, tobacco, and other drugs using assertive communication.

§115.16. Health Education, Grade 4, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.
- (3) In Grade 4 and higher, students gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems will lay the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
 - (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
 - (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying prevention, first aid, and the

identification of safe and unsafe situations creates empowered and educated students able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.

~~(E)~~ The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.

~~(F)~~ Beginning in Grade 4, students learn about changes associated with adolescent development in the reproductive and sexual health strand. In subsequent grade levels, students identify the purpose of these changes and their role in fertilization and reproduction. Students learn the characteristics of healthy and unhealthy relationships and how to use communication and refusal skills to set personal boundaries in dating/romantic relationships. Students also identify how to respond to sexual harassment and abuse.

~~(4)~~ An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:

~~(A)~~ a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));

~~(B)~~ the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));

~~(C)~~ the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));

~~(D)~~ the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and

~~(E)~~ the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).

~~(5)~~ Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).

~~(6)~~ ~~(4)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

~~(7)~~ ~~(5)~~ Students should first seek guidance in the area of health from a parent or legal guardian.

~~(b)~~ Knowledge and skills.

~~(1)~~ Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to name, locate, and describe the primary function and major components of the body systems, including the nervous, immune, digestive, and integumentary systems.

~~(2)~~ Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:

~~(A)~~ explain the importance of health information and how it can be used;

- (B) describe how health care decision making is influenced by external factors such as cost and access;
 - (C) explain strategies for maintaining personal hygiene and health habits;
 - (D) distinguish between communicable and noncommunicable illnesses;
 - (E) explain actions to take when illness occurs, including asthma, diabetes, and epilepsy; and
 - (F) define vector-borne illnesses and describe how to reduce their risk.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) analyze how thoughts and emotions influence behaviors;
 - (B) describe the importance of identifying and reframing thoughts and applying calming and self-management strategies when dealing with strong emotions, including anger;
 - (C) discuss and explain how the brain develops during childhood and the role the brain plays in behavior;
 - (D) identify positive and negative characteristics of social groups;
 - (E) explain the importance of being a positive role model;
 - (F) explain the importance of demonstrating consideration when communicating with individuals who use diverse methods to communicate such as different languages or adaptive methods;
 - (G) identify verbal, physical, and situational cues that indicate how others may feel; and
 - (H) explain the difference between assertive behavior and aggressive behavior.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) discuss ways to help build self-esteem of self, friends, and others . including areas for one's personal growth and ways to gather constructive feedback ;
 - (B) explain the advantages of setting short- and long-term goals; and
 - (C) explain the importance of time management with respect to a goal.
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) describe methods for managing concerns related to long-term health conditions for self and others;
 - (B) differentiate between positive and negative stress;
 - (C) define sources of stress, including trauma, loss, and grief;
 - (D) discuss ways to promote a healthy body image; and
 - (E) identify ways to express and manage overwhelming emotions without harming oneself, others, or property such as calming strategies or talking to a parent or another trusted adult.
 - (E) identify self harm behaviors that may present when someone is struggling to manage overwhelming emotions or lacks support and explain the importance of telling a parent or trusted adult if observed in self or others.]

- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student identifies and explains healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) explain why the body needs each of the six major nutrients contained in foods;
 - (B) identify nutritional information on menus and food labels;
 - (C) determine appropriate portion sizes when eating out, including at fast food restaurants;
 - (D) identify the recommended guidelines for added sugar consumption and explain how excess sugar consumption can impact health, including causing dental cavities and obesity; and
 - (E) identify healthy fast food choices such as ordering smaller serving sizes and substituting salads for fries and grilled foods for fried foods and their associated impacts on health.
- (7) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to identify the physical, mental, and social benefits of physical fitness.
- (8) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to:
- (A) describe the importance of goal setting and set a goal for making healthy food choices; and
 - (B) gather data from a variety of credible sources to help make informed nutritional and physical activity choices.
- (9) Healthy eating and physical activity--risk and protective factors. The student identifies and explains risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) describe the connection between physical activity and the prevention of obesity, heart disease, and diabetes; and
 - (B) differentiate between healthy and unhealthy eating habits and demonstrate refusal skills in dealing with unhealthy eating situations.
- (10) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to identify and demonstrate strategies for preventing and responding to injuries.
- (11) Injury and violence prevention and safety--healthy relationships and conflict-resolution skills. The student differentiates between healthy and unhealthy relationships and demonstrates effective strategies to address conflict. The student is expected to explain the importance of using refusal skills such as saying "no" when privacy, personal boundaries, or personal space are not respected.
- (12) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) identify strategies for avoiding violence, gangs, and weapons [~~and drugs~~];
 - (B) identify characteristics of gang behavior;
 - (C) identify strategies that can be used to promote safety in homes, schools, and communities; and
 - (D) create a personal safety plan.

~~[(D) — demonstrate safety procedures that can be used in various situations, including violence in the home, school, and community.]~~

- (13) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) differentiate between appropriate and inappropriate ways to communicate in digital and online environments;
 - (B) explain what information is appropriate to share and who it is appropriate to share information with in digital and online environments; and
 - (C) discuss the consequences of cyberbullying and inappropriate digital and online communication in relation to home and school environments.
- (14) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) analyze distinguishing characteristics of cyberbullying;
 - (B) describe the negative impact bullying, including cyberbullying, has on both the victim and the bully;
 - (C) explain the importance of seeking guidance from parents and other trusted adults on critical personal safety issues; and
 - (D) identify types of abuse and neglect and ways to seek help from a parent or **another** trusted adult.
- (15) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) explain why some drugs require a prescription; and
 - (B) identify the differences between prescription drugs, over-the-counter drugs, other drugs, and dangerous substances, including inhalants, vaping products, and household products.
- (16) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) describe the short- and long-term harmful effects of alcohol, tobacco, other drugs, and dangerous substances such as inhalants and household products on mental and social health; and
 - (B) describe the legal consequences of the misuse of alcohol, tobacco, other drugs, and dangerous substances.
- (17) Alcohol, tobacco, and other drugs--treatment. The student understands how to seek emergency help for self and others in poisoning and overdose situations. The student is expected to describe the signs of poisoning or overdose and identify how to respond, including who to contact for help.
- (18) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) distinguish between positive and negative peer influences and their effects on a person's decision to use or not use alcohol or drugs; and
 - (B) identify methods available to report unsafe situations related to alcohol, tobacco, and other drugs.

- (19) Alcohol, tobacco, and other drugs--prevention. The student demonstrates refusal skills to avoid substance use and misuse. The student is expected to:
- (A) demonstrate refusal skills using assertive communication related to alcohol, tobacco, and other drugs; and
 - (B) identify ways to avoid drugs and discuss healthy alternative activities to the use of drugs and other substances.
- (20) Reproductive and sexual health--anatomy, puberty, and reproduction [~~and pregnancy~~]. The student identifies [analyzes] adolescent development [~~the process of fertilization, and healthy fetal development~~]. The student is expected to:
- (A) explain changes that occur in males and females during puberty and adolescent development; and
 - (B) define the menstrual cycle.

§115.17. Health Education, Grade 5, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies.
- (3) In Grade 4 and higher, students gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems will lay the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
 - (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential

nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.

- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying **prevention**, first aid, and the identification of safe and unsafe situations creates empowered and educated students able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and **other** trusted adults.
- (F) Beginning in Grade 4, students learn about changes associated with adolescent development in the reproductive and sexual health strand. In subsequent grade levels, students identify the purpose of these changes and their role in fertilization and reproduction. Students learn the characteristics of healthy and unhealthy relationships and how to use communication and refusal skills to set personal boundaries in dating/romantic relationships. Students also identify how to respond to sexual harassment and abuse.

(4) **An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:**

- (A) **a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));**
- (B) **the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));**
- (C) **the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));**
- (D) **the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and**
- (E) **the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).**

(5) **Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).**

(6) ~~(4)~~ **Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.**

(7) ~~(5)~~ **Students should first seek guidance in the area of health from a parent or legal guardian.**

(b) **Knowledge and skills.**

(1) **Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to**

- describe the structure, functions, and interdependence of the major body systems, including the reproductive, endocrine, and urinary systems.
- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
- (A) explain how to manage common minor illnesses such as colds and skin infections;
 - (B) identify how to distinguish between myth and fact when accessing information about health;
 - (C) identify decision-making skills that promote individual, family, and community health;
 - (D) describe the benefits of promoting health maintenance for individuals and households;
 - (E) analyze how personal hygiene helps prevent the spread of germs and communicable illnesses; and
 - (F) distinguish between treatments if infected by various vectors, including ticks and mosquitos.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) analyze how thoughts and emotions influence behaviors;
 - (B) practice and apply strategies for calming and self-management;
 - (C) explain ways of maintaining healthy relationships and resisting **negative peer influence [pressure]** in social groups;
 - (D) analyze how to identify perspectives and respectful ways to communicate disagreement with friends, family, teachers, and others;
 - (E) define and differentiate between sympathy and empathy toward others; and
 - (F) describe ways to engage in and promote positive interactions when conflict arises.
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) identify and demonstrate strategies to help build self-esteem for self, friends, and others;
 - (B) describe benefits of setting and implementing short- and long-term goals and perseverance to achieve those goals; **[and]**
 - (C) discuss choices and decision making as part of goal setting ; **and [;]**
 - (D) **identify goals that one wishes to achieve, including identifying areas for one's personal growth and ways to gather constructive feedback.**
- (5) Mental health and wellness--risk and protective factors. The student recognizes the influence of various factors on mental health and wellness. The student is expected to:
- (A) identify factors such as school climate and safety measures that affect an individual's physical, emotional, and social health; and
 - (B) discuss how brain development during childhood affects emotions and decision making.
- (6) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:

- (A) compare and contrast healthy and unhealthy methods for managing concerns related to long-term health conditions for self and others;
 - (B) identify situations in which stress can help to achieve goals and build resiliency;
 - (C) examine ways to reduce the impact of stress, trauma, loss, and grief;
 - (D) define eating disorders and disordered eating patterns as mental health concerns and the importance of seeking help from a parent or another trusted adult for self or others if these patterns are observed;
 - (E) describe situations that call for professional mental [and behavioral] health services; and
 - (F) discuss healthy [self-management] alternatives to [prevent] harming oneself, others, or property and the importance of telling a parent or another trusted adult when someone is struggling to manage overwhelming emotions or lacks support.
- (7) Healthy eating and physical activity--food and beverage daily recommendations. The student analyzes and applies healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) identify foods that are sources of one or more of the six major nutrients;
 - (B) examine food labels and menus for nutritional content, calories, and serving sizes;
 - (C) identify the amount of sugar in common beverages and snacks and the daily recommended allowance for added sugar; and
 - (D) identify caffeine content of common beverages and health concerns associated with excess caffeine consumption.
- (8) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to explain the physical, mental, and social benefits of fitness.
- (9) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to:
- (A) describe the importance of goal setting and set a goal for achieving appropriate levels of physical activity; and
 - (B) research and evaluate health products and information about physical activity and nutritional choices.
- (10) Healthy eating and physical activity--risk and protective factors. The student analyzes and applies risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) describe the connection between dietary choices and the prevention of obesity, heart disease, and diabetes; and
 - (B) identify attitudes and behaviors that can reduce the likelihood of developing chronic conditions such as obesity, heart disease, or diabetes.
- (11) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to analyze strategies for preventing and responding to injuries.
- (12) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) explain strategies for avoiding violence, gangs, and weapons [-and drugs] and define human trafficking;

- (B) examine characteristics of gang behavior;
- ~~[(C) define safe haven and identify designated safe haven locations in the community; and~~
- (C) ~~[(D)]~~ identify [evaluate] safety procedures that can be used in various situations, including violence in the home, school, and community ; and []
- ~~(D) create a personal safety plan.~~
- (13) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) distinguish between appropriate and inappropriate boundaries for digital and online communication and research;
- (B) explain the benefits of identity protection in digital and online environments; and
- (C) analyze the consequences of cyberbullying and inappropriate digital and online communication in relation to home, school, and community environments.
- (14) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- ~~[(A) compare and contrast healthy and unhealthy behaviors that may be present in families or households;~~
- ~~[(B) identify forms of family violence, including physical, mental, and emotional violence;~~
- (A) ~~[(C)]~~ identify methods available to report bullying;
- (B) ~~[(D)]~~ identify ways to advocate for self and others to prevent bullying and cyberbullying behavior; and
- (C) ~~[(E)]~~ explain the impact of abuse and neglect and the importance of reporting abuse and neglect.
- (15) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between the use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) explain the reasons to avoid the misuse of over-the-counter and prescription drugs;
- (B) identify and explain the importance of each component of prescription and over-the-counter drug labels; and
- (C) describe the physiological effects of alcohol, vaping products, tobacco, other drugs, and dangerous substances.
- (16) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) analyze the short- and long-term harmful effects of alcohol, tobacco, other drugs, and dangerous substances such as inhalants and household products on the functions of the body systems and mental and social health; and
- (B) ~~[analyze the short and long term harmful effects of alcohol, tobacco, other drugs, and dangerous substances and~~ describe the legal consequences of the [their] illegal use of alcohol, tobacco, other drugs, and dangerous substances .
- (17) Alcohol, tobacco, and other drugs--treatment. The student understands how to seek emergency help for self and others in poisoning and overdose situations. The student is expected to describe the signs of poisoning or overdose and identify how to respond, including who to contact for help.

- (18) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) analyze how positive peer influence can be used to help a person decide not to use alcohol or drugs; and
 - (B) describe the importance of seeking help and reporting unsafe situations related to alcohol, tobacco, and other drugs.
- (19) Alcohol, tobacco, and other drugs--prevention. The student demonstrates refusal skills to avoid substance use and misuse. The student is expected to:
- (A) assess how being assertive, using refusal skills, and evaluating peer influence can affect decision making and problem solving;
 - (B) identify a variety of scenarios and the different types of refusal skills that can be used to avoid the use of alcohol, tobacco, and other drugs; and
 - (C) identify and describe healthy alternative activities to the use of drugs and other substances.
- (20) Reproductive and sexual health--healthy relationships. The student understands the characteristics of healthy romantic relationships. The student is expected to [±]
- ~~(A) define and distinguish between friendship, infatuation, dating/romantic relationships and marriage; and~~
 - ~~(B) identify characteristics of healthy dating/romantic relationships and marriage, including sharing, kindness, honesty, respect, trust, patience, communication, and compatibility.~~
- (21) Reproductive and sexual health--personal safety, limits, and boundaries. The student understands how to set and respect personal boundaries to reduce the risk of sexual abuse and harassment. The student is expected to:
- (A) define sexual harassment, sexual abuse, sexual assault, and sex trafficking;
 - (B) identify ways of reporting suspected sexual abuse involving self or others such as telling a parent or another trusted adult;
 - (C) identify refusal skills such as saying "no" to any unwanted touch that violates personal boundaries in relationships; and
 - (D) discuss and explain the importance of making decisions regarding setting personal boundaries and respecting the boundaries of others [related to physical intimacy such as holding hands, hugging, and kissing].
- (22) Reproductive and sexual health--anatomy, puberty, reproduction, and pregnancy. The student identifies the processes of [analyzes] adolescent development, [the process of] fertilization, and healthy fetal development. The student is expected to:
- (A) explain the physical, social, and emotional changes that occur in males and females during puberty and adolescent development;
 - (B) describe the process of the menstrual cycle;
 - (C) identify and describe the role of hormones in the growth and development of secondary sex characteristics such as body hair growth and voice change in males; [and]
 - (D) define the processes of fertilization and reproduction ; and [±]
 - (E) identify significant milestones of fetal development.

Chapter 115. Texas Essential Knowledge and Skills for Health Education

Subchapter B. Middle School

§115.25. Implementation of Texas Essential Knowledge and Skills for Health Education, Adopted 2020.

- (a) The provisions of §115.26 and §115.27 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for health education as adopted in §115.26 and §115.27 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §115.26 and §115.27 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §115.26 and §115.27 of this subchapter shall be implemented for the following school year.
- (e) Sections 115.21-115.23 of this subchapter shall be superseded by the implementation of §§115.25-115.27 of this subchapter.

§115.26. Grade 6, Adopted 2020.

- (a) Introduction.
 - (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
 - (2) There are essential skills that repeat throughout the six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies. In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.
 - (3) Students gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.

- (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
- (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying **prevention**, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and **other** trusted adults.
- (F) Beginning in Grade 4, students learn about changes associated with adolescent development in the reproductive and sexual health strand. In subsequent grade levels, students identify the purpose of these changes and their role in fertilization and reproduction. Students learn the characteristics of healthy and unhealthy relationships and how to use communication and refusal skills to set personal boundaries in dating/romantic relationships. Students also identify how to respond to sexual harassment and abuse.
- (4) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:
- (A) a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));
- (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));
- (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));
- (D) the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and
- (E) the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).

(5) Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).

(6) ~~(4)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(7) ~~(5)~~ Students should first seek guidance in the area of health from a parent or legal guardian.

(b) Knowledge and skills.

(1) Physical health and hygiene--body systems. The student examines the structure, function, and relationships of body systems and their relevance to personal health. The student is expected to explain how to maintain the healthy status of body systems.

(2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:

(A) compare immediate and long-term effects of personal health care choices such as personal and dental hygiene;

(B) develop criteria for evaluating the validity of health information and sources;

(C) describe ways to demonstrate decision-making skills based on health information;

(D) identify current health-related issues and recommendations or guidelines;

(E) explain the role of preventive health measures, immunizations, and treatment such as wellness exams and dental check-ups in disease prevention;

(F) describe actions that should be taken when illness occurs, including asthma, diabetes, and epilepsy; and

(G) describe and recognize the signs, symptoms, and treatments of vector-borne illnesses such as Lyme disease or West Nile Virus.

(3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:

(A) demonstrate healthy methods for communicating emotions in a variety of scenarios;

(B) assess and demonstrate healthy ways of responding to conflict;

(C) differentiate between positive and negative peer influence;

(D) describe methods for communicating important issues with and understanding perspectives of parents and peers;

(E) discuss and demonstrate how to listen and respect others' feelings and perspectives in a variety of scenarios; and

(F) identify strategies for using non-violent conflict resolution skills.

(4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:

(A) identify how physical and social changes impact self-esteem;

(B) identify possible health ~~benefits~~ ~~[implications]~~ of ~~setting and implementing~~ long-term personal goals;

(C) create and discuss personal life goals that one wishes to achieve and consider the financial impact of graduating from high school, having a full-time job, and waiting until marriage if one plans to have children; and

- (D) explain the steps in the decision-making process and the importance of following the steps.
- (5) Mental health and wellness--risk and protective factors. The student recognizes the influence of various factors on mental health and wellness. The student is expected to:
- ~~(A) identify hereditary mental health and wellness conditions;~~
- (A) ~~(B)~~ identify and discuss how adolescent brain development influences emotions, decision making, and logic; and
- (B) ~~(C)~~ relate physical environmental factors such as school climate and availability of resources to individual, family, and community health.
- (6) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) examine the outcomes of healthy and unhealthy methods for managing challenges related to long-term health conditions of self and others;
- (B) identify and describe lifetime strategies for managing ~~[coping with]~~ conditions that impact learning such as attention-deficit disorder (ADD), attention-deficit/hyperactivity disorder (ADHD), dyslexia, dysgraphia, and sensory issues;
- (C) identify how to respond positively to develop resiliency;
- (D) describe healthy and unhealthy self-management strategies for stress, anxiety, depression, trauma, loss, and grief;
- (E) identify causes and effects associated with disordered eating and eating disorders such as bulimia, anorexia, and binge eating disorder and the importance of seeking help from a parent or another trusted adult for oneself or others related to disordered eating;
- (F) discuss the suicide risk and suicide protective factors ~~[warning signs associated with suicide as]~~ identified by the Centers for Disease Control and Prevention (CDC) and the importance of telling a parent or another trusted adult if one observes the warning signs in self or others;
- (G) explain the role of a healthy self-concept in avoiding self-harming ~~[describe why self-harm]~~ behaviors that can occur when someone is struggling to manage overwhelming emotions ~~[or lacks support]~~ ; and
- (H) identify suicide prevention resources such as the National Suicide Prevention Hotline.
- (7) Healthy eating and physical activity--food and beverage daily recommendations. The student analyzes and applies healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) define micronutrients, including calcium and iron, and their recommended daily allowances;
- (B) compare and contrast common food labels and menus for nutritional content and calories;
- (C) describe healthy and unhealthy dietary practices;
- (D) explain the importance of a realistic personal dietary plan; and
- (E) evaluate the importance of choosing lower sodium alternatives to foods that have high levels of sodium such as salty snacks and canned vegetables.
- (8) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to:
- (A) identify the CDC guidelines for daily physical activity throughout the lifespan; and

- (B) analyze the benefits of regular physical activity on mental, physical, and social health.
- (9) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to:
- (A) make a variety of healthy personal food choices and develop short- and long-term goals to achieve appropriate levels of physical activity and improve personal physical fitness levels; and
- (B) explain the role of media and technology in influencing individual and community health related to physical activity and nutritional choices.
- (10) Healthy eating and physical activity--risk and protective factors. The student analyzes and applies risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) analyze the impact of moderate physical activity and dietary choices on the prevention of obesity, heart disease, and diabetes;
- (B) identify strategies to adopt healthy behaviors to reduce the likelihood of developing chronic conditions such as obesity, heart disease, or diabetes;
- (C) analyze internal and external factors that influence healthy eating and physical activity behaviors; and
- (D) discuss the nutritional differences ~~between~~ ~~in~~ preparing and serving fresh ~~or minimally processed~~ foods ~~and commercially prepared or highly~~ ~~versus serving ready-prepared;~~ processed foods.
- (11) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to describe basic first-aid procedures.
- (12) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) discuss and demonstrate strategies for avoiding violence, gangs, weapons, and human trafficking;
- (B) define safe haven and identify dedicated safe haven locations in the community;
- ~~(B) examine safety procedures that can be used in various situations, including violence in the home, school, and community;~~
- (C) describe the dangers associated with a variety of weapons; ~~and~~
- (D) explain the importance of complying with rules prohibiting possession of weapons ; ~~and~~
- ~~(E) create a personal safety plan.~~
- (13) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) discuss appropriate personal digital and online communication boundaries;
- (B) develop strategies to resist inappropriate digital and online communication such as ~~social media posts,~~ sending and receiving photos, sexting, and pornography;
- (C) discuss and analyze consequences resulting from inappropriate digital and online communication such as ~~social media posts,~~ sending and receiving photos, sexting, and pornography;

- (D) discuss strategies and techniques for identity protection in digital and online environments;
- (E) identify how technology is used to recruit or manipulate potential victims of sex trafficking; and
- (F) identify the current legal consequences of cyberbullying and inappropriate digital and online communication.
- (14) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- ~~[(A) — identify strategies for managing unhealthy behaviors such as abuse, alcoholism, and neglect in the family or household;]~~
- (A) ~~[(B)]~~ identify how exposure to family violence can influence behavior and the importance of reporting suspected abuse ;
- (B) ~~[(C)]~~ assess healthy and appropriate ways of responding to and discouraging bullying and cyberbullying, including behavior that takes place at school;
- (C) ~~[(D)]~~ analyze the impact that bullying has on both victims and bullies;
- (D) ~~[(E)]~~ identify strategies for prevention and intervention of all forms of bullying and [or] cyberbullying such as emotional, physical, social, and sexual; and
- (E) ~~[(F)]~~ discuss ways to seek the input of parents and other trusted adults in problem solving issues relating to violence and bullying.
- (15) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) describe the misuse and abuse of prescription and over-the-counter drugs, including combining drugs, and the dangers associated with each;
- (B) compare and contrast examples of prescription and over-the-counter drug labels;
- (C) identify and describe practices used to safely store and properly dispose of prescription and over-the-counter drugs; and
- (D) describe substance abuse and addiction to ~~[prescription drugs, over-the-counter drugs;]~~ alcohol, vaping products, tobacco, other drugs, and dangerous substances.
- (16) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) describe the short- and long-term health consequences of prescription and over-the-counter drug misuse and substance use disorders; and
- (B) discuss the legal consequences related to the use , ~~[and]~~ misuse , and possession of drugs, including prescription drugs ; ~~[-and]~~
- ~~[(C) — explain the importance of complying with rules prohibiting the possession of drugs.]~~
- (17) Alcohol, tobacco, and other drugs--treatment. The student recognizes and understands the options for treatment and how to seek help related to the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) identify ways to report a suspected abuse of drugs to a parent, school administrator, teacher, or another trusted adult;

- (B) identify signs and symptoms of alcohol; tobacco; drugs, including prescription drugs; and other substance use and misuse such as using medicine prescribed for someone else or for reasons other than intended;
- (C) identify ~~examples~~ [at least one example] of who, when, where, and how to get help related to ~~unsafe situations regarding~~ the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances.
- (18) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) explain the impact of peer influence on decision making regarding the use of alcohol, tobacco, and other drugs;
- (B) describe methods for differentiating between positive and negative relationships that can influence alcohol, tobacco, and other drug use;
- (C) identify physical and social influences on alcohol, tobacco, and other drug use behaviors; ~~and~~
- (D) explain the relationships between alcohol, tobacco, drugs, and other substances and the role each can play in unsafe situations such as drinking and driving . ~~;~~ ~~and~~]
- ~~[(E) identify methods available to report unsafe situations related to alcohol, tobacco, and other drugs.]~~
- (19) Alcohol, tobacco, and other drugs--prevention. The student analyzes information and applies critical-thinking skills to avoid substance use and misuse and recognizes the benefits of delayed use. The student is expected to:
- (A) identify ways such as alternative activities and refusal skills to prevent or avoid the use of alcohol, tobacco, drugs, and other substances;
- (B) demonstrate refusal skills in various scenarios where alcohol, tobacco, and other drugs may be present; ~~and~~
- (C) identify and describe strategies for avoiding alcohol, tobacco, and other drugs, including opioids . ~~;~~ ~~and~~]
- ~~[(D) identify the benefits of various health behaviors such as choosing not to smoke.]~~
- (20) Reproductive and sexual health--healthy relationships. The student understands the characteristics of healthy romantic relationships. The student is expected to:
- (A) ~~define and distinguish~~ [~~compare and contrast the differences~~] between friendship, infatuation, dating/romantic relationships, and marriage;
- (B) describe how friendships provide a foundation for healthy dating/romantic relationships;
- (C) list healthy ways to express friendship, affection, and love;
- (D) describe characteristics of healthy dating/romantic relationships and marriage, including sharing, kindness, honesty, respect, trust, patience, communication, and compatibility;
- (E) explain that each person in a ~~dating/romantic~~ [~~dating~~] relationship should be treated with dignity and respect; and
- (F) describe how healthy marriages can contribute to healthy families and communities.
- (21) Reproductive and sexual health--personal safety, limits, and boundaries. The student understands how to set and respect personal boundaries to reduce the risk of sexual harassment, sexual abuse, and sexual assault. The student is expected to:
- (A) identify that physical, emotional, and sexual abuse and exploitation are all forms of abuse;

- (B) identify the social and emotional impacts of sexual harassment, sexual abuse, sexual assault, and sex trafficking;
 - (C) list the characteristics of unhealthy or harmful relationships, including anger, controlling behavior, jealousy, manipulation, and isolation;
 - (D) identify ways of reporting suspected sexual abuse involving self or others such as telling a parent or ~~another~~ trusted adult;
 - (E) explain how a healthy sense of self and ~~making and respecting decisions about~~ ~~[decision making regarding]~~ safe boundaries and limits ~~promote~~ ~~[promotes]~~ healthy dating/romantic relationships;
 - (F) identify communication and refusal skills and how they can be applied in dating/romantic relationships; and
 - (G) explain the importance of clearly communicating ~~and~~ ~~[]~~ respecting personal boundaries ~~[]~~ and using refusal skills related to physical intimacy such as holding hands, hugging, and kissing.
- (22) Reproductive and sexual health--anatomy, puberty, reproduction, and pregnancy. The student analyzes adolescent development, the process of fertilization, and healthy fetal development. The student is expected to:
- (A) describe changes in male and female anatomy and physiology during puberty and how rates and patterns of development can vary between individuals;
 - (B) describe the process, characteristics, and variations of the menstrual cycle;
 - (C) analyze the role of hormones related to growth and development and personal health;
 - (D) describe the cellular process of fertilization in human reproduction; and
 - (E) ~~explain~~ ~~[identify]~~ significant milestones of fetal development.
- (23) Reproductive and sexual health--sexual risk. The student understands that there are risks associated with sexual activity and that abstinence from sexual activity is the only 100% effective method to avoid risks. The student is expected to:
- (A) identify teen pregnancy as a possible outcome of sexual activity;
 - (B) identify life goals that one wishes to achieve prior to becoming a parent;
 - (C) define sexually transmitted infections (STIs) and sexually transmitted diseases (STDs) as infections or diseases that are spread through sex or sexual activity;
 - (D) identify ~~what~~ ~~[that there are]~~ emotional risks ~~are~~ associated with sexual activity between unmarried persons of school age;
 - (E) define abstinence as refraining from all forms of sexual activity and genital contact between individuals and discuss the importance of seeking support from parents, ~~other~~ trusted adults, and peers to be abstinent;
 - (F) explain why abstinence is the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
 - (G) identify why abstinence from sexual activity is the only method that is 100% effective in preventing pregnancy; ~~STDs/STIs~~ ~~[STIs]~~ , including human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS); and the emotional risks associated with adolescent sexual activity;
 - (H) list the benefits of abstinence from sexual activity such as increased self-esteem, self-confidence, student academic achievement, and alignment with personal, family, and moral or religious beliefs and values; and
 - (I) explain how laws protect victims of sexual harassment, sexual abuse, and sexual assault.

§115.27. Grades 7-8, Adopted 2020.

(a) Introduction.

- (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
- (2) There are essential skills that repeat throughout the six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies. In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.
- (3) Students gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.

 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empower students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
 - (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
 - (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying **prevention**, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.

- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.
- (F) Beginning in Grade 4, students learn about changes associated with adolescent development in the reproductive and sexual health strand. In subsequent grade levels, students identify the purpose of these changes and their role in fertilization and reproduction. Students learn the characteristics of healthy and unhealthy relationships and how to use communication and refusal skills to set personal boundaries in dating/romantic relationships. Students also identify how to respond to sexual harassment and abuse.
- (4) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:
- (A) a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));
- (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));
- (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));
- (D) the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and
- (E) the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).
- (5) Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).
- (6) ~~(4)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (7) ~~(5)~~ Students should first seek guidance in the area of health from a parent or legal guardian.
- (b) Knowledge and skills.
- (1) Physical health and hygiene--body systems. The student examines the structures, functions, and relationships of body systems and their relevance to personal health. The student is expected to describe the relationships among the body systems.
- (2) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
- (A) list specific resources or facilities where members of the community can obtain medical care;
- (B) explain ways to use health information to help self and others, including seizure awareness, diabetes education, and response plans such as first aid or cardiopulmonary resuscitation (CPR);
- (C) identify barriers related to solving health problems and ways to overcome barriers; and

- (D) explain the course, signs, symptoms, and treatments of vector-borne illnesses such as Lyme disease or West Nile Virus.
- (3) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) identify and analyze different emotions and ~~causal~~ [casual] thoughts in self;
- (B) analyze the relationship between thoughts, feelings, and behaviors and demonstrate healthy techniques for managing reactions in times of emotional stress;
- (C) evaluate the importance of social groups and peer influences and explain how they can affect individual mental health and wellness;
- (D) demonstrate perspective-taking and communication skills for building and maintaining healthy relationships and determining when and how to end unhealthy relationships;
- (E) analyze similarities and differences between one's own and others' perspectives; ~~and~~
- ~~[(F) analyze and demonstrate appropriate ways to discourage inconsiderate and disrespectful behavior, including in school; and]~~
- ~~[(G) practice conflict resolution and mediation skills.]~~
- (4) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to:
- (A) describe how internal and external factors influence self-esteem;
- (B) identify and develop strategies for setting long-term personal goals;
- (C) create and discuss personal life goals that one wishes to achieve and consider the financial impact of graduating from high school, having a full-time job, and waiting until marriage if one plans to have children; and
- (D) identify decision-making skills that promote individual, family, and community mental health.
- (5) Mental health and wellness--risk and protective factors. The student recognizes the influence of various factors on mental health and wellness. The student is expected to:
- ~~[(A) understand genetic and biological factors in the potential development of mental health and wellness conditions;]~~
- ~~[(B) explain how adolescent brain development influences cognitive processing, emotions, and decision making;]~~
- ~~[(C) identify and describe how environmental influences such as air, water, or noise can affect an individual's mental health; and]~~
- ~~[(D) discuss mental health-related social issues such as homelessness; and]~~
- ~~[(E) discuss the influence of childhood trauma and how to recognize, process, and overcome negative events.]~~
- (6) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) describe methods to support others who have long-term physical health conditions;
- (B) examine ways to influence peers positively and promote resiliency in others in stressful situations;

- (C) differentiate between healthy and unhealthy self-management strategies for stress, anxiety, depression, trauma, loss, and grief;
- (D) describe the consequences of disordered eating and eating disorders such as bulimia, anorexia, and binge eating disorder and the importance of seeking help from a parent or another trusted adult for oneself or others related to disordered eating;
- (E) discuss ~~the suicide risk and suicide~~ protective factors [~~of suicide~~] identified by the Centers for Disease Control and Prevention (CDC) ~~and the importance of telling a parent or another trusted adult if one observes the warning signs in self or others~~ ;
- (F) research ~~and discuss protective factors and~~ healthy self-management strategies to avoid ~~self-harming behaviors~~ [~~harming oneself~~] ; and
- (G) examine how the use of suicide prevention resources such as the National Suicide Prevention Hotline can reduce the likelihood of suicide.
- (7) Healthy eating and physical activity--food and beverage daily recommendations. The student analyzes and applies healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) analyze food labels and menus to determine ~~the~~ nutritional value ~~of foods and make~~ healthy decisions about daily caloric intake ;
- ~~[(B) — analyze the impact of healthy dietary practices;]~~
- (B) ~~[(C)]~~ develop a personal dietary plan; and
- (C) ~~[(D)]~~ identify and practice strategies for choosing healthy foods and beverages in diverse social environments, including at home, at school, and while dining out.
- (8) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to:
- ~~[(A) — apply the CDC guidelines for daily physical activity to construct a personal activity plan;]~~
- (A) ~~[(B)]~~ explain the relationships between nutrition, physical activity, quality of life, and disease in terms of their mental, physical, and social benefits;
- (B) ~~[(C)]~~ identify how to balance caloric intake and physical activity [~~expenditures~~] ; and
- (C) ~~[(D)]~~ apply the CDC guidelines for daily physical activity to develop a physical fitness plan using appropriate technology.
- (9) Healthy eating and physical activity--nutrition and physical activity literacy. The student obtains, processes, and understands basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to:
- (A) develop and examine progress of short- and long-term goals toward achieving appropriate levels of physical activity, improving personal physical fitness level, and making healthy personal food choices; and
- (B) explain how media influences buying decisions regarding physical fitness equipment or nutritional products.
- (10) Healthy eating and physical activity--risk and protective factors. The student analyzes and applies risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) analyze the impact of moderate physical activity and healthy dietary practices in the prevention of obesity, heart disease, and diabetes;
- (B) analyze risk factors that may lead to the development of chronic conditions and formulate strategies to reduce the likelihood of developing chronic conditions;

- (C) identify community ~~and digital~~ resources that can assist in developing healthy eating and physical activity behaviors; and
- (D) investigate and compare the ~~nutritional~~ differences ~~between~~ ~~[in]~~ preparing and serving fresh food ~~or minimally processed food~~ and serving ~~commercially prepared or highly~~ ~~[ready-prepared,]~~ processed foods.
- (11) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to demonstrate basic first-aid procedures, including CPR and the choking rescue.
- (12) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) analyze strategies for and the benefits of avoiding violence, gangs, weapons, and human trafficking;
- (B) define safe haven and identify designated safe haven locations in the community;
- ~~[(C) — examine safety procedures that can be used in various situations, including violence in the home, school, and community;]~~
- ~~(C) [(D)]~~ evaluate the dangers associated with a variety of weapons; ~~[and]~~
- ~~(D) [(E)]~~ evaluate the importance of complying with rules prohibiting possession of and the improper use of weapons ; ~~and~~ ~~;~~
- ~~(E) — create a personal safety plan.~~
- (13) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) develop strategies to resist inappropriate digital and online communication such as ~~social media posts~~, sending and receiving photos, sexting, and pornography;
- (B) discuss and analyze the consequences resulting from inappropriate digital and online communication such as ~~social media posts~~, sending and receiving photos, sexting, and pornography;
- (C) evaluate strategies and techniques for identity protection in digital and online environments;
- (D) identify how technology is used to recruit or manipulate potential victims of sex trafficking; and
- (E) research the current legal consequences of cyberbullying and inappropriate digital and online communication.
- (14) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- ~~(A) — identify forms of family violence, including physical, mental, and emotional violence;~~
- ~~[(A) — analyze strategies for managing unhealthy behaviors in the family or household such as abuse, alcoholism, and neglect;]~~
- ~~[(B) — analyze how exposure to family violence can influence behavior;]~~
- ~~(B) [(C)]~~ describe the serious effects of bullying, cyberbullying, or harassment such as suicidal ideation and other effects on the individual;
- ~~(C) [(D)]~~ explain the responsibility to report bullying behavior, including cyberbullying;

- (D) ~~(E)~~ describe the seriousness of various forms of bullying such as harassment;
- (E) ~~(F)~~ analyze strategies for prevention and intervention of all forms of bullying and cyberbullying such as emotional, physical, social, and sexual ~~[preventing bullying, including cyberbullying and harassment]~~ ; and
- (F) ~~(G)~~ summarize the advantages of seeking advice and feedback regarding the use of decision-making and problem-solving skills related to personal safety ; ~~[;and]~~
- ~~[(H) — discuss the importance of reporting suspected abuse or neglect of self and others.]~~
- (15) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) differentiate between appropriate and inappropriate use of prescription and over-the-counter drugs, including combining drugs, and the outcomes of each;
- (B) identify and describe the categories of prescription drugs and their proper uses;
- (C) identify and explain the importance of each component of an over-the-counter drug warning label; and
- ~~[(D) — identify and describe the importance of the safe storage and proper disposal of prescription and over-the-counter drugs;]~~
- (D) ~~(E)~~ describe how substance misuse and addiction to alcohol, tobacco, vaping products, drugs, and other substances , including prescription drugs, ~~[drug abuse, and substance use disorders]~~ affect the body systems and brain ; ~~[;and]~~
- ~~[(F) — describe the harmful effects of addiction to alcohol, tobacco, drugs, and other substances such as inhalants and vaping and household products.]~~
- (16) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) analyze and explain the short- and long-term health consequences of addiction to alcohol and tobacco and prescription and over-the-counter drug misuse and substance use disorders;
- (B) analyze the importance of alternative activities [alternatives] to drug and substance use and misuse on mental and social health; and
- (C) analyze the legal consequences of the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances.
- (17) Alcohol, tobacco, and other drugs--treatment. The student recognizes and understands the options for treatment and how to seek help related to the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) identify and describe treatment options for substance abuse and addiction;
- (B) identify signs and symptoms of alcohol; tobacco; drugs, including prescription drugs; and other substance use and misuse such as using medicine prescribed for someone else or for reasons other than intended; and
- (C) identify at least one example of who, when, where, and how to get help related to the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances.
- (18) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:

- (A) examine the effects and role of peer influence on decision making and problem solving regarding the use and misuse of alcohol, tobacco, and other drugs;
- (B) examine ~~physical and~~ social influences on alcohol, tobacco, and other drug use behaviors;
- ~~[(C) discuss the influence of physical and social environmental factors on substance misuse and abuse;]~~
- (C) ~~[(D)]~~ differentiate among the relationships of alcohol, tobacco, drugs, and other substances and the roles these substances play in unsafe situations such as drinking and driving; and
- (D) ~~[(E)]~~ identify support systems and describe ways to report the suspected abuse of drugs to a parent, school administrator, teacher, or ~~another~~ ~~other~~ trusted adult.
- (19) Alcohol, tobacco, and other drugs--prevention. The student analyzes information and applies critical-thinking skills to avoid substance use and misuse and recognizes the benefits of delayed use. The student is expected to develop and apply strategies, including demonstrating refusal skills, for avoiding alcohol, tobacco, and other drugs in various scenarios.
- (20) Reproductive and sexual health--healthy relationships. The student understands the characteristics of healthy romantic relationships. The student is expected to:
- (A) compare and contrast the difference between friendship, infatuation, dating/romantic relationships, and marriage;
- ~~[(A) describe types of relationships such as platonic, romantic, and casual;]~~
- (B) explain how friendships provide a foundation for healthy dating/romantic relationships;
- (C) describe healthy ways to express friendship, affection, and love;
- (D) describe appropriate and effective methods of communicating emotions in healthy dating/romantic relationships and marriage;
- (E) evaluate the importance of mutual respect, trust, support, honesty, commitment, and reliability in healthy dating/romantic relationships and marriage;
- (F) describe behaviors in ~~dating/romantic~~ ~~romantic~~ relationships that enhance dignity ~~and~~ ~~;~~ respect ~~;~~ ~~and responsibility~~ ; and
- (G) describe the benefits of healthy marriages, including companionship and social, emotional, financial, and health benefits.
- (21) Reproductive and sexual health--personal safety, limits, and boundaries. The student understands how to set and respect personal boundaries to reduce the risk of sexual harassment, sexual abuse, and sexual assault. The student is expected to:
- (A) explain that physical, emotional, and sexual abuse and exploitation are all forms of abuse;
- (B) explain the social and emotional impacts of sexual harassment, sexual abuse, sexual assault, and sex trafficking;
- (C) define dating violence and the characteristics of unhealthy or harmful relationships, including anger, controlling behavior, jealousy, manipulation, and isolation;
- (D) identify protective strategies for avoiding unsafe situations that heighten the risk of sexual harassment, sexual abuse, sexual assault, sex trafficking, and teen dating violence;
- (E) explain the importance of reporting to a parent or ~~another~~ trusted adult sexual harassment, sexual abuse, sexual assault, sex trafficking, and dating violence involving self or others;
- (F) describe how a healthy sense of self and making ~~and respecting~~ decisions regarding ~~setting and respecting personal~~ ~~safe~~ boundaries ~~and limits~~ promote healthy dating/romantic relationships;

- (G) discuss and practice **how refusal skills can be used** to resist negative peer **influences [pressure]** and **reinforce personal boundaries to avoid dangerous situations and behaviors that increase sexual risk** in dating/romantic relationships; **and**
- ~~[(H) demonstrate how refusal skills can be used to set and reinforce limits and boundaries to avoid behaviors that increase sexual risk;]~~
- ~~[(H) (H) explain the importance of clearly communicating and respecting personal boundaries and why individuals have the right to refuse sexual contact ; **[-and]**~~
- ~~[(J) explain positive and negative peer influences regarding personal boundaries and consent.]~~
- (22) Reproductive and sexual health--anatomy, puberty, reproduction, and pregnancy. The student analyzes adolescent development, the process of fertilization, and healthy fetal development. The student is expected to:
- (A) compare and contrast the physical, hormonal, and emotional changes in males and females that occur during puberty and adolescence;
- (B) identify how the process of fertilization occurs between a man and a woman through sexual intercourse;
- (C) explain significant milestones of fetal development and the harmful effects on the fetus of certain substances such as alcohol, tobacco, and prescription drugs and environmental hazards such as lead;
- ~~[(D) describe the physical signs that indicate pregnancy;]~~
- ~~[(D) (E) describe the importance of telling a parent or **another** trusted adult, obtaining early pregnancy testing, and seeking prenatal care if signs of pregnancy occur; and~~
- ~~[(E) (E) define the emotional changes that may occur during and after pregnancy, including postpartum depression, and discuss resources for support and treatment.~~
- (23) Reproductive and sexual health--sexual risk. The student understands that there are risks associated with sexual activity and that abstinence from sexual activity is the only 100% effective method to avoid risks. The student is expected to:
- (A) explain how teen pregnancy is a possible outcome of sexual activity;
- (B) explain the short- and long-term educational, financial, and social impacts of pregnancy on teen parents, the child, families, and society;
- (C) identify the difference between bacterial and viral **sexually transmitted diseases/sexually transmitted infections (STDs/STIs) [sexually transmitted diseases (STDs) and sexually transmitted infections (STIs)]**, including long-term or lifetime effects such as infertility and cancer;
- ~~[(D) describe various modes of transmission of **STDs/STIs [STDs and STIs, including skin-to-skin contact and the exchange of bodily fluids through sexual contact]** ;~~
- ~~[(E) identify the prevalence of STDs/STIs among teens by referencing county, state, and/or federal data sources;~~
- ~~[(E) (E) list the signs and symptoms of **STDs/STIs [STDs and STIs]**, including human papillomavirus (HPV), human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS), chlamydia, syphilis, gonorrhea, herpes, and trichomoniasis, and explain why not all **STDs/STIs [STDs and STIs]** show symptoms initially;~~
- ~~[(G) (E) explain the importance of **STD/STI [STD and STI]** screening, testing, and early treatment for sexually active individuals, including during yearly physicals or if there is a concern;~~

- (H) ~~(G)~~ identify community resources, a minor's right to consent under certain circumstances, and the importance of parent or other trusted adult support for STD/STI testing and treatment;
- (I) ~~(H)~~ identify emotional risks that can be associated with sexual activity for unmarried persons of school age, including stress, anxiety, and depression;
- (J) ~~(I)~~ identify support from parents and other trusted adults to be abstinent from sexual activity and create strategies for building peer support to be abstinent;
- (K) ~~(J)~~ analyze the importance of abstinence as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
- (L) ~~(K)~~ analyze the effectiveness and the risks and failure rates (human-use reality rates) of barrier protection ~~[condoms]~~ and other contraceptive methods in the prevention of STDs/STIs ~~[STDs, STIs,]~~ and pregnancy;
- (M) ~~(L)~~ explain that HPV vaccines can help prevent the transmission of the most common types of HPV, a virus that can cause genital warts and cervical cancer and ~~[or]~~ other cancers in males and females;
- (N) ~~(M)~~ research and explain the benefits of abstinence from sexual activity such as increased self-esteem, self-confidence, and student academic achievement;
- (O) ~~(N)~~ define legal implications of ~~[regarding]~~ teen pregnancy, including the legal effects of ~~[child support and]~~ acknowledgement and proof of paternity;
- (P) ~~(O)~~ describe legal aspects of sexual activity with a minor person ~~[implications]~~ , including the legal age of consent, [and offenses regarding sexual activity as they relate to minor persons, including] statutory rape, aggravated sexual assault, sexual assault, sexual abuse, and indecency with a child; and
- (Q) ~~(P)~~ examine the legal ramifications of sexual offenses such as sexual harassment, sexual abuse, and sexual assault.

Chapter 115. Texas Essential Knowledge and Skills for Health Education

Subchapter C. High School

§115.37. Implementation of Texas Essential Knowledge and Skills for Health Education, Adopted 2020.

- (a) The provisions of §§115.38-115.40 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2021, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for health education as adopted in §§115.38-115.40 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§115.38-115.40 of this subchapter shall be implemented beginning with the 2022-2023 school year and apply to the 2022-2023 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§115.38-115.40 of this subchapter shall be implemented for the following school year.
- (e) Sections 115.31-115.33 of this subchapter shall be superseded by the implementation of §§115.37-115.40 of this subchapter.

§115.38. Health I (One-Half Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course is recommended for students in Grades 9-12.
- (b) Introduction.
 - (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
 - (2) There are essential skills that repeat throughout six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies. In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.
 - (3) Students will gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health

and hygiene. Health literacy and preventative behaviors empowers students to make informed choices to support self, family, and community.

- (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.
 - (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
 - (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying prevention, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
 - (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.
 - (F) In the reproductive and sexual health strand, students identify the characteristics of healthy and unhealthy relationships and learn to use communication and refusal skills to set personal boundaries and develop strategies for responding to sexual harassment and abuse. Students describe the changes associated with adolescent development and explain the process of fertilization, fetal development, and the importance of prenatal care. Students also learn that sexual abstinence until marriage is the only 100% effective means of avoiding unplanned pregnancies and sexually transmitted diseases/sexually transmitted infections (STDs/STIs) [~~sexually transmitted infections (STIs)~~] as well as the legal, financial, and social issues associated with sexual health and reproduction.
- (4) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:
- (A) a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));
 - (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));
 - (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));

- (D) ~~the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and~~
- (E) ~~the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).~~
- (5) ~~Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).~~
- (6) ~~(4)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (7) ~~(5)~~ Students should first seek guidance in the area of health from a parent or legal guardian.
- (c) Knowledge and skills.
- (1) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:
- (A) analyze health information based on health-related standards;
- (B) develop and analyze strategies to prevent communicable and non-communicable diseases; and
- (C) discuss the importance of early detection and warning signs that prompt individuals of all ages to seek health care.
- (2) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:
- (A) discuss and demonstrate ~~perspective-taking and~~ ways to show respect for others' feelings and express empathy toward others; and
- (B) analyze forms of communication such as passive, aggressive, or assertive and their impact on conflict resolution.
- (3) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to explain and demonstrate decision-making skills based on ~~mental~~ health information.
- (4) Mental health and wellness--risk and protective factors. The student recognizes the influence of various factors influencing mental health and wellness. The student is expected to ~~:~~
- ~~(A) research and explain how genetic factors predispose a person to schizophrenia, bipolar disorder, depression, anxiety, and other mental health and wellness conditions; and~~
- ~~(B) analyze how adverse childhood experiences such as abuse, neglect, and trauma can influence brain development and how to recognize, process, and overcome negative events ~~effects~~ for overall mental health and wellness.~~
- (5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:
- (A) discuss the ~~suicide risk and suicide~~ ~~warning signs and~~ protective factors ~~of suicide as~~ identified by the Centers for Disease Control and Prevention (CDC) and the importance of telling a parent or ~~another~~ trusted adult if one observes the warning signs in self or others; ~~and~~

- (B) discuss ~~[assess]~~ how the use of suicide prevention resources such as the National Suicide Prevention Hotline reduces the likelihood of suicide ~~;~~ ~~and~~
- ~~[(C) — research and discuss data on and prevalence of local, state, and national suicide rates among various groups.]~~
- (6) Healthy eating and physical activity--food and beverage daily recommendations. The student analyzes and applies healthy eating strategies for enhancing and maintaining personal health throughout the lifespan. The student is expected to:
- (A) evaluate food labels and menus to determine the ~~[for]~~ nutritional content and value of foods and make healthy decisions about daily caloric intake ~~[-including recommended daily calories]~~ ;
- (B) compare and contrast the impact of healthy and unhealthy dietary practices; and
- (C) describe how a personal dietary plan affects overall health and how a plan might differ over the lifespan.
- (7) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to :
- (A) analyze the relationships between nutrition, physical activity, and quality of life as they relate to mental, physical, and social health benefits ; and ~~;~~
- ~~(B) — analyze the relationships between body composition, diet, and physical activity, including how to balance caloric intake and physical activity.~~
- (8) Healthy eating and physical activity--risk and protective factors. The student analyzes and applies risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) evaluate the nutritional differences between ~~[in]~~ preparing and serving fresh or minimally processed food versus serving commercially prepared or highly ~~[ready-prepared or]~~ processed foods; and
- ~~(B) — evaluate the connection between physical activity and dietary choices as they relate to the prevention of chronic conditions.~~
- ~~[(B) — research and discuss the social and economic impact of chronic conditions, including obesity, heart disease, and diabetes.]~~
- (9) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to demonstrate basic first-aid procedures, including how to perform cardiopulmonary resuscitation (CPR) and choking rescue and how to use an automated external defibrillator (AED).
- (10) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) formulate strategies for avoiding violence, gangs, weapons, and human trafficking; and
- (B) assess the dynamics of gang behaviors.
- (11) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) develop strategies to resist inappropriate digital and online communication such as social media posts, sending and receiving photos, sexting, and pornography; and

- (B) identify appropriate responses to situations in which digital and online safety are at risk, including identity protection and recognition of predators.
- (12) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- (A) research and analyze how exposure to family violence can influence cyclical behavioral patterns;
- (B) create a personal action plan, including identifying areas of support, for use when encountering bullying, cyberbullying, or harassment; and
- (C) describe the ramifications of bullying behavior.
- (13) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) examine examples of drug labels to determine the drug category and intended use;
- (B) identify and describe the importance of the safe storage and proper disposal of prescription and over-the-counter drugs; and
- (C) develop strategies for preventing the misuse of prescription and over-the-counter drugs, including recognizing the negative effects of combining drugs.
- (14) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to describe the interrelatedness of alcohol and other drugs to health problems.
- (15) Alcohol, tobacco, and other drugs--treatment. The student recognizes and understands the options for treatment and how to seek help related to the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to:
- (A) investigate and identify treatment options for substance abuse and addiction and misuse, including prescription drugs; and
- (B) explain how to report suspected abuse of drugs to a parent, school administrator, teacher, or **another** trusted adult.
- (16) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) compare and contrast **physical and** social influences on alcohol, tobacco, and other drug use behaviors;
- (B) design materials for health advocacy such as promoting a substance-free life; and
- (C) discuss ways to participate in school-related efforts to address health-risk behaviors.
- (17) Alcohol, tobacco, and other drugs--prevention. The student analyzes information and applies critical-thinking skills to avoid substance use and misuse and recognizes the benefits of delayed use. The student is expected to:
- (A) analyze the relationship between the use of refusal skills and the avoidance of alcohol, tobacco, and other drugs; and
- (B) analyze the role that alcohol and other drugs play in unsafe situations, including sexual abuse and assault.
- (18) Reproductive and sexual health--healthy relationships. The student understands the characteristics of healthy romantic relationships. The student is expected to:

- ~~(A) — differentiate between types of relationships such as platonic, romantic, and casual;~~
- (A) ~~(B)~~ analyze how friendships provide a foundation for healthy dating/romantic ~~(dating)~~ relationships; ~~and~~
- (B) ~~(C)~~ identify character traits that promote healthy dating/romantic relationships and marriage ; ~~and~~ ;
- ~~(C) describe how a healthy marriage can provide a supportive environment for the nurturing and development of children.~~
- (19) Reproductive and sexual health--personal safety, limits, and boundaries. The student understands how to set and respect personal boundaries to reduce the risk of sexual harassment, sexual abuse, and sexual assault. The student is expected to:
- (A) describe the characteristics of sex trafficking such as grooming, controlling behavior, exploitation, force, fraud, coercion, and violence;
- (B) analyze the characteristics of harmful relationships that can lead to dating violence;
- (C) analyze ~~identify~~ healthy strategies for preventing physical, sexual, and emotional abuse;
- (D) analyze how a healthy sense of self and making and respecting decisions about safe boundaries and limits promote healthy dating/romantic relationships; ~~and~~
- (E) explain and demonstrate how refusal strategies can be used to say "no" assertively to unhealthy behaviors in dating/romantic relationships ; ~~;~~
- ~~(F) examine factors, including alcohol and other substances, that increase sexual risk and that affect setting, perceiving, respecting, and making decisions about boundaries;~~
- ~~(G) examine and discuss influences and pressures to become sexually active and why it is wrong to violate another person's boundaries and manipulate or threaten someone into sexual activity; and~~
- ~~(H) explain the importance of reporting to a parent or another trusted adult sexual harassment, sexual abuse, sexual assault, and dating violence involving self or others.~~
- (20) Reproductive and sexual health--anatomy, puberty, reproduction, and pregnancy. The student analyzes adolescent development, the process of fertilization, and healthy fetal development. The student is expected to ;
- ~~(A) — explain how the process of fertilization occurs between a man and a woman through sexual intercourse;~~
- ~~(B) — analyze the physical signs that indicate pregnancy; and~~
- ~~(C)~~ analyze the importance of telling a parent or another trusted adult, obtaining early pregnancy testing, and seeking prenatal care if signs of pregnancy occur.
- (21) Reproductive and sexual health--sexual risk. The student understands that there are risks associated with sexual activity and that abstinence from sexual activity is the only 100% effective method to avoid risks. The student is expected to:
- (A) research and analyze the educational, financial, and social impacts of pregnancy on teen parents, the child, families, and society, including considering the effects on one's personal life goals;
- (B) describe various modes of transmission of STDs/STIs ~~(sexually transmitted diseases (STDs) and STIs, including skin-to-skin contact, oral sex, vaginal sex, and anal sex)~~ ;
- ~~(C) investigate and summarize the statistics on the prevalence of STDs/STIs among teens by referencing county, state, and/or federal data sources;~~
- ~~(D)~~ ~~(C)~~ describe signs and symptoms of STDs/STIs ~~(STDs and STIs)~~ , including human papillomavirus (HPV), human immunodeficiency virus/acquired immunodeficiency

syndrome (HIV/AIDS), chlamydia, syphilis, gonorrhea, herpes, and trichomoniasis, and identify that not all ~~STDs/STIs~~ ~~[STDs and STIs]~~ show symptoms;

- (E) ~~(D)~~ analyze the importance of ~~STD/STI~~ ~~[STD and STI]~~ screening, testing, and early treatment for sexually active people, including ~~[if there is a concern or]~~ during yearly physicals ~~or if there is a concern~~ ;
- (F) ~~(E)~~ analyze emotional risks that can be associated with sexual activity for unmarried persons of school age, including stress, anxiety, and depression;
- (G) ~~(F)~~ analyze the importance and benefits of abstinence from sexual activity as it relates to emotional health and the prevention of pregnancy ~~and STDs/STIs~~ ~~[-STDs, and STIs]~~ ;
- (H) ~~_____~~ identify support from parents and other trusted adults and create strategies, including building peer support, to be abstinent or for return to abstinence if sexually active;
- (I) ~~(G)~~ analyze the effectiveness and the risks and failure rates (human-use reality rates) of barrier protection and other contraceptive methods, including how they work ~~to~~ ~~[and may]~~ reduce the risk of ~~STDs/STIs~~ ~~[STDs, STIs,]~~ and pregnancy; and
- (J) ~~(H)~~ explain the legal responsibilities related to teen pregnancy, including child support and acknowledgement of paternity.

§115.39. Health II (One-Half Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one-half credit for successful completion of this course. Recommended prerequisite: Health I. This course is recommended for students in Grades 9-12.
- (b) Introduction.
 - (1) The goal of health education is to provide instruction that allows youth to develop and sustain health-promoting behaviors throughout their lives. The understanding and application of these standards will allow students the ability to gather, interpret, and understand health information; achieve health literacy; and adapt to the ever-evolving science of health. The health education knowledge and skills should be presented to students in a positive manner to support the development of a healthy self-concept and responsible decision making. The standards will help students reinforce, foster, and apply positive character traits.
 - (2) There are essential skills that repeat throughout six strands and embody the interconnection of health literacy. These skills include decision making, problem solving, goal setting, maintaining healthy relationships with self and others, seeking help and support, and recognizing various influences on health such as social, environmental, media, and genetic. These skills, developed early on and reinforced throughout a student's education, will foster mastery of health concepts. ~~Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies. In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.~~
 - (3) Students will gain an understanding of health information and skills through six strands: physical health and hygiene; mental health and wellness; healthy eating and physical activity; injury and violence prevention and safety; alcohol, tobacco, and other drugs; and reproductive and sexual health.
 - (A) Physical health and hygiene education helps to prepare students for improved lifelong health outcomes. Learning about body systems lays the foundation for personal health and hygiene. Health literacy and preventative behaviors empowers students to make informed choices to support self, family, and community.
 - (B) The mental health and wellness strand recognizes that the knowledge and skills necessary to manage emotions, reactions, and relationships are essential to reaching one's full

potential. Students gain knowledge about social and emotional health, including developing a healthy self-concept, understanding risk and protective factors, and identifying and managing mental health and wellness concerns. In the early grades, students develop fluency around emotions and self-regulation and understand the relationship between feelings, thoughts, and behavior. In subsequent grades, students learn and practice appropriate ways to solve interpersonal conflicts, work to develop a positive self-image, and develop healthy self-management skills.

- (C) The healthy eating and physical activity strand addresses the importance of nutrition and physical activity to support a healthy lifestyle. Students apply critical-thinking and decision-making skills to make positive health choices. Students learn about essential nutrients, food groups, portion control, government nutritional recommendations, and the health benefits of being physically active. Students evaluate the connection between physical activity and nutrition and the prevention of chronic diseases.
- (D) By focusing on injury and violence prevention and safety, the standards promote student well-being and awareness of dangerous situations. Supporting student well-being and providing instruction in digital citizenship, bullying prevention, first aid, and identification of safe and unsafe situations creates empowered and educated students who are able to make decisions that keep themselves and others safe. Beginning in Kindergarten and continuing through high school, students gain knowledge and skills to support safety and wellness at school, at home, online, and in the community.
- (E) The standards under the alcohol, tobacco, and other drugs strand focus on a number of protective factors that develop empowered students who are able to make better-informed decisions, including understanding the impact of substance use on physical, mental, and social health. Through this strand, students learn key concepts about alcohol, tobacco, and other drugs, including the use, misuse, and physiological effects; short- and long-term impacts on health; treatment; risk and protective factors; and prevention. These concepts introduce healthy alternatives and ways for students to ask for and seek out help from parents and other trusted adults.
- (F) In the reproductive and sexual health strand, students identify the characteristics of healthy and unhealthy relationships and learn to use communication and refusal skills to set personal boundaries and develop strategies for responding to sexual harassment and abuse. Students describe the changes associated with adolescent development and explain the process of fertilization, fetal development, and the importance of prenatal care. Students also learn that sexual abstinence until marriage is the only 100% effective means of avoiding unplanned pregnancies and sexually transmitted diseases/sexually transmitted infections (STDs/STIs) [sexually transmitted infections (STIs)] as well as the legal, financial, and social issues associated with sexual health and reproduction.

(4) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:

- (A) a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));
- (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));
- (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));
- (D) the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and
- (E) the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).

(5) Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).

(6) ~~(4)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(7) ~~(5)~~ Students should first seek guidance in the area of health from a parent or legal guardian.

(c) Knowledge and skills.

(1) Physical health and hygiene--personal health and hygiene. The student understands health literacy, preventative health behaviors, and how to access and evaluate health care information to make informed decisions. The student is expected to:

(A) analyze the cost, availability, and accessibility of health care services;

(B) analyze methods of overcoming barriers related to solving health problems; and

(C) analyze the influence of laws, policies, and practices, including those related to disease prevention, on health-related issues.

(2) Mental health and wellness--social and emotional health. The student identifies and applies strategies to develop socio-emotional health, self-regulation, and healthy relationships. The student is expected to:

(A) evaluate positive and negative effects of various relationships on physical, emotional, and social health;

(B) apply communication skills that demonstrate consideration and respect for individual differences and perspectives; and

(C) evaluate the effectiveness of conflict resolution techniques in various situations.

(3) Mental health and wellness--developing a healthy self-concept. The student develops the capacity for self-assessment and evaluation, goal setting, and decision making in order to develop a healthy self-concept. The student is expected to describe how internal and external factors influence self-esteem.

(4) Mental health and wellness--risk and protective factors. The student recognizes the influence of various factors influencing mental health and wellness. The student is expected to formulate strategies for combating environmental factors that have a detrimental effect on mental health.

(5) Mental health and wellness--identifying and managing mental health and wellness concerns. The student develops and uses appropriate skills to identify and manage conditions related to mental health and wellness. The student is expected to:

(A) describe the impact of positive stress on building resiliency and promoting mental health and wellness;

(B) discuss the impact of choosing healthy self-management strategies for stress, anxiety, depression, trauma, loss, and grief on mental health and wellness; ~~and~~

(C) research and explain the behaviors associated with eating disorders and their impact on health ; ~~and~~

~~(D) discuss how the use of suicide prevention resources such as the National Suicide Prevention Hotline reduces the likelihood of suicide; and~~

~~(E) research and discuss data on and prevalence of local, state, and national suicide rates among various groups.~~

(6) Healthy eating and physical activity--food and beverage daily recommendations. The student analyzes and applies healthy eating strategies for enhancing and maintaining personal health

- throughout the lifespan. The student is expected to design a realistic, long-term personal dietary plan that promotes individual and family health.
- (7) Healthy eating and physical activity--physical activity. The student identifies, analyzes, and applies strategies for enhancing and maintaining optimal personal physical fitness throughout the lifespan. The student is expected to:
- (A) compare and contrast the impact of active and sedentary lifestyles on overall health; and
- (B) develop a physical fitness profile using appropriate technology.
- (8) Healthy eating and physical activity--nutrition and physical activity literacy. The student will obtain, process, and understand basic physical activity and nutrition information needed to make health-promoting decisions. The student is expected to:
- (A) analyze the progress of short- and long-term goals in achieving appropriate levels of physical activity, improving personal physical fitness levels, and making healthy personal food choices; and
- (B) analyze marketing and advertising techniques in health product and service promotion.
- (9) Healthy eating and physical activity--risk and protective factors. The student analyzes and applies risk and protective factors related to healthy eating and physical activity. The student is expected to:
- (A) research and discuss the social and economic impact of chronic conditions, including obesity, heart disease, and diabetes; and
- ~~[(A) evaluate the connection between physical activity and dietary choices as they relate to the prevention of chronic conditions; and]~~
- (B) create a plan for accessing community **and digital** resources that can assist in developing healthy eating and physical activity behaviors.
- (10) Injury and violence prevention and safety--safety skills and unintentional injury. The student identifies and demonstrates safety and first aid knowledge to prevent and treat injuries. The student is expected to discuss risk-taking behaviors, including driving under the influence and distracted driving, and their associated consequences.
- (11) Injury and violence prevention and safety--healthy home, school, and community climate. The student understands that individual actions and awareness can impact safety, community, and environment. The student is expected to:
- (A) discuss and evaluate ways to respond to harmful situations that involve weapons; and
- (B) develop educational safety models for children and adults for use at home, school, and in the community.
- (12) Injury and violence prevention and safety--digital citizenship and media. The student understands how to be a safe and responsible citizen in digital and online environments. The student is expected to:
- (A) discuss and analyze consequences resulting from inappropriate digital and online communication such as sending and receiving photos, sexting, and pornography; and
- (B) assess the legal and ethical ramifications of unacceptable behaviors in digital and online environments.
- (13) Injury and violence prevention and safety--interpersonal violence. The student understands the impact of interpersonal violence and the importance of seeking guidance and help to maintain personal safety. The student is expected to:
- ~~[(A) discuss and evaluate strategies for managing unhealthy behaviors in the family or household such as abuse, alcoholism, and neglect;]~~

- ~~(A)~~ ~~(B)~~ identify and respond to situations requiring intervention for victims of bullying, cyberbullying, or harassment; and
- ~~(B)~~ ~~(C)~~ promote strategies for prevention and intervention of all forms of bullying and cyberbullying such as emotional, physical, social, and sexual.
- (14) Alcohol, tobacco, and other drugs--use, misuse, and physiological effects. The student understands the difference between use and misuse of different substances and how the use and misuse of substances impacts health. The student is expected to:
- (A) analyze how ~~substance misuse and~~ addiction to alcohol, tobacco, drugs, and other substances ~~impact family and~~ ~~[impacts]~~ community health;
- (B) analyze the importance of alternative activities to drug and substance misuse and abuse; and
- (C) identify individual and community protective factors and skills that prevent substance misuse and substance use disorders.
- (15) Alcohol, tobacco, and other drugs--short- and long-term impacts. The student identifies and analyzes the short- and long-term impacts of the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to ~~[]~~
- ~~(A)~~ ~~discuss how substance misuse, including prescription drug misuse, and substance use disorders impact families and communities; and~~
- ~~(B)~~ evaluate the impact of laws relating to the use and misuse of prescription and over-the-counter drugs, alcohol, tobacco, and other substances on self and community.
- (16) Alcohol, tobacco, and other drugs--treatment. The student recognizes and understands the options for treatment and how to seek help related to the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances. The student is expected to identify ways to support and assist someone who shows signs and symptoms of alcohol, tobacco, or drug use and misuse.
- (17) Alcohol, tobacco, and other drugs--risk and protective factors. The student understands how various factors can influence decisions regarding substance use and the resources available for help. The student is expected to:
- (A) discuss risk-taking behaviors such as drinking and driving with their associated legal, social, and physical consequences;
- (B) analyze physical and social environmental influences on the misuse and abuse of prescription drugs in places such as school, sports, or entertainment; and
- (C) design a public health information campaign related to safe havens, where to go for help, or reporting drug-related behaviors.
- (18) Alcohol, tobacco, and other drugs--prevention. The student analyzes information and applies critical-thinking skills to avoid substance use and misuse and recognizes the benefits of delayed use. The student is expected to develop strategies for preventing use or misuse of alcohol, tobacco, and other drugs, including opioids.
- (19) Reproductive and sexual health--healthy relationships. The student understands the characteristics of healthy romantic relationships. The student is expected to:
- (A) compare and contrast effective and ineffective methods of communicating emotions in healthy dating/romantic relationships and marriage;
- (B) analyze behaviors in romantic relationships that enhance dignity and respect; and
- (C) examine ~~describe~~ how a healthy marriage can provide a supportive environment for the nurturing and development of children.

- (20) Reproductive and sexual health--personal safety, limits, and boundaries. The student understands how to set and respect personal boundaries to reduce the risk of sexual harassment, sexual abuse, and sexual assault. The student is expected to:
- (A) identify community resources to support individuals who have experienced sexual harassment, sexual abuse, sexual assault, dating violence, and sex trafficking;
 - (B) evaluate [explain] the importance of reporting to a parent or another trusted adult sexual harassment, sexual abuse, sexual assault, and dating violence involving self or others;
 - (C) discuss how refusal skills can be used to set limits and boundaries to avoid behaviors that increase sexual risk;
 - (D) analyze factors, including alcohol and other substances, that increase sexual risk and that affect setting, perceiving, respecting, and making decisions about boundaries; and
 - (E) evaluate [examine and discuss] influences and pressures to become sexually active and why it is wrong to violate another person's boundaries and manipulate or threaten someone into sexual activity.
- (21) Reproductive and sexual health--anatomy, puberty, reproduction, and pregnancy. The student analyzes adolescent development, the process of fertilization, and healthy fetal development. The student is expected to:
- (A) analyze the significance of hormonal, physical, emotional, and social changes in males and females and their relationship to sexual health;
 - (B) list factors such as heredity, environment, STDs/STIs [sexually transmitted diseases (STDs) and STIs] , and the mother's health and nutrition that can affect fetal development from conception through birth; and
 - ~~(C) analyze the emotional changes that can occur during pregnancy; and~~
 - ~~(C) [(D)]~~ describe the emotional changes that may occur during and after pregnancy, including postpartum depression, and identify resources for support and treatment.
- (22) Reproductive and sexual health--sexual risk. The student understands that there are risks associated with sexual activity and that abstinence from sexual activity is the only 100% effective method to avoid risks. The student is expected to:
- (A) analyze the options available to teenage parents such as parenting or the process of adoption and the legal rights of parties involved;
 - (B) evaluate long-term or lifetime effects of bacterial and viral STDs/STIs [STDs and STIs] , including infertility and cancer;
 - (C) identify community resources, minors' right to consent under certain circumstances, and the importance of parent or other trusted adult support for STD/STI [STD and STI] testing and treatment;
 - (D) analyze the effectiveness and the risks and failure rates (human-use reality rates) of barrier protection and other contraceptive methods, including how they work to [and may] reduce the risk of STDs/STIs [STDs and STIs] and pregnancy;
 - (E) identify the effectiveness of vaccines in preventing the transmission of the most common types of HPV, a virus that may cause genital warts and head and neck cancer , cervical cancer , anal cancer , or other cancers that may occur in males and females;
 - (F) analyze the benefits of abstinence from sexual activity, including focusing on personal development and encouraging individuals to build healthy relationships not complicated by sexual involvement;

- (G) assess ~~identify~~ support from parents and other trusted adults and create strategies, including building peer support, to be abstinent or for return to abstinence if sexually active;
- (H) investigate and summarize ~~describe the~~ legal aspects of sexual activity with a minor person ~~implications~~, including the legal age of consent, ~~and offenses regarding sexual activity as they relate to minor persons, including~~ statutory rape, aggravated sexual assault, sexual assault, and indecency with a child; and
- (I) investigate and summarize current laws relating to sexual offenses such as sexual harassment, abuse, and assault.

§115.40. Your Health in the Real World (One-Half Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one-half credit for successful completion of this course. This course is recommended for students in Grades 9-12.
- (b) Introduction.
 - (1) Living your best life is understanding how to navigate the health care system. The objective of this course is to empower students and their families to sustain or improve their quality of life as it relates to their own health and the health of their community. To achieve this objective, students will understand health care terminology as it relates to insurance and public health. Further, students will acquire the knowledge and skills needed to utilize community, state, and federal health care services and related resources.
 - (2) Health class educators are encouraged to partner with school counselors where available to schedule time for them to deliver classroom guidance lessons to help teach these essential competencies. In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.
 - (3) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These laws include affirming:
 - (A) a local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction (Texas Education Code (TEC), §28.004(e)-(h));
 - (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction (TEC, §28.004(i)-(j));
 - (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child (TEC, §28.004(i));
 - (D) the centrality of abstinence education in any human sexuality curriculum (TEC, §28.004(e)); and
 - (E) the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions) (Texas Family Code, Chapter 33).
 - (4) Educators also should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider (Texas Government Code, Chapter 2272).
 - (5) ~~(2)~~ Statements containing the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
 - (6) ~~(3)~~ Students should first seek guidance in the area of health from a parent or legal guardian.
- (c) Knowledge and skills.

- (1) Health literacy--health consumerism. The student understands medical terminology in health decision making. The student is expected to:
- (A) define [identify and characterize] medical expressions or terms used by health care professionals; and
 - (B) define basic terminology for general use such as reading prescription labels.
- (2) Health literacy--health consumerism. The student interprets personal medical information for health decision making. The student is expected to:
- (A) interpret and explain [apply] take-home instructions from a health care professional;
 - (B) identify normal vital signs, including temperature, blood pressure, heart rate, body mass index (BMI), oxygen, and blood glucose levels;
 - (C) interpret medication labels, including supplements and over-the-counter and prescription drugs; and
 - (D) analyze the importance of each component of personal medical history, including immunizations, previous treatments, current medical records, and family history.
- (3) Health literacy--health consumerism. The student analyzes the different facets of health insurance. The student is expected to:
- (A) differentiate between types of insurance, including health, vision, and dental insurance;
 - (B) evaluate the advantages, disadvantages, and costs of public and private insurance benefits;
 - (C) analyze key [compare and contrast different] components of insurance, including copay and deductible;
 - (D) describe different ways to pay for health care, including paying cash, health savings accounts, and flexible spending accounts; and
 - (E) interpret the components of a medical bill such as the explanation of benefits (EOB).
- (4) Health literacy--health consumerism. The student identifies the proper use of medications and becomes familiar with the effects of pharmaceuticals. The student is expected to:
- (A) compare and contrast the differences between generic and name-brand medications;
 - (B) identify cost differentials of similar medications and the rights of the consumer, including the ability to ask a pharmacist for other options;
 - (C) explain the limitations of medications, including the differences between symptomatic treatment and treatment for a cure;
 - (D) identify different types of improper use of medications, including using expired medications and using, overusing, and misusing non-prescribed medications;
 - (E) identify ways to properly dispose of medications and equipment and explain the importance of proper disposal; and
 - (F) explain what Food and Drug Administration (FDA) approval means and compare with [including] off-label use.
- (5) Health literacy--patient advocacy. The student identifies alternatives to health insurance coverage. The student is expected to:
- (A) research and describe available health care sharing plans;
 - (B) identify the options of community health care resources, including federally qualified healthcare centers (FQHC) and non-profit community clinics; and

- (C) identify available **health care** community resources such as medical, dental, vision, pharmacy, x-ray, and laboratory services.
- (6) Health literacy--patient advocacy. The student demonstrates proper patient/health care professional communication. The student is expected to:
- (A) define the Health Information Privacy and Portability Act (HIPPA) and explain how it relates to confidentiality of medical records;
- (B) identify patient **rights** [~~and physician privileges and expectations~~], including rights to **sexually transmitted disease/sexually transmitted infection (STD/STI)** [~~sexually transmitted infection (STI)~~] testing and pregnancy health care **and explain physician privileges** ;
- (C) define the role of a chaperone in a medical setting, including the patient's ability to request or remove one;
- (D) demonstrate **how** [~~the ability~~] to have a collaborative conversation with a health care professional, including asking questions and advocating for self and others;
- (E) analyze the impact of medical bias on health outcomes; and
- (F) evaluate resources relevant to patients' legal rights, including the Centers for Medicare and Medicaid Services' Patient's Bill of Rights (2020).
- (7) Health literacy--health applications and technology. The student analyzes and evaluates software applications and other technology as they relate to personal health care. The student is expected to:
- (A) compare and contrast remote (telehealth and e-medicine) and in-person health care and treatment;
- (B) research and describe the effects of inequitable distribution of technology in health care, including medical facilities and home environments;
- (C) differentiate between credible and false health information on the internet and social media;
- (D) analyze the risks of sharing private health information; and
- (E) evaluate the use and effectiveness of a personal fitness device or health application.
- (8) Health literacy--navigating the health care system. The student examines and interprets various health insurance plans, government guidelines for health plans, and coverage of non-traditional health care. The student is expected to:
- (A) compare and contrast insurance plans, including health maintenance organization (HMO), preferred provider organization (PPO), Medicare, Medicaid, and the Children's Health Insurance Program (CHIP);
- (B) research and explain current federal, state, and local government guidelines for health insurance; and
- (C) distinguish between insurable and non-insurable health services, including elective procedures and integrative and non-traditional health care.
- (9) Health care occupations--working within the health care system. The student explores different careers in the health care industry and analyzes their various roles. The student is expected to:
- (A) explore and describe a variety of careers in the health care industry; and
- (B) analyze the various roles in the health care delivery system, including health care administration, health care professionals, public health professionals, corporate health care, and research and development.

- (10) Public health--policy resources. The student understands the resources available for protecting and improving the health of people and their local, national, and international communities. The student is expected to:
- (A) identify the roles of leading public health organizations such as county health departments, the Centers for Disease Control and Prevention (CDC), and the World Health Organization (WHO);
 - (B) compare and contrast [the characteristics of] U.S. and global health issues;
 - (C) explain the ways that local, state, national, and international organizations support public health; and
 - (D) analyze the effects of public policy on the prevention of communicable and noncommunicable diseases.
- (11) Public health--policy recommendations. The student applies public health resources to create solutions to daily health challenges. The student is expected to:
- (A) research and discuss an emerging health issue or topic such as health equity or a pandemic;
 - (B) appraise the impact of leading health organizations on emerging health issues and topics;
 - (C) explore and explain the effects of environmental policy on public health;
 - (D) analyze the interconnectedness of different sectors of the health care industry and how they improve public health; and
 - (E) evaluate the impact of public health policy on emergency preparedness.
- (12) Public health--mental health. The student recognizes the interconnectedness of mental health and public health. The student is expected to:
- (A) examine the relationship between mental health and physical health;
 - (B) evaluate the importance of social interaction and its impact on health;
 - (C) describe the connection between mental health and the increase in homelessness and incarceration; and
 - (D) analyze the impact of social stigma on accessing mental health services, including barriers to treatment.
- (13) Prevention--healthy living. The student evaluates the effects of health behaviors on preventing disease. The student is expected to:
- (A) appraise the effect of biological family medical history (genetics), including maternal and paternal, on health outcomes or risk for illness;
 - (B) evaluate [explore] the benefits of regular checkups;
 - (C) classify primary, secondary, and tertiary preventions;
 - (D) define comorbidities and their impact on health;
 - (E) examine health risk factors such as sedentary lifestyle and poor diet that can lead to negative health outcomes;
 - (F) research [explore] and describe preventative services covered by insurance plans;
 - (G) explain the importance of vaccines across the lifespan;
 - (H) evaluate the effectiveness of a personal health plan that includes nutrition, exercise, healthy weight, and sleep in preventing chronic disease; and
 - (I) evaluate the effectiveness of prevention campaigns on health behavior such as substance use, misuse, and abuse.

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ATTACHMENT
Text of Proposed New 19 TAC

Chapter 112. Texas Essential Knowledge and Skills for Science

Subchapter C. High School

§112.41. Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020.

- (a) The provisions of §§112.42-112.45 of this subchapter shall be implemented by school districts.
- (b) No later than July 31, 2022, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for science as adopted in §§112.42-112.45 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§112.42-112.45 of this subchapter shall be implemented beginning with the 2023-2024 school year and apply to the 2023-2024 and subsequent school years.
- (d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than July 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§112.42-112.45 of this subchapter shall be implemented for the following school year.
- (e) Sections 112.34, 112.35, 112.38, and 112.39 of this subchapter shall be superseded by the implementation of §§112.42-112.45 of this subchapter.

§112.42. Biology (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9-11.
- (b) Introduction.
 - (1) Biology. Students in Biology focus on patterns, processes, and relationships of living organisms through four main concepts: biological structures, functions, and processes; mechanisms of genetics; biological evolution; and interdependence within environmental systems. By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.
 - (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
 - (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well

established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.

- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
- (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
- (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide a tool for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing 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) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
- (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
- (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
- (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
- (D) use appropriate tools such as microscopes, slides, Petri dishes, laboratory glassware, metric rulers, digital balances, pipets, filter paper, micropipettes, gel electrophoresis and polymerase chain reaction (PCR) apparatuses, microcentrifuges, water baths, incubators, thermometers, hot plates, data collection probes, test tube holders, lab notebooks or journals, hand lenses, and models, diagrams, or samples of biological specimens or structures;

- (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) organize quantitative and qualitative data using scatter plots, line graphs, bar graphs, charts, data tables, digital tools, diagrams, scientific drawings, and student-prepared models;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish among scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
- (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
- (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
- (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;
 - (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
 - (C) research and explore **resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a [connections between grade-level appropriate science concepts and]** science, technology, engineering, and mathematics (STEM) **field in order to investigate STEM careers.**
- (5) Science concepts--biological structures, functions, and processes. The student knows that biological structures at multiple levels of organization perform specific functions and processes that affect life. The student is expected to:
- (A) relate the functions of different types of biomolecules, including carbohydrates, lipids, proteins, and nucleic acids, to the structure and function of a cell;

- (B) compare and contrast prokaryotic and eukaryotic cells, including their complexity, and compare and contrast scientific explanations for cellular complexity;
 - (C) investigate homeostasis through the cellular transport of molecules; and
 - (D) compare the structures of viruses to cells and explain how viruses spread and cause disease.
- (6) Science concepts--biological structures, functions, and processes. The student knows how an organism grows and the importance of cell differentiation. The student is expected to:
- (A) explain the importance of the cell cycle to the growth of organisms, including **an overview of the** stages of the cell cycle and deoxyribonucleic acid (DNA) replication models;
 - (B) explain the process of cell specialization through cell differentiation, including the role of environmental factors; and
 - (C) relate disruptions of the cell cycle to how they lead to the development of diseases such as cancer.
- (7) Science concepts--mechanisms of genetics. The student knows the role of nucleic acids in gene expression. The student is expected to:
- (A) identify components of DNA, explain how the nucleotide sequence specifies some traits of an organism, and examine scientific explanations for the origin of DNA;
 - (B) describe the significance of gene expression and explain the process of protein synthesis using models of DNA and ribonucleic acid (RNA);
 - (C) identify and illustrate changes in DNA and evaluate the significance of these changes; and
 - (D) **discuss the importance** [~~describe the function~~] of molecular technologies such as polymerase chain reaction (PCR), gel electrophoresis, and genetic engineering that are applicable in current research and engineering practices.
- (8) Science concepts--mechanisms of genetics. The student knows the role of nucleic acids and the principles of inheritance and variation of traits in Mendelian and non-Mendelian genetics. The student is expected to:
- (A) analyze the significance of chromosome reduction, independent assortment, and crossing-over during meiosis in increasing diversity in populations of organisms that reproduce sexually; and
 - (B) predict possible outcomes of various genetic combinations using monohybrid and dihybrid crosses, including non-Mendelian traits of incomplete dominance, codominance, sex-linked traits, and multiple alleles.
- (9) Science concepts--biological evolution. The student knows evolutionary theory is a scientific explanation for the unity and diversity of life that has multiple lines of evidence. The student is expected to:
- (A) analyze and evaluate how evidence of common ancestry among groups is provided by the fossil record, biogeography, and homologies, including anatomical, molecular, and developmental; and
 - (B) examine scientific explanations for varying rates of change such as gradualism, abrupt appearance, and stasis in the fossil record.
- (10) Science concepts--biological evolution. The student knows evolutionary theory is a scientific explanation for the unity and diversity of life that has multiple mechanisms. The student is expected to:

- (A) analyze and evaluate how natural selection produces change in populations and not in individuals;
 - (B) analyze and evaluate how the elements of natural selection, including inherited variation, the potential of a population to produce more offspring than can survive, and a finite supply of environmental resources, result in differential reproductive success;
 - (C) analyze and evaluate how natural selection may lead to speciation; and
 - (D) analyze evolutionary mechanisms other than natural selection, including genetic drift, gene flow, mutation, and genetic recombination, **and their effect** on the gene pool of a population.
- (11) Science concepts--biological structures, functions, and processes. The student knows the significance of matter cycling, energy flow, and enzymes in living organisms. The student is expected to:
- (A) explain how matter is conserved and energy is transferred during photosynthesis and cellular respiration using models, including **the** chemical equations **for these processes** ; and
 - (B) **identify and** investigate **and explain** the role of enzymes in facilitating cellular processes.
- (12) Science concepts--biological structures, functions, and processes. The student knows that multicellular organisms are composed of multiple systems that interact to perform complex functions. The student is expected to:
- (A) analyze the interactions that occur among systems that perform the functions of regulation, nutrient absorption, reproduction, and defense from injury or illness in animals; and
 - (B) explain how the **interactions that occur among systems that perform** functions of transport, reproduction, and response in plants are facilitated by their structures.
- (13) Science concepts--interdependence within environmental systems. The student knows that interactions at various levels of organization occur within an ecosystem to maintain stability. The student is expected to:
- (A) investigate and evaluate how ecological relationships, including predation, parasitism, commensalism, mutualism, and competition, influence ecosystem stability;
 - (B) analyze how ecosystem stability is affected by disruptions to the cycling of matter and flow of energy through trophic levels using models;
 - (C) explain the significance of the carbon and nitrogen cycles to ecosystem stability and analyze the consequences of disrupting these cycles; and
 - (D) explain how environmental change, including change due to human activity, affects biodiversity and analyze how changes in biodiversity impact ecosystem stability.

§112.43. Chemistry (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. Prerequisites: one credit of high school science and Algebra I. Recommended prerequisite: completion of or concurrent enrollment in a second year of mathematics. This course is recommended for students in Grades 10-12.
- (b) Introduction.
 - (1) Chemistry. In Chemistry, students conduct laboratory and field investigations, use scientific practices during investigations, and make informed decisions using critical thinking and scientific

problem solving. Students study a variety of topics that include characteristics of matter, use of the Periodic Table, development of atomic theory, chemical bonding, chemical stoichiometry, gas laws, solution chemistry, acid-base chemistry, thermochemistry, and nuclear chemistry. Students investigate how chemistry is an integral part of our daily lives. By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.

- (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
- (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
- (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations includes descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.
 - (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide a tool for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing 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) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as Safety Data Sheets (SDS), scientific or graphing calculators, computers and probes, electronic balances, an adequate supply of consumable chemicals, and sufficient scientific glassware such as beakers, Erlenmeyer flasks, pipettes, graduated cylinders, volumetric flasks, and burettes;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) organize quantitative and qualitative data using oral or written lab reports, labeled drawings, particle diagrams, charts, tables, graphs, journals, summaries, or technology-based reports;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
 - (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
 - (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:

- (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;
 - (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
 - (C) research and explore **resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a [connections between grade-level appropriate science concepts and]** science, technology, engineering, and mathematics (STEM) **field in order to investigate STEM careers.**
- (5) Science concepts. The student understands the development of the Periodic Table and applies its predictive power. The student is expected to:
- (A) explain the development of the Periodic Table over time using evidence such as chemical and physical properties;
 - (B) predict the properties of elements in chemical families, including alkali metals, alkaline earth metals, halogens, noble gases, and transition metals, based on valence electrons patterns using the Periodic Table; and
 - (C) analyze and interpret elemental data, including atomic radius, atomic mass, electronegativity, ionization energy, and reactivity to identify periodic trends.
- (6) Science concepts. The student understands the development of atomic theory and applies it to real-world phenomena. The student is expected to:
- (A) construct models using Dalton's Postulates, Thomson's discovery of electron properties, Rutherford's nuclear atom, Bohr's nuclear atom, and Heisenberg's Uncertainty Principle to show the development of modern atomic theory over time;
 - (B) describe the structure of atoms and ions, including the masses, electrical charges, and locations of protons and neutrons in the nucleus and electrons in the electron cloud;
 - (C) investigate the mathematical relationship between energy, frequency, and wavelength of light using the electromagnetic spectrum and relate it to the quantization of energy in the emission spectrum;
 - (D) calculate average atomic mass of an element using isotopic composition; and
 - (E) construct models to express the arrangement of electrons in atoms of representative elements using electron configurations and Lewis dot structures.
- (7) Science concepts. The student knows how atoms form ionic, covalent, and metallic bonds. The student is expected to:
- (A) construct an argument to support how periodic trends such as electronegativity can predict bonding between elements;
 - (B) name and write the chemical formulas for ionic and covalent compounds using International Union of Pure and Applied Chemistry (IUPAC) nomenclature rules;
 - (C) classify and draw electron dot structures for molecules with linear, bent, trigonal planar, trigonal pyramidal, and tetrahedral molecular geometries as explained by Valence Shell Electron Pair Repulsion (VSEPR) theory; and
 - (D) analyze the properties of ionic, covalent, and metallic substances in terms of intramolecular and intermolecular forces.

- (8) Science concepts. The student understands how matter is accounted for in chemical substances. The student is expected to:
- (A) define mole and apply the concept of molar mass to convert between moles and grams;
 - (B) calculate the number of atoms or molecules in a sample of material using Avogadro's number;
 - (C) calculate percent composition of compounds; and
 - (D) differentiate between empirical and molecular formulas.
- (9) Science concepts. The student understands how matter is accounted for in chemical reactions. The student is expected to:
- (A) interpret, write, and balance chemical equations, including synthesis, decomposition, single replacement, double replacement, and combustion reactions using the law of conservation of mass;
 - (B) differentiate among acid-base reactions, precipitation reactions, and oxidation-reduction reactions;
 - (C) perform stoichiometric calculations, including determination of mass relationships, gas volume relationships, and percent yield; and
 - (D) describe the concept of limiting reactants in a balanced chemical equation.
- (10) Science concepts. The student understands the principles of the kinetic molecular theory and ideal gas behavior. The student is expected to:
- (A) describe the postulates of the kinetic molecular theory;
 - (B) describe and calculate the relationships among volume, pressure, number of moles, and temperature for an ideal gas; and
 - (C) define and apply Dalton's law of partial pressure.
- (11) Science concepts. The student understands and can apply the factors that influence the behavior of solutions. The student is expected to:
- (A) describe the unique role of water in solutions in terms of polarity;
 - (B) distinguish among types of solutions, including electrolytes and nonelectrolytes and unsaturated, saturated, and supersaturated solutions;
 - (C) investigate **how** [~~factors that influence~~] solid and gas solubilities **are influenced by** [~~such as~~] temperature using solubility curves and **how** rates of dissolution **are influenced by** [~~such as~~] temperature, agitation, and surface area;
 - (D) investigate the general rules regarding solubility and predict **the solubility of the** products of a double replacement reaction;
 - (E) calculate the concentration of solutions in units of molarity; and
 - (F) calculate the dilutions of solutions using molarity.
- (12) Science concepts. The student understands and applies various rules regarding acids and bases. The student is expected to:
- (A) name and write the chemical formulas for acids and bases using IUPAC nomenclature rules;
 - (B) define acids and bases and distinguish between Arrhenius and Bronsted-Lowry definitions;
 - (C) differentiate between strong and weak acids and bases;

- (D) predict products in acid-base reactions that form water; and
- (E) define pH and calculate the pH of a solution using the hydrogen ion concentration.
- (13) Science concepts. The student understands the energy changes that occur in chemical reactions. The student is expected to:
 - (A) explain everyday examples that illustrate the four laws of thermodynamics;
 - (B) investigate the process of heat transfer using calorimetry;
 - (C) classify processes as exothermic or endothermic and represent energy changes that occur in chemical reactions using thermochemical equations or graphical analysis; and
 - (D) perform calculations involving heat, mass, temperature change, and specific heat.
- (14) Science concepts. The student understands the basic processes of nuclear chemistry. The student is expected to:
 - (A) describe the characteristics of alpha, beta, and gamma radioactive decay processes in terms of balanced nuclear equations;
 - (B) compare fission and fusion reactions; and
 - (C) give examples of applications of nuclear phenomena such as nuclear stability, radiation therapy, diagnostic imaging, solar cells, and nuclear power.

§112.44. Integrated Physics and Chemistry (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. This course is recommended for students in Grades 9 and 10.
- (b) Introduction.
 - (1) Integrated Physics and Chemistry. In Integrated Physics and Chemistry, students conduct laboratory and field investigations, use engineering practices, use scientific practices during investigation, and make informed decisions using critical thinking and scientific problem solving. This course integrates the disciplines of physics and chemistry in the following topics: force, motion, energy, and matter. By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.
 - (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
 - (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
 - (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the

question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

(A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.

(B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.

(5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(6) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide a tool for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.

(7) Statements containing 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) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:

(A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;

(B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;

(C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;

(D) use appropriate tools such as data-collecting probes, software applications, the internet, standard laboratory glassware, metric rulers, meter sticks, spring scales, multimeters, Gauss meters, wires, batteries, light bulbs, switches, magnets, electronic balances, mass sets, Celsius thermometers, hot plates, an adequate supply of consumable chemicals, lab notebooks or journals, timing devices, models, and diagrams;

(E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;

(F) organize quantitative and qualitative data using labeled drawings and diagrams, graphic organizers, charts, tables, and graphs;

(G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and

- (H) distinguish between scientific hypotheses, theories, and laws.
- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
- (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
- (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
- (C) use mathematical calculations to assess quantitative relationships in data; and
- (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
- (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
- (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
- (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
- (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;
- (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
- (C) research and explore **resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a ~~connections between grade level appropriate science concepts and~~ science, technology, engineering, and mathematics (STEM) field in order to investigate STEM** careers.
- (5) Science concepts. The student knows the relationship between force and motion in everyday life. The student is expected to:
- (A) investigate, analyze, and model motion in terms of position, velocity, acceleration, and time using tables, graphs, and mathematical relationships;
- (B) analyze data to explain the relationship between mass and acceleration in terms of the net force on an object in one dimension using force diagrams, tables, and graphs;
- (C) apply the concepts of momentum and impulse to design, evaluate, and refine a device to minimize the net force on objects during collisions such as those that occur during vehicular accidents, sports activities, or the dropping of personal electronic devices;
- (D) describe the nature of the four fundamental forces: gravitation; electromagnetic; the strong and weak nuclear forces, including fission and fusion; and mass-energy equivalency; and

- (E) construct and communicate an explanation based on evidence for how changes in mass, charge, and distance affect the strength of gravitational and electrical forces between two objects.
- (6) Science concepts. The student knows the impact of energy transfer and energy conservation in everyday life. The student is expected to:
- (A) design and construct series and parallel circuits that model real-world circuits such as in-home wiring, automobile wiring, and simple electrical devices to evaluate the transfer of electrical energy;
- (B) design, evaluate, and refine a device that generates electrical energy through the interaction of electric charges and magnetic fields;
- (C) plan and conduct an investigation to provide evidence that energy is conserved within a closed system;
- (D) investigate and demonstrate the movement of thermal energy through solids, liquids, and gases by convection, conduction, and radiation such as weather, living, and mechanical systems;
- (E) plan and conduct an investigation to evaluate the transfer of energy or information through different materials by different types of waves such as wireless signals, ultraviolet radiation, and microwaves;
- (F) construct and communicate an evidence-based explanation for how wave interference, reflection, and refraction are used in technology such as medicine, communication, and scientific research; and
- (G) evaluate evidence from multiple sources to critique the advantages and disadvantages of various renewable and nonrenewable energy sources and their impact on society and the environment.
- (7) Science concepts. The student knows that relationships exist between the structure and properties of matter. The student is expected to:
- (A) model basic atomic structure and relate an element's atomic structure to its bonding, reactivity, and placement on the Periodic Table;
- (B) use patterns within the Periodic Table to predict the relative physical and chemical properties of elements;
- (C) explain how physical and chemical properties of substances are related to their usage in everyday life such as in sunscreen, cookware, industrial applications, and fuels;
- (D) explain how electrons can transition from a high energy level to a low energy state, emitting photons at different frequencies for different energy transitions;
- (E) explain how atomic energy levels and emission spectra present evidence for the wave particle duality; and
- (F) plan and conduct an investigation to provide evidence that the rate of reaction or dissolving is affected by multiple factors such as particle size, stirring, temperature, and concentration.
- (8) Science concepts. The student knows that changes in matter affect everyday life. The student is expected to:
- (A) investigate how changes in properties are indicative of chemical reactions such as hydrochloric acid with a metal, oxidation of metal, combustion, and neutralizing an acid with a base;

- (B) develop and use models to balance chemical equations and support the claim that atoms, and therefore mass, are conserved during a chemical reaction;
- (C) research and communicate the uses, advantages, and disadvantages of nuclear reactions in current technologies; and
- (D) construct and communicate an evidence-based explanation of the environmental impact of the end-products of chemical reactions such as those that may result in degradation of water, soil, air quality, and global climate change.

§112.45. Physics (One Credit), Adopted 2020.

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisite or corequisite: Algebra I. This course is recommended for students in Grades 9-12.
- (b) Introduction.
 - (1) Physics. In Physics, students conduct laboratory and field investigations, use scientific practices during investigations, and make informed decisions using critical thinking and scientific problem solving. Students study a variety of topics that include: laws of motion, changes within physical systems and conservation of energy and momentum, forces, characteristics and behavior of waves, and electricity and magnetism. Students will apply conceptual knowledge and collaborative skills to experimental design, implementation, and interpretation. By the end of Grade 12, students are expected to gain sufficient knowledge of the scientific and engineering practices across the disciplines of science to make informed decisions using critical thinking and scientific problem solving.
 - (2) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not currently scientifically testable.
 - (3) Scientific hypotheses and theories. Students are expected to know that:
 - (A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and
 - (B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.
 - (4) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.
 - (A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.

- (B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.
- (5) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).
- (6) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide a tool for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.
- (7) Statements containing 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) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:
 - (A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;
 - (B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations, and use engineering practices to design solutions to problems;
 - (C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;
 - (D) use appropriate tools such as balances, ballistic carts or equivalent, batteries, computers, constant velocity cars, convex lenses, copper wire, discharge tubes with power supply (H, He, Ne, Ar), data acquisition probes and software, dynamics and force demonstration equipment, electrostatic generators, electrostatic kits, friction blocks, graph paper, graphing technology, hand-held visual spectrometers, inclined planes, iron filings, lab masses, laser pointers, magnets, magnetic compasses, metric rulers, motion detectors, multimeters (current, voltage, resistance), optics bench, optics kit, photogates, plane mirrors, prisms, protractors, pulleys, resistors, rope or string, scientific calculators, stopwatches, springs, spring scales, switches, tuning forks, wave generators, or other equipment and materials that will produce the same results;
 - (E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;
 - (F) organize quantitative and qualitative data using bar charts, line graphs, scatter plots, data tables, labeled diagrams, and conceptual mathematical relationships;
 - (G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and
 - (H) distinguish among scientific hypotheses, theories, and laws.

- (2) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:
- (A) identify advantages and limitations of models such as their size, scale, properties, and materials;
 - (B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;
 - (C) use mathematical calculations to assess quantitative relationships in data; and
 - (D) evaluate experimental and engineering designs.
- (3) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:
- (A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;
 - (B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and
 - (C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.
- (4) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:
- (A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing, so as to encourage critical thinking by the student;
 - (B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and
 - (C) research and explore **resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a [connections between grade-level appropriate science concepts and]** science, technology, engineering, and mathematics (STEM) **field in order to investigate STEM careers.**
- (5) Science concepts. The student knows and applies the laws governing motion in a variety of situations. The student is expected to:
- (A) analyze different types of motion by generating and interpreting position versus time, velocity versus time, and acceleration versus time using hand graphing and real-time technology such as motion detectors, photogates, or digital applications;
 - (B) define scalar and vector quantities related to one- and two-dimensional motion and combine vectors using both graphical vector addition and the Pythagorean theorem;
 - (C) describe and analyze motion in one dimension using equations with the concepts of distance, displacement, speed velocity, frames of reference, and acceleration;
 - (D) describe and analyze acceleration in uniform circular and horizontal projectile motion in two dimensions using equations;
 - (E) explain and apply the concepts of equilibrium and inertia as represented by Newton's first law of motion using relevant real-world examples such as rockets, satellites, and automobile safety devices;

- (F) calculate the effect of forces on objects, including tension, friction, normal, gravity, centripetal, and applied forces, using free body diagrams and the relationship between force and acceleration as represented by Newton's second law of motion;
 - (G) illustrate and analyze the simultaneous forces between two objects as represented in Newton's third law of motion using free body diagrams and in an experimental design scenario; and
 - (H) describe and calculate, using scientific notation, how the magnitude of force between two objects depends on their masses and the distance between their centers, and predict the effects on objects in linear and orbiting systems using Newton's law of universal gravitation.
- (6) Science concepts. The student knows the nature of forces in the physical world. The student is expected to:
- (A) use scientific notation and predict how the magnitude of the electric force between two objects depends on their charges and the distance between their centers using Coulomb's law;
 - (B) identify and describe examples of electric and magnetic forces and fields in everyday life such as generators, motors, and transformers;
 - (C) investigate and describe conservation of charge during the processes of induction, conduction, and polarization using different materials such as electroscopes, balloons, rods, fur, silk, and Van ~~de~~ Graaf generators;
 - (D) analyze, design, and construct series and parallel circuits using schematics and materials such as switches, wires, resistors, lightbulbs, batteries, voltmeters, and ammeters; and
 - (E) calculate current through, potential difference across, resistance of, and power used by electric circuit elements connected in both series and parallel circuits using Ohm's law.
- (7) Science concepts. The student knows that changes occur within a physical system and applies the laws of conservation of energy and momentum. The student is expected to:
- (A) calculate and explain work and power in one dimension and identify when work is and is not being done by or on a system;
 - (B) investigate and calculate mechanical, kinetic, and potential energy of a system;
 - (C) apply the concept of conservation of energy using the work-energy theorem, energy diagrams, and energy transformation equations, including transformations between kinetic, potential, and thermal energy;
 - (D) calculate and describe the impulse and momentum of objects in physical systems such as automobile safety features, athletics, and rockets; and
 - (E) analyze the conservation of momentum qualitatively in inelastic and elastic collisions in one dimension using models, diagrams, and simulations.
- (8) Science concepts. The student knows the characteristics and behavior of waves. The student is expected to:
- (A) examine and describe simple harmonic motion such as springs and pendulums and wave energy propagation in various types of media such as surface waves on a body of water and ropes;
 - (B) compare the characteristics of transverse and longitudinal waves, including electromagnetic and sound waves;

- (C) investigate and analyze characteristics of waves, including velocity, frequency, amplitude, and wavelength, and calculate using the relationships between wave speed, frequency, and wavelength;
 - (D) investigate behaviors of waves, including reflection, refraction, diffraction, interference, standing wave, the Doppler effect and polarization and superposition; and
 - (E) compare the different applications of the electromagnetic spectrum, including radio telescopes, microwaves, and x-rays;
 - (F) investigate the emission spectra produced by various atoms and explain the relationship to the electromagnetic spectrum; and
 - (G) describe and predict image formation as a consequence of reflection from a plane mirror and refraction through a thin convex lens.
- (9) Science concepts. The student knows examples of quantum phenomena and their applications. The student is expected to:
- (A) describe the photoelectric effect and emission spectra produced by various atoms and how both are explained by the photon model for light;
 - (B) investigate Malus's Law and describe examples of applications of wave polarization, including 3-D movie glasses and LCD computer screens;
 - (C) compare and explain how superposition of quantum states is related to the wave-particle duality nature of light; and
 - (D) give examples of applications of quantum phenomena, including the Heisenberg uncertainty principle, quantum computing, and cybersecurity.

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter A. General Provisions

§66.15. Administrative Penalty.

- (a) Under the Texas Education Code (TEC), §31.151(b), the State Board of Education (SBOE) may assess a reasonable administrative penalty against a publisher or manufacturer found in violation of a provision of the TEC, §31.151(a). The SBOE shall assess an administrative penalty under this section only for a violation based upon an instructional material adopted by the SBOE. An administrative penalty shall be assessed only after the SBOE has granted the publisher or manufacturer a hearing in accordance with the TEC, §31.151; the Administrative Procedure Act; Chapter 157, Subchapter A, of this title (relating to General Provisions for Hearings Before the State Board of Education); and this chapter.
- (b) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(1), or a rule implementing that provision, including assessing an administrative penalty against a publisher or manufacturer who offers an instructional material in this state at a higher price than that offered to any other state, public school, or school district in the United States. A publisher or manufacturer does not violate this provision if within 60 days of the sale at a higher price, the publisher or manufacturer provides a refund in the incremental amount of the lower price compared to the purchase price to all Texas public schools that previously purchased the same instructional material at a higher price and enters into a written agreement with the Texas Education Agency (TEA) to offer the instructional material at the lower price to any Texas public school. An action under this subsection may only be taken for differential pricing that occurs between the time when a public school may start entering orders for a particular school year until the time when a public school may start entering orders for the subsequent school year.
- (c) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(2), or a rule implementing that provision. A publisher or manufacturer does not violate this provision if within 60 days of the sale at a lower price, the publisher or manufacturer provides a refund in the incremental amount of the lower price compared to the original purchase price to all Texas public schools that previously purchased the same instructional material. An action under this subsection may only be taken for differential pricing that occurs between the time when a public school may start entering orders for a particular school year until the time when a public school may start entering orders for the subsequent school year.
- (d) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(3), or a rule implementing that provision. A publisher or manufacturer does not violate this provision if within 60 days of dissemination of instructional materials or ancillary items free of charge, the publisher or manufacturer provides a refund of the purchase to all Texas public schools that previously purchased the same instructional material and enters into a written agreement with the TEA that the ancillary items will be provided free of charge if any Texas public school buys the instructional material at issue.
- (e) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(4), or a rule implementing that provision. A publisher or manufacturer does not violate this provision if within 60 days of dissemination of instructional materials of higher quality, the publisher or manufacturer provides new copies of the higher quality instructional material at no charge or, with the public school consent, a refund equivalent to the price of the lower quality material to all Texas public schools that previously purchased the same instructional material.
- (f) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(4) or (9), or a rule implementing those provisions, including:
 - (1) an administrative penalty for selling instructional materials with factual errors. The SBOE may assess an administrative penalty against a publisher or manufacturer of instructional materials who sells instructional materials that have been adopted by the SBOE and contain factual errors unless,

within 60 days of knowledge of the factual error, the publisher or manufacturer corrects the factual error, including revising web-based instructional materials, providing corrective materials to public schools that have received material containing the factual error, and ensuring no further distribution of materials occurs without correction of the error; or

- (2) an administrative penalty for failure to correct factual errors. The SBOE may assess an administrative penalty against a publisher or manufacturer who fails to correct a factual error, including:
 - (A) failure to correct a factual error identified in the list of corrections submitted by a publisher under §66.28(c)(11) of this title (relating to Requirements for Publisher Participation);
 - (B) failure to correct a factual error identified in the report of the commissioner of education under §66.63(e) of this title (relating to Report of the Commissioner of Education) and required by the SBOE; or
 - (C) failure to correct a factual error identified and required by the SBOE prior to the adoption of the instructional material.
- (3) an administrative penalty for a factual error in an instructional material that occurs through updates to the materials by the publisher when the updates did not comply with requirements for updating materials, including the requirements under §66.75 of this title (relating to Updates to Adopted Instructional Materials) and §66.76 of this title (relating to New Editions of Adopted Instructional Materials). Penalties imposed under this paragraph shall:
 - (A) not be subject to penalty limitations imposed by subsection (h) of this section or any other section of this title;
 - (B) be of a sufficient amount to deter future violations; and
 - (C) be based on a timeframe beginning at the time the factual error first appeared in instructional materials delivered to a public school, unless mitigating circumstances suggest otherwise.
- (g) For purposes of this section:
 - (1) a factual error shall be defined as a verified error of fact or any error that would interfere with student learning. The context, including the intended student audience and grade level appropriateness, shall be considered;
 - (2) a factual error repeated in a single item or contained in both the student and teacher components of instructional material shall be counted once for the purpose of determining penalties. An identical error in materials with multiple components and formats shall be counted as one error; and
 - (3) a penalty may be assessed for failure to correct a factual error identified in the list of corrections submitted by a publisher under §66.28(c)(11) of this title or for failure to correct a factual error identified in the report of the commissioner of education under §66.63(a) of this title and required by the SBOE. The publisher shall identify errata in an appropriate manner.
- (h) For purposes of subsection (f)(2) of this section, a penalty of \$5,000 shall be assessed for each failure to correct a factual error:
 - (1) after the deadline established in the proclamation by which publishers must have submitted corrected samples of adopted instructional materials for violations of subsection (f)(2)(A) of this section; or
 - (2) prior to distribution to public schools after the SBOE has identified the factual error for violations of subsection (f)(2)(B) and (C) of this section.
- (i) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(5), or a rule implementing those provisions.

- (j) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(6), (7), or (8), or a rule implementing those provisions, including:
 - (1) a penalty for failure to deliver adopted instructional materials, including teacher components, in a timely manner or in the quantities the school district or open-enrollment charter school is eligible to receive as specified in the publisher's bid; and
 - (2) a penalty for failure to deliver adopted instructional materials, including teacher components, in accordance with provisions in the contracts if the failure extends beyond 45 days.
- (k) The SBOE may assess an administrative penalty against a publisher or manufacturer who fails to maintain a website or provide a suitable alternative for conveying the information in the website, or who otherwise fails to meet the requirements of §66.29 of this title (relating to Websites in State-Adopted Instructional Materials).
- (l) The SBOE may, if circumstances warrant, waive or vary penalties contained in this section for first or subsequent violations based on the seriousness of the violation, any history of a previous violation or violations, the amount necessary to deter a future violation, any effort to correct the violation, and any other matter justice requires.
- (m) Each affected publisher shall issue credit to the TEA in the amount of any penalty imposed under the provisions of this section. When circumstances warrant it, the TEA is authorized to require payment of penalties in cash within ten days. Each affected publisher who pays a fine for failure to deliver adopted instructional materials in a timely manner will not be subject to the liquidated damages provision in the publisher's contract for the same failure to deliver adopted instructional materials in a timely manner.
- (n) All administrative penalties shall be credited to the public schools instructional materials allotment funds under the TEC, §31.0212.

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Recommended Revisions to School Board Member Training—Framework for School Board Development

Preamble

The mission of the public education system of this state is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation (Texas Education Code, §4.001).

The board of trustees is the governing body for Texas public schools. To effectively meet the challenges of public education, school boards and superintendents must function together as a governance leadership team. Each leadership team will annually assess its development needs both as corporate body and as individuals. As a team, they will focus on the improvement of locally developed student outcomes through vision and goals, systems and processes, progress and accountability, advocacy and engagement, and synergy and teamwork. Teams ensure that their districts provide equitable and effective educational programs and services for all students. The Framework for School Board Development has been approved by the State Board of Education to provide the critical areas of development for all public school boards.

Framework

Vision and Goals—The board ensures creation of a shared vision and locally developed, measurable goals that improve student outcomes, opportunities, and experiences. The board:

- Keeps the district focus on the well-being of all children.
- Adopts a shared vision that incorporates input from the community to reflect local aspirations as well as present and future needs for all children.
- Ensures that the vision aligns with the state’s mission, objectives, and goals for education established by law or rule.
- Adopts a reasonable number of specific, quantifiable, research-based, and time bound goals that align with state law, are developed with community input, and support the vision to improve student outcomes.
- Embraces, supports, and fulfills the vision that all students receive what they need to learn, thrive, and grow, including resources, opportunities, and experiences.
- Uses the vision and goals to drive all deliberations, decisions, and actions.

Systems and Processes—The board ensures systems and processes are in place to accomplish the vision and goals. The board:

- Regularly develops, reviews, and adopts board policies for effective support of the district’s vision and goals.
- Approves a budget that aligns with and maximizes resources to fulfill the district’s vision and goals.
- Monitors multiple, measurable elements of student progress and achievement throughout the year.
- Incorporates equity when making decisions and evaluating systems and processes.
- Focuses its actions on following board operating procedures while providing oversight of the superintendent, policymaking, planning, and goal setting, progress monitoring, and evaluation while avoiding involvement in daily operations and management.

- Approves goals, policies, and programs that ensure a safe and secure learning environment.
- Ensures the equitable distribution of resources, opportunities, and experiences based on the diverse needs of students and schools.
- Adopts a planning calendar and engages in a decision-making process consistent with state law and rule that uses participation, information, research, and evaluation to help achieve the district's vision.
- Ensures that the district's planning and decision-making process enables all segments of the community, families, and staff to meaningfully contribute to achieving the district's vision.
- Welcomes and values all people and cultures as important stakeholders in the process for student success.
- Ensures the district has a system that monitors for sound business and fiscal practices.
- Adopts policies regarding hiring, assigning, appraising, terminating, and compensating school district personnel in compliance with state laws and rules.
- Ensures the district adopts a protocol regarding the recruitment, determination of professional development needs, building of leadership capacity, and retention rates for the district's teachers.
- Fulfills the statutory duties of the local board of trustees and upholds all laws, rules, ethical procedures, and court orders pertaining to schools and school employees.

Progress and Accountability—The board sets clear goals, provides resources and support, evaluates goal attainment, and engages in ongoing objective feedback on progress and commitments. The Board:

- Holds itself accountable to its adopted vision, goals, commitments, and operating procedures.
- Ensures progress toward achievement of district goals through a systematic, timely, and comprehensive review of relevant reports and student data that are predictive of locally developed student outcomes goals..
- Ensures equity throughout the system by regularly identifying inequities, updating policies, and appropriately distributing resources.
- Differentiates among resources, intermediate measures, and outcomes, especially - when focusing on student outcomes.
- Monitors and evaluates the allocation of resources in support of the district's vision and goals and sustainability.
- Reviews the efficiency and effectiveness of district operations and use of resources in supporting the district's vision and goals. _
- Employs and annually evaluates the superintendent on the achievement of district goals, including locally developed academic goals, demonstration of educational leadership, and management of daily operations.

Advocacy and Engagement—The board promotes the vision and engages the community in developing and fulfilling the vision. The board advocates on behalf of Texas public schoolchildren. The board:

- Demonstrates its commitment to, and advocates on behalf of, the shared vision and goals by clearly communicating them to the superintendent, staff, and community.
- Regularly reports district progress to families and the community-, which could include an online dashboard for the community

- Ensures multiple forms of two-way communication will be used to engage, empower, and connect students, families, staff, media, and community with the district.
- Builds collaborative relationships and partnerships with families and community, business,-nonprofit, higher-education, education support organizations, and governmental leaders to influence and expand educational opportunities and experiences to meet the needs of students.
- Recognizes the respective roles of and provides input and feedback to the legislature, State Board of Education, and the Texas Education Agency to ensure maximum effectiveness and benefit to Texas schoolchildren.
- Promotes school board service by educating the community about the role of a school board and encouraging leadership opportunities within the community.

Synergy and Teamwork—The board’s duties are distinct and the board works effectively as a collaborative unit and as a team with the superintendent to lead the district in fulfilling the vision and goals. The board:

- Recognizes its distinct role in establishing the vision and the goals, adopting policies that guide the district, setting priorities, establishing governance protocols to oversee management, adopting and overseeing the annual budget, and hiring and evaluating the superintendent.
- Recognizes each individual trustee’s duty as a trustee and fiduciary for the entire district.
- Remains focused on its goals and priorities, as opposed to individual agendas separate and apart from the shared vision.
- Annually evaluates its performance as a team, with attention given to the district’s vision and goals; fulfilling the board’s duties, responsibilities, and commitments; and the board’s working relationship with the superintendent.
- Makes decisions as a whole only at properly called meetings and recognizes that individual members have no authority to take individual action in policy or district and campus administrative matters.
- Respects the right of individual members to express their viewpoints and vote their convictions and honors the decisions of the majority.
- Develops teamwork, problem-solving, and decision-making skills as a team with its superintendent.
- Understands and adheres to laws and local policies and respects the superintendent’s responsibility to manage the school district and to direct employees in district and campus matters.
- Adopts and adheres to established policies and procedures for welcoming and addressing ideas and concerns from students, families, staff, and the community.
- Establishes and follows local policies, procedures, and ethical standards governing the conduct and operations of the board.
- Understands the leadership role of the board president and adheres to local policies and procedures about the duties and responsibilities of the board officers.

Minutes

State Board of Education Committees

November 17-20, 2020

**Report of the State Board of Education
Committee of the Full Board
November 17, 2020**

The State Board of Education Committee of the Full Board met at 9:07 a.m. on Tuesday, November 17, 2020, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Lawrence A. Allen, Jr.; Donna Bahorich; Barbara Cargill; Ruben Cortez, Jr.; Aicha Davis; Pat Hardy; Pam Little; Tom Maynard; Sue Melton-Malone; Ken Mercer; Georgina C. Pérez; Marisa B. Perez-Diaz; Matt Robinson; Marty Rowley

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #1, #2, and #3. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEMS

- 1. Public Hearing on Proposed New 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40**
(Board agenda page I-1)

Public testimony was provided by the following individuals:

NAME: Jules Mandel
AFFILIATION: Texas Freedom Network

NAME: Lori Kuykendall
AFFILIATION: Medical Institute for Sexual Health

NAME: Karen Krajcer
AFFILIATION: Self

NAME: Anna Nguyen
AFFILIATION: Self

NAME: Suzi Nelson
AFFILIATION: Self

NAME: Jessica Soukup
AFFILIATION: Self

NAME: Tonya Waite
AFFILIATION: Self

NAME: Suzanne Kerns
AFFILIATION: Self

NAME: Sarah Anderson
AFFILIATION: Self

NAME: Mary Elizabeth Castle
AFFILIATION: Texas Values

NAME: Dan Bailey
AFFILIATION: Just say YES

NAME: Deborah Simmons
AFFILIATION: Self

NAME: Marilyn Henderson
AFFILIATION: Self

NAME: Janice Weaver
AFFILIATION: South Texas Pregnancy Care Center

NAME: Candace Russell
AFFILIATION: Self

NAME: Christy Baca
AFFILIATION: Self

NAME: Marcia Lamb
AFFILIATION: Self

NAME: Shelly Skeen
AFFILIATION: Lambda Legal

NAME: Katherine Goldey
AFFILIATION: Self

NAME: Rebecca Jowers
AFFILIATION: Poiema Foundation

NAME: Caryl Ayala
AFFILIATION: Self

NAME: Lorie Meynig
AFFILIATION: Self

NAME: Ricardo Martinez
AFFILIATION: Equality Texas

NAME: Geoffrey Carlisle
AFFILIATION: Self

NAME: Mary Anne Mosack
AFFILIATION: Ascend

NAME: Janet Teal
AFFILIATION: Self

NAME: Ruth York
AFFILIATION: Self

NAME: Ellen Klipp
AFFILIATION: Self

NAME: Connie Wyatt-Coleman
AFFILIATION: Wise Choices PRC

NAME: Heather Frederick
AFFILIATION: Texas GSA Network

NAME: Angela Lutts
AFFILIATION: National Association of Social Workers, Texas Chapter

NAME: Lawrence Hulsey
AFFILIATION: Self

NAME: Rebecca Hardy
AFFILIATION: Texans for Vaccine Choice

NAME: Rev. Angela Williams
AFFILIATION: Just Texas

NAME: Audrey Werner
AFFILIATION: Self

NAME: Lee Spiller
AFFILIATION: Citizens Commission on Human Rights-TX

NAME: Irene Ericksen
AFFILIATION: The Institute for Research & Evaluation

NAME: Lauren DeWitt
AFFILIATION: Self

NAME: Diana Richards
AFFILIATION: Self

NAME: Rosann Mariappuram
AFFILIATION: Jane's Due Process

NAME: Madeleine Croll
AFFILIATION: GENTEx

NAME: Karole Fedrick
AFFILIATION: Self

NAME: Lydia Ayala
AFFILIATION: Self

NAME: Becky Baker
AFFILIATION: Self

NAME: Bob Tupin
AFFILIATION: Self

NAME: Ginger Bloomer
AFFILIATION: Self

NAME: Shannon Jaquette
AFFILIATION: Texas Catholic Conference of Bishops

NAME: Rachana Chhin
AFFILIATION: Texas Catholic Conference of Bishops

NAME: Susie Roselle
AFFILIATION: Self

2. **Public Hearing on Proposed New 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.11-116.17, Subchapter B, Middle School, §§116.25-116.28, and Subchapter C, High School, §§116.61-116.64**
(Board agenda page I-3)

No public testimony was provided during this item.

3. **Public Hearing on Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41-112.45**
(Board agenda page I-5)

Public testimony was provided by the following individuals:

NAME: Juli Berwald
AFFILIATION: Self

NAME: Suzi Nelson
AFFILIATION: Self

NAME: Christopher Garcia
AFFILIATION: Self

NAME: Carisa Lopez
AFFILIATION: Texas Freedom Network

NAME: Michael Clayton
AFFILIATION: Self

NAME: Geoffrey Carlisle
AFFILIATION: Self

NAME: Olivia Harris
AFFILIATION: Self

NAME: Ann Mulvihill
AFFILIATION: Texas Science Educator Leadership Association

NAME: Abigail Milam
AFFILIATION: Self

NAME: Tony Halstead
AFFILIATION: Self

NAME: Susan Barnum
AFFILIATION: Self

NAME: David Bonnette
AFFILIATION: Self

NAME: Maxine Jenks
AFFILIATION: Self

NAME: Eliza Epstein
AFFILIATION: Self

NAME: Gregory Alvord
AFFILIATION: Self

NAME: Linda Cook
AFFILIATION: Self

NAME: John Geissman
AFFILIATION: Self

NAME: Myriah Gossett
AFFILIATION: Self

NAME: Selena Wilson
AFFILIATION: DFW Science Supervisors (MASS)

NAME: Ashley Carter
AFFILIATION: DFW Science Supervisors (MASS)

NAME: Deyadira Arellano
AFFILIATION: Self

NAME: Sharon Mineo
AFFILIATION: Self

NAME: Crystal Lantrip
AFFILIATION: Self

NAME: Hadia Noor
AFFILIATION: Self

NAME: Leila Cornelius
AFFILIATION: Self

NAME: Robert Martinez
AFFILIATION: Self

NAME: Kenric Davies
AFFILIATION: TX Section of American Association of Physics Teachers

NAME: Jennifer Meyer
AFFILIATION: Texas Science Teachers Association

NAME: Daniela De Urioste
AFFILIATION: Self

NAME: Marilyn Kortum
AFFILIATION: Self

NAME: Shane Woods
AFFILIATION: Self

NAME: Kathlene Sheets
AFFILIATION: Self

NAME: Adrienne Abrahamson
AFFILIATION: Self

NAME: Nalleli Hidalgo
AFFILIATION: TX Environmental Justice Advocacy Services

NAME: Sandra West
AFFILIATION: Self

NAME: Ashley-Meggan Bowie
AFFILIATION: Self

NAME: Jennifer Bernabo
AFFILIATION: Self

NAME: Kathy Shannon
AFFILIATION: Petroleum Museum

NAME: Jason Isaac
AFFILIATION: Self

NAME: Stephanie Thomas
AFFILIATION: Self

NAME: Marlene Plua
AFFILIATION: Self

NAME: Taren Hodges
AFFILIATION: Self

NAME: Michael Link
AFFILIATION: Self

ACTION ITEMS

- 4. Proposed New 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.11-116.17, Subchapter B, Middle School, §§116.25-116.28, and Subchapter C, High School, §§116.61-116.64 (Second Reading and Final Adoption)**
(Board agenda page I-7)

Monica Martinez, associate commissioner for standards and support services, explained that the content advisors provided responses to public comments that were received on the proposed revisions to the physical education TEKS for kindergarten through high school.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Rowley, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.11-116.17, Subchapter B, Middle School, §§116.25-116.28, and Subchapter C, High School, §§116.61-116.64.*

(Mr. Allen was absent for the vote.)

- 5. Proposed New 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40 (Second Reading and Final Adoption)**
(Board agenda page I-58)

The committee postponed consideration of this item until Wednesday, November 18, 2020.

6. **Proposed New 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41-112.45 (Second Reading and Final Adoption)**
(Board agenda page I-116)

Ms. Martinez explained that staff had distributed the cumulative public comments received for this item and that the science content advisors had been convened to review the comments and provide consensus feedback on public comments that were received.

MOTION: *It was moved by Mr. Rowley and seconded by Mrs. Melton-Malone to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020; and*

Make an affirmative finding that immediate adoption of 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §112.42(c)(6)(A) to read:*

“explain the importance of the cell cycle to the growth of organisms, including an overview of the stages of the cell cycle and deoxyribonucleic acid (DNA) replication models”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §112.42(c)(7)(D) to read:*

“discuss the importance ~~describe the function~~ of molecular technologies such as PCR, gel electrophoresis, and gene modification that are applicable in current research and engineering practices”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §112.42(c)(10)(D) to read:*

“analyze evolutionary mechanisms other than natural selection, including genetic drift, gene flow, mutation, and genetic recombination, and their effect on the gene pool of a population”

MOTION AND VOTE: *It was moved Mrs. Cargill, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §112.42(c)(11)(A) to read:*

“explain how matter is conserved and energy is transferred during photosynthesis and cellular respiration using models, including the chemical equations for these processes;”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §112.42(c)(11)(B) to read:*

“~~identify and~~ investigate and explain the role of enzymes in facilitating cellular processes”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §112.42(c)(12)(B) to read:*

“explain how the interactions that occur among systems that perform the functions of transport, reproduction, and response in plants are facilitated by their structures.”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §112.43(c)(11)(C) to read:*

“investigate how factors that influence solid and gas solubilities are influenced by such as temperature using solubility curves and how rates of dissolution are influenced by such as temperature, agitation, and surface area;”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §112.43(c)(11)(D) to read:*

“investigate the general rules regarding solubility and predict the solubility of the products of a double replacement reaction;”

The board requested that staff correct the spelling of “Van de Graaff” in student expectation §112.45(c)(6)(C) as a technical edit.

MOTION: *It was moved by Mr. Rowley and seconded by Mrs. Little to recommend that the State Board of Education strike §112.45(c)(9)(A)–(D) and add new §112.45(c)(8)(H) to read:*

“(H) investigate and understand how quantum physics applies to the behavior of waves, including mass-energy equivalence, the photoelectric effect, and the dual nature of light.”

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Mr. Maynard, and carried to insert “and emission spectra” after “photoelectric effect.”*

MOTION AND VOTE: *It was moved by Mr. Rowley and carried to change “understand” to “explain.”*

VOTE: *A vote was taken on the motion to recommend that the State Board of Education strike §112.45 (c)(9)(A)–(D) and add §112.45(c)(8)(H) as amended to read:*

“(H) investigate and explain how quantum physics applies to the behavior of waves including mass energy equivalence, the photoelectric effect and emission spectra, and the dual nature of light.”

The motion failed.

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §§112.42(c)(4), 112.43(c)(4)(C), 112.44(c)(4)(C), and 112.45(c)(4)(C) to read:*

“research and explore resources such as museums, libraries, professional organizations, private companies, online platforms and mentors employed in a STEM field in order to investigate connections between grade-level appropriate science concepts and science, technology, engineering, and mathematics (STEM) careers.”

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz and seconded by Mr. Cortez to recommend that the State Board of Education postpone second reading and final adoption of proposed new 19 TAC §§112.41-112.45 to the January 2021 SBOE meeting. The motion failed.*

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020, as amended; and*

Make an affirmative finding that immediate adoption of 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §§112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020; 112.42, Biology (One Credit), Adopted 2020; 112.43, Chemistry (One Credit), Adopted 2020; 112.44, Integrated Physics and Chemistry (One Credit), Adopted 2020; and 112.45, Physics (One Credit), Adopted 2020, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. The motion carried.

Dr. Ellis adjourned the meeting at 6:08 p.m.

**Report of the State Board of Education
Committee of the Full Board
November 18, 2020**

The State Board of Education Committee of the Full Board met at 9:09 a.m. on Wednesday, November 18, 2020, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Lawrence A. Allen, Jr.; Donna Bahorich; Barbara Cargill; Ruben Cortez, Jr.; Aicha Davis; Pat Hardy; Pam Little; Tom Maynard; Sue Melton-Malone; Ken Mercer; Georgina C. Pérez; Marisa B. Perez-Diaz; Matt Robinson; Marty Rowley

Public Testimony

The Committee of the Full Board heard public testimony on agenda item #3. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEM

1. Commissioner's Comments
(Board agenda page I-138)

Commissioner of Education, Mike Morath provided an update on the Texas Education Agency (TEA) legislative appropriations request. He shared information regarding the single exceptional item request that is intended to focus on the achievement gap to give students who are struggling the most, the most support. He provided updates on the COVID-19 testing program. The commissioner commended the board on its work to update the School Board Development Framework. Finally, he provided an update on the Texas Home Learning resources that TEA has made available to school districts.

CONSENT ITEM

2. Decision on the Percentage Distribution of the Permanent School Fund
(Board agenda page I-139)
[Consent agenda item #(1)]

Holland Timmins, executive administrator, and chief investment officer, presented an overview of the most recent State Board of Education (SBOE) action to date, including the preliminary adoption of a 4.0% rate at the September meeting. Mr. Timmins explained the spending impact and commented on the SBOE's objective to strive to maintain intergenerational equity when setting the distribution rate.

Mark Shewmaker, portfolio manager, fixed income, presented the Permanent School Fund (PSF) staff recommendation for a distribution rate of between 3.90% and 4.18%. He discussed the factors that were considered in determining an appropriate distribution rate for the fund as well as an analysis of the board's goal to maintain intergenerational equity. He explained that the board has achieved intergenerational equity and should continue to do so with a payout between 3.90% and 4.18%. At those rates, distributions would be expected to range between \$1.602 billion and \$1.717 billion annually, respectively.

Rhett Humphries, partner with NEPC, the board’s general investment counsel, explained the process by which NEPC arrived at their recommendation and stated that the outcomes across various spending rates and economic environments led them to recommend a rate of up to 4.08%.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried unanimously that the State Board of Education approve the percentage distribution rate to the Available School Fund from the Permanent School Fund for the 2022-2023 fiscal biennium of 4.18%, for projected amounts of \$1.717 billion annually and \$3.434 billion for the biennium.*

(Mr. Cortez was absent for the vote.)

ACTION ITEMS

3. Legislative Recommendations for the 87th Texas Legislature

(Board agenda page I-141)

[Official agenda item #(6)]

Public testimony was provided by the following individuals:

NAME: Deborah Simmons
AFFILIATION: Self

NAME: Anne Newman
AFFILIATION: Self

NAME: Steven Aleman
AFFILIATION: Disability Rights Texas

NAME: Jennifer Fleck
AFFILIATION: Self

NAME: Valoree Swanson
AFFILIATION: Self

NAME: Lisa Williams
AFFILIATION: Self

Hunter Thompson, director, governmental relations, provided an update regarding the State Board of Education’s recommendations for the 86th Texas Legislature. He then facilitated a discussion among board members to identify recommendations for the 86th Texas Legislature (Attachment A).

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Ms. Perez and carried unanimously to adopt 13 recommendations.*

(Mr. Cortez was absent for the vote.)

4. **Report from the Commissioner of Education Regarding Instructional Materials Offered for Adoption under Proclamation 2021**

(Board agenda page I-142)
[Official agenda item #(7)]

Amie Williams, director of review and adoption, instructional materials and implementation division, provided an update of corrections and editorial changes made to materials submitted under *Proclamation 2021*.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Rowley, and carried unanimously to recommend that the State Board of Education:*

Require that all publishers make corrections listed in the Proclamation 2021 Report of Required Corrections and the Report of Editorial Changes;

Require that all instructional materials meet established manufacturing standards and specifications;

Require that all electronic instructional materials comply with the Web Content Accessibility Guidelines, Level 2.0 AA and the technical standards required by the Federal Rehabilitation Act, Section 508;

Approve changes and corrections submitted in response to written comments and public testimony; and

Place instructional materials submitted for adoption on the adopted list as indicated on the Proclamation 2021 List of Instructional Materials Eligible for Adoption.

5. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements, §74.11, High School Graduation Requirements (First Reading and Filing Authorization)**

(Board agenda page I-159)
[Official agenda item #(8)]

Ms. Martinez explained that the proposed amendment would add a requirement for students to complete and submit a financial aid application in order to graduate, starting in the 2021-22 school year, in alignment with requirements in House Bill 3. Students will have the option to complete the Free Application for Federal Student Aid (FAFSA), Texas Application for State Financial Aid (TASFA), or opt out. Ms. Martinez further explained that a question was asked about whether a student can satisfy the requirement to demonstrate proficiency in communication skills in middle school.

MOTION: *It was moved by Mr. Maynard and seconded by Mr. Rowley to recommend that the State Board of Education suspend 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 B, Graduation Requirements, §74.11, High School Graduation Requirements.*

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §74.11(a)(3) to read:*

“demonstrated proficiency in grade 8 or higher, as determined by the district in which the student is enrolled, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.”

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education suspend 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 B, Graduation Requirements, §74.11, High School Graduation Requirements, as amended. The motion carried unanimously.*

5. **Proposed New 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40 (Second Reading and Final Adoption)**
(Board agenda page I-58)

Ms. Martinez explained that board members had received the cumulative comments on the health education TEKS and consensus feedback on public comments from content advisors.

MOTION: *It was moved by Mr. Maynard and seconded by Mr. Rowley to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40, with an effective date of August 1, 2022.*

Mrs. Bahorich summarized the technical edits she identified that needed to be made to the rules.

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Little, and carried to authorize TEA staff to make technical adjustments to 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.12(b)(9)(B) and §115.12(b)(12)(D) to read:*

“(9)(B) identify and role play refusal skills such as saying "no" to protect personal space and to avoid unsafe situations ~~and practice telling a parent or trusted adult if threatened;~~ and”

“(12)(D) “explain ~~and practice~~ how to get help from a parent or trusted adult when made to feel uncomfortable or unsafe by another person.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.12(b)(14) by substituting the words “role play” with the word “identify.”*

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education add “other” to “parent or trusted adult” to read “parent or other trusted adult” throughout the Kindergarten-Grade 12 health education TEKS as appropriate.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.13(b)(11)(B) by striking the word “drugs.”*

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz and seconded by Mr. Cortez to recommend that the State Board of Education add new §§115.12(b)(3)(E), 115.13(b)(4)(A), and 115.14(b)(3)(D) to read:*

“(3)(E) describe differences and similarities in how boys and girls may be expected to act;”

“(4)(A) describe differences and similarities in how boys and girls may be expected to act;”

“(3)(D) explain the effect of peer and societal influence on an individual's social and emotional health, including traditional gender expectations.”

The motion failed.

MOTION: *It was moved by Ms. Perez-Diaz and seconded by Mr. Cortez to recommend that the State Board of Education add new §115.12(b)(12)(E) to read:*

“memorize personal home address as part of a personal safety plan.”

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Little, and carried to recommend that the State Board of Education replace “memorize” with “recall.”*

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education add new §115.12(b)(12)(E), as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §115.13(b)(10)(C) to read:*

“recall parents’/caregivers’ phone numbers as part of a personal safety plan.”

MOTION: *It was moved by Ms. Perez-Diaz, seconded by Ms. Pérez, and carried to recommend that the State Board of Education add new §115.14(b)(10)(D) to read:*

“identify two trusted adults not part of the immediate family and recall their phone numbers as part of a personal safety plan.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Pérez, and carried to recommend that the State Board of Education amend §115.15(b)(4)(A) to read:*

“define self-esteem and ways it is formed, including identifying areas for one’s personal growth; and”

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §§115.15(b)(11)(D), 115.16(b)(12)(E), 115.17(b)(12)(E), 115.26(b)(12)(C), and 115.27(b)(12)(D) to read:*

“create a personal safety plan.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.15(b)(12)(D).*

MOTION AND VOTE: *It was moved by Mr. Maynard and seconded by Mrs. Little, and carried unanimously to recommend that the State Board of Education add new (a)(4)(A)-(E) to the introductions for §§115.16-17, §§115.26-115.28, and §§115.38-115.39 to read:*

"(4) An integral part of health education involves educators being aware of state laws relevant to human sexuality instruction. These include laws affirming

- (A) local school district's control over the provision of human sexuality instruction to ensure that local community values are reflected in that instruction;
- (B) the right of a parent or legal guardian to be informed of the provision of human sexuality instruction to their child and review the content of that instruction;
- (C) the right of a parent or legal guardian to remove their child from any portion of human sexuality instruction without penalty to the child;
- (D) the centrality of abstinence education in any human sexuality curriculum;
- (E) and the right of a parent or legal guardian to be informed of and consent to an abortion performed on their pregnant child (with judicially authorized or medical emergency exceptions).

(5) Educators should be aware of and abide by the statutory prohibition on taxpayer resource transactions between state governmental entities, including public schools, and abortion providers or an affiliate of an abortion provider."

The board asked staff to add statutory citations to new (a)(4)(A)-(E), as applicable.

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.16(b)(4)(A) to read:*

“discuss ways to help build self-esteem of self, friends, and others, including identifying areas for one's personal growth and ways to gather constructive feedback;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.16(b)(12)(A) by striking the words “and drugs.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.17(b)(3)(C) to read:*

“explain ways of maintaining healthy relationships and resisting ~~negative peer influence pressure~~ in social groups;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education add new §115.17(b)(4)(D) to read:*

“identify goals that one wishes to achieve, including identifying areas for one’s personal growth and ways to gather constructive feedback”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to unanimously recommend that the State Board of Education amend §115.17(b)(12)(A) by striking the words “and drugs.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend §115.17(b)(16)(B) to read:*

“analyze the short and long term harmful effects of alcohol, tobacco, other drugs, and dangerous substances and describe the legal consequences of the their illegal use of alcohol, tobacco, other drugs, and dangerous substances.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.17(b)(20)(A) and §115.38(b)(18)(A) and amend §115.26(b)(20)(A) and §115.27(b)(20)(A) to read:*

§115.26(b)(20)(A) *“define and distinguish between friendship, infatuation, dating/romantic relationships, and marriage compare and contrast the differences between friendship, infatuation, dating/romantic relationships, and marriage”*

§115.27(b)(20)(A) *“compare and contrast the difference between friendship, infatuation, dating/romantic relationships, and marriage describe types of relationships such as platonic, romantic, and casual;”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §115.17(b)(21)(D) to read:*

“discuss and explain the importance of making decisions regarding setting personal boundaries and respecting the boundaries of others ~~related to physical intimacy such as holding hands, hugging, and kissing.~~”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend (a)(2) of the introductions to §115.26 and §115.27 to add the following sentences at the end of the paragraph:*

“In addition, areas in the standards related to abuse, neglect, violence, loss, grief, trauma, and suicide may directly affect some students in the classroom. Should the educator recognize signs of discomfort with instruction in these areas, students should be referred to the appropriate resource, identified ahead of such instruction, for additional help and support.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §115.26(b)(4)(B) to read:*

“identify possible health benefits implications of setting and implementing long-term personal goals;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mr. Maynard, and carried to recommend that the State Board of Education strike §§115.26(b)(5)(A), 115.27(b)(5)(A), and 115.38(b)(4)(A).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §115.26(b)(10)(D), §115.27(b)(10)(D), and §115.38(c)(8)(A) as follows:*

§115.26(b)(10)(D) “discuss the nutritional differences in fresh or minimally-processed foods and commercially-prepared or highly preparing and serving fresh foods versus serving ready prepared, processed foods”

§115.27(b)(10)(D) “investigate and compare the nutritional differences in fresh or minimally-processed foods and commercially-prepared or highly preparing and serving fresh foods and serving ready prepared, processed foods”

§115.38(c)(8)(A) “evaluate the nutritional differences in fresh or minimally-processed foods and commercially-prepared or highly preparing and serving fresh foods versus serving ready prepared or processed foods.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.26(b)(13)(B), §115.27(b)(13)(A), and §115.38(b)(11)(A) by inserting the words “social media posts” after “such as.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.26(b)(13)(C), §115.27(b)(13)(B), and §115.38(b)(12)(A) by inserting the words “social media posts” after “such as.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mr. Maynard, and carried to recommend that the State Board of Education amend §115.26(b)(15)(D) by striking “prescription drugs, over-the-counter drugs.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.26(b)(16)(C) and amend §115.26(b)(16)(B) to read:*

“discuss the legal consequences related to the use, ~~and misuse,~~ and possession of drugs, including prescription drugs; and.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.26(b)(18)(E) and amend §115.26(b)(17)(C) to read:*

“identify examples at least one example of who, when, where, and how to get help related to unsafe situations regarding the use and misuse of alcohol; tobacco; drugs, including prescription drugs; and other substances.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.26(b)(19)(D).*

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MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education change references to “STIs and STDs” throughout the Kindergarten-Grade 12 health education TEKS to “STIs/STDs” as appropriate.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.26(b)(23)(G) to read:*

“identify why abstinence from sexual activity is the only method that is 100% effective in preventing pregnancy; STIs/STDs, ~~STIs, ,~~ including human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS); ~~and the emotional risks associated with adolescent sexual activity;~~”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.26(b)(23)(D) to read:*

“identify ~~what that there are~~ emotional risks are associated with sexual activity between unmarried persons of school age;”

MOTION AND VOTE: *It was moved by Ms. Pérez, seconded by Mr. Rowley, and carried to recommend that the State Board of Education amend §§115.26(b)(6)(F), 115.27(b)(6)(E), and 115.38(b)(5)(A) to read:*

“(6)(F) discuss the Suicide Risk and Suicide Protective Factors ~~warning signs associated with suicide~~ as identified by the Centers for Disease Control and Prevention (CDC) and the importance of telling a parent or trusted adult if one observes the warning signs in self or others;”

“(6)(E) discuss the Suicide Risk and Suicide Protective Factors ~~protective factors of suicide~~ identified by the Centers for Disease Control and Prevention (CDC) and the importance of telling a parent or trusted adult if one observes the warning signs in self or others;”

“(5)(A) discuss the Suicide Risk and Suicide and Protective Factors ~~warning signs and protective factors of suicide~~ as identified by the Centers for Disease Control and Prevention (CDC) and the importance of telling a parent or trusted adult if one observes the warning signs in self or others;”

MOTION AND VOTE: *It was moved by Mrs. Little and seconded by Dr. Robinson to recommend that the State Board of Education strike §115.26(b)(5)(B). The motion failed.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich and carried to recommend that the State Board of Education strike §115.27(b)(5)(D).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(7)(A) to read:*

“analyze food labels and menus to determine the nutritional value of foods and make healthy decisions about daily caloric intake;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.27(b)(7)(B).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(8)(C) by striking the word “expenditures.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded Mr. Maynard, and carried to recommend that the State Board of Education strike §115.27(b)(8)(A) and amend §115.27(b)(8)(D) to read:*

“apply the CDC guidelines for daily physical activity to develop a physical fitness plan using appropriate technology.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(10)(C) by inserting the words “and digital” after “community.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.27(b)(15)(D).*

MOTION: *It was moved by Mrs. Bahorich and seconded by Ms. Hardy to recommend that the State Board of Education strike §115.27(b)(15)(F) and amend §115.27(b)(15)(E) to read:*

“describe how substance misuse and addiction to alcohol, tobacco, drugs and other substances, including prescription drugs, drug abuse, and substance use disorders affect the body systems and brain; and”

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education strike §115.27(b)(15)(F) and amend §115.27(b)(15)(E) as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(16)(A) by inserting the words “addiction to alcohol and tobacco and” after “consequences of.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(16)(B) by replacing the word “alternatives” with the words “alternative activities.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.27(b)(22)(D).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(23)(D) to read:*

“describe various modes of transmission of STDs/STIs ~~STDs and STIs, including skin-to-skin contact and the exchange of bodily fluids through sexual contact;~~”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §115.27(b)(23)(E) to read:*

“identify the prevalence of STDs/STIs among teens by referencing county, state, and/or federal data sources;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(23)(K) by replacing the word “condoms” with the words “barrier protection.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(23)(L) to read:*

“explain that HPV vaccines can help prevent the transmission of the most common types of HPV, a virus that can cause genital warts, ~~and~~ cervical cancer, and ~~or~~ other cancers in males and females;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(23)(N) to read:*

“define legal implications of ~~regarding~~ regarding teen pregnancy, including the legal effects of acknowledgment and proof of paternity ~~child support and acknowledgement of paternity;~~”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(23)(O) to read:*

“describe legal aspects of sexual activity with a minor person ~~implications~~, including the legal age of consent, ~~and offenses regarding sexual activity as they relate to minor persons, including~~ statutory rape, aggravated sexual assault, sexual assault, sexual abuse, and indecency with a child; and”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.27(b)(3)(F).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(21)(F) to read:*

“describe how a healthy sense of self and making ~~and respecting~~ and respecting decisions regarding setting and respecting ~~safe~~ personal boundaries ~~and limits~~ promote healthy dating/romantic relationships”

MOTION: *It was moved by Mrs. Bahorich and seconded by Ms. Hardy to recommend that the State Board of Education strike §115.27(b)(21)(H) and amend §115.27(b)(21)(G) to read as follows,*

“discuss and practice how refusal skills can be used to resist negative peer influences ~~pressure~~ and reinforce personal boundaries to avoid dangerous situations and behaviors that increase sexual risk in dating/romantic relationships”

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.27(b)(21)(G) by replacing the words “dating/romantic relationships” with “dating and romantic relationships.”*

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education amend §115.27(b)(21)(G) as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.27(b)(21)(J).*

MOTION AND VOTE: *It was moved by Dr. Robinson, seconded by Mr. Cortez, and carried to recommend that the State Board of Education add “vaping products” after “tobacco” where appropriate.*

MOTION AND VOTE: *It was moved by Mr. Cortez and seconded by Ms. Perez-Diaz to recommend that the State Board of Education amend §115.27(b)(14)(E) to read:*

“describe the seriousness of various forms of bullying, including bullying and harassment because of sexual orientation and gender identity or expression such as harassment;”

The motion failed.

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by M.s Hardy, and carried to recommend that the State Board of Education amend (a)(3)(D) in the introduction of §§115.12-115.16 and §§115.26-115.27 and (b)(3)(D) in the introduction of §§115.38-115.39 by inserting the word “prevention” after “bullying.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by M.s Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(2)(A) to read:*

“discuss and demonstrate perspective-taking and ways to show respect for other’s feelings and express empathy toward others; and”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by M.s Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(3) by striking the word “mental” from the phrase “based on mental health information.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by M.s Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(5)(B) and add new §115.39(c)(5)(D) to read:*

“(5)(B) discuss assess how the use of suicide prevention resources such as the National Suicide Prevention Hotline reduces the likelihood of suicide; and”

“(5)(D) assess how the use of suicide prevention resources such as the National Suicide Prevention Hotline reduces the likelihood of suicide; and”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.38(c)(5)(C) and move it to new §115.39(c)(5)(E).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(6)(A) to read:*

“evaluate food labels and menus to determine the for nutritional content and value of foods and make healthy decisions about daily caloric intake, including recommended daily calories;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education move §115.38(c)(8)(B) to §115.39(c)(9)(A) and to move §115.39(c)(9)(A) to §115.38(c)(8)(B).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §115.38(c)(18)(B) by inserting “and romantic” after “dating.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §115.38(c)(18)(D) to read:*

“describe how a healthy marriage can provide a supportive environment for the nurturing and development of children.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(19)(C) by replacing the word “identify” with the word “analyze.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §115.38(c)(19)(F)-(H) to read:*

“(F) examine factors, including alcohol and other substances, that increase sexual risk and that affect setting, perceiving, respecting, and making decisions about boundaries;”

“(G) examine and discuss influences and pressures to become sexually active and why it is wrong to violate another person's boundaries and manipulate or threaten someone into sexual activity; and”

“(H) explain the importance of reporting to a parent or trusted adult sexual harassment, sexual abuse, sexual assault, and dating violence involving self or others.”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.38(c)(20)(A).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education strike §115.38(c)(20)(B).*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.38(c)(21)(B) to read:*

“describe various modes of transmission of sexually transmitted diseases (STDs) and STIs, ~~including skin to skin contact, oral sex, vaginal sex, and anal sex;~~”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education add new §115.38(c)(21)(C) to read:*

“investigate and summarize the statistics on the prevalence of STDs/STIs among teens by referencing county, state, and/or federal data sources;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich and seconded by Ms. Hardy to recommend that the State Board of Education add new §115.38(c)(21)(G) to read:*

“identify support from parents and trusted adults and create strategies, including building peer support, to be abstinent or for return to abstinence if sexually active;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend original §115.38(c)(21)(G) and §115.39(c)(21)(G) to each read:*

“analyze the effectiveness and the risks and failure rates (human-use reality rates) of barrier protection and other contraceptive methods, including how they work to ~~and may~~ reduce the risk of STDs/STIs and pregnancy; and”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.39(c)(9)(B) by inserting “and digital” after “community.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.39(c)(15)(A) and amend §115.39(c)(14)(A) to read:*

“analyze how substance misuse and addiction to alcohol, tobacco, drugs, and other substances impacts family and community health;”

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.39(c)(20)(B) by substituting the word “explain” with the word “evaluate.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.39(c)(20)(E) by substituting the words “examine and discuss” with the word “evaluate.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §115.39(c)(21)(C).*

MOTION: *It was moved by Mrs. Bahorich and seconded by Ms. Hardy to recommend that the State Board of Education amend §115.39(c)(22)(E) to read:*

“identify the effectiveness of vaccines in preventing the transmission of the most common types of HPV, a virus that may cause genital warts, ~~and~~ head and neck cancer, cervical cancer, anal cancer, and other cancers in males and females;”

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.39(c)(22)(E) by inserting the words “that may occur” after “other cancers.”*

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education amend §115.39(c)(22)(E) as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §115.39(c)(22)(G) by substituting the word “identify” with the word “assess.”*

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §115.39(c)(22)(H) to read:*

“~~investigate and summarize describe~~ the legal aspects of sexual activity with a minor person, ~~implications~~, including the legal age of consent, ~~and offenses regarding sexual activity as they relate to minor persons, including~~ statutory rape, aggravated sexual assault, sexual assault, sexual abuse and indecency with a child; and”

MOTION AND VOTE: *It was moved by Mr. Cortez and seconded by Mr. Allen to recommend that the State Board of Education add new §115.38(c)(12)(D) to read:*

“explain why everyone deserves to be treated with respect, regardless of their sexual orientation or gender identity.”

The motion failed.

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz and seconded to recommend that the State Board of Education add new §115.38(c)(19)(F) to read:*

“analyze the similarities and differences between legal consent to sexual activity and affirmative consent to sexual activity.”

The motion failed.

MOTION AND VOTE: *It was moved by Mr. Cortez and seconded by Ms. Perez-Diaz to recommend that the State Board of Education amend §115.39(c)(13)(C) to read:*

“promote strategies for prevention and intervention of all forms of bullying and cyberbullying such as emotional, physical, social, and sexual, and bullying and harassment because of sexual orientation or gender identity.”

The motion failed with 6 members voting Aye and 9 members voting No as follows:

<u>Aye:</u>	Mr. Allen	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz
	Ms. Davis	Dr. Robinson

<u>No:</u>	Mrs. Bahorich	Mr. Maynard
	Mrs. Cargill	Mrs. Melton-Malone
	Dr. Ellis	Mr. Mercer
	Ms. Hardy	Mr. Rowley
	Mrs. Little	

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend §§115.16(c)(5)(E), 115.17(c)(6)(F), 115.26(c)(6)(G), and 115.27(c)(6)(F) to read:*

~~“(5)(E) identify ways to express and self-harm behaviors that may present when someone is struggling to manage overwhelming emotions without harming oneself, others, or property such as calming strategies or talking to a or lacks support and explain the importance of telling a parent or trusted adult if observed in self or others;”~~

~~“(6)(F) discuss healthy self-management alternatives to harming oneself, others, or property prevent harming oneself and the importance of telling a parent or trusted adult when someone is struggling to manage overwhelming emotions or lacks support;”~~

“(6)(G) explain the role of a healthy self-concept in avoiding self-harming ~~describe why self harm behaviors that can occur when someone is struggling to manage overwhelming emotions or lacking support”~~

“(6)(F) research and discuss protective factors and healthy self-management strategies to avoid self-harming behaviors ~~harming oneself; and”~~

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Ms. Hardy, and carried to recommend that the State Board of Education strike §§115.16(c)(12)(D), 115.17(c)(12)(C), 115.17(c)(14)(A), 115.17(c)(14)(B), 115.26(c)(14)(A), 115.27(c)(12)(C), 115.27(c)(14)(B), 115.27(c)(14)(H), and 115.39(c)(13)(A), and amend §§115.15(c)(13)(C), 115.17(c)(12)(D), 115.26(c)(12)(B), 115.26(c)(14)(B), and 115.27(c)(14)(A) to read as follows,*

“(13)(C) define ~~identify examples of abuse and neglect and describe how to respond;”~~

“(12)(D) identify ~~evaluate~~ safety procedures that can be used in various situations, including violence in the home, school, and community;”

“(12)(B) define safe haven and identify designated safe haven locations in the community ~~examine safety procedures that can be used in various situations, including violence in the home, school, and community;”~~

“(14)(B) identify how exposure to family violence can influence behavior and the importance of reporting suspected abuse;”

“(14)(A) identify forms of family violence including physical, mental, and emotional violence ~~analyze strategies for managing unhealthy behaviors in the family or household such as abuse, alcoholism, and neglect;”~~

MOTION AND VOTE: *It was moved by Mrs. Bahorich, seconded by Mrs. Cargill, and carried to recommend that the State Board of Education amend §§115.40(c)(1)(A), (2)(A), (3)(C), (4)(F), (5)(C), (6)(B), (6)(D), (10)(B), (13)(B), and (13)(F) as follows,*

“(1)(A) define ~~identify and characterize~~ medical expressions or terms used by health care professionals;”

“(2)(A) interpret and explain ~~apply~~ take-home instructions from a health care professional;”

“(3)(C) analyze key ~~compare and contrast different~~ components of insurance, including copay and deductible;”

“(4)(F) explain what Food and Drug Administration (FDA) approval means and compare with; ~~including off-label use.”~~

“(5)(C) identify available health care community resources such as medical, dental, vision, pharmacy, x-ray, and laboratory services;”

“(6)(B) identify patient rights and physician privileges and expectations, including rights to sexually transmitted infection (STI)/STD testing and pregnancy health care, and explain and physician privileges;”

“(6)(D) demonstrate ~~how the ability~~ to have a collaborative conversation with a health care professional, including asking questions and advocating for self and others;”

“(10)(B) compare and contrast ~~the characteristics of~~ U.S. and global health issues;”

“(13)(B) ~~evaluate~~ explore the benefits of regular checkups;”

“(13)(F) ~~research~~ explore and describe preventative services covered by insurance plans;”

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.11-115.17, Subchapter B, Middle School, §§115.25-115.28, and Subchapter C, High School, §§115.37-115.40, as amended. The motion carried unanimously.*

6. Texas Certificate of High School Equivalency

(Board agenda page I-165)

[Official agenda item #(9)]

Ms. Martinez explained that a new request for proposals (RFP) from vendors who offer high school equivalency tests will need to be issued for contracts to begin next year. She explained that staff was requesting minor adjustments to the language that was used in the last RFP.

MOTION AND VOTE: *It was moved by Mr. Cortez, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve the content of the Texas Certificate of High School Equivalency Request for Proposals (RFP) for test providers relating to 19 TAC Chapter 89, Texas Certificate of High School Equivalency.*

(Mrs. Bahorich, Mr. Mercer, and Mr. Rowley were absent for the vote.)

DISCUSSION ITEMS

7. Discussion of Transition Plan for Electronic Administration of Assessment Instruments

(Board agenda page I-167)

Iris Tian, division director, student assessment, provided an update regarding the legislative requirement that the Texas Education Agency, in consultation with the SBOE, conduct a feasibility study and submit to the Legislature a transition plan for electronic administration of state assessments beginning in the 2022-2023 school year. Ms. Tian explained that final decisions about transition to electronic assessments will be made by the Legislature during the 2021 legislative session.

8. Discussion of Pending Litigation

(Board agenda page I-168)

The committee did not discuss pending litigation; therefore, no executive session was held.

Dr. Ellis adjourned the meeting at 7:13 p.m.

State Board of Education –87th Legislative Priorities

Assessment and A-F Accountability

- A. Expand the authority of the SBOE to develop guidelines for pre-apprenticeships and determine which career and technical education (CTE) certification programs qualify for a performance indicator in the A-F Accountability System. **(Georgina Perez)**

Charter Schools

- B. Restore statutory authority of the State Board of Education (SBOE) to allow the SBOE to approve the Commissioner’s proposed charter expansion amendments– to ensure that there is an elected and voter-accountable body. **(Georgina Perez)**
- C. Ensure sufficient funding for a statewide enrollment management system for charter schools. This funding would provide for the creation and maintenance of a real-time system to track waitlists of charter schools (approximate cost would be \$1.5-\$2.0M per biennium). **(Tom Maynard)**

Counselors/Mental Health Services

- D. Increase funding for counselors and mental health services. **(Georgina Perez)**

Education Vendor Contracts

- E. Require vendors for K-12 Texas schools and libraries to filter inappropriate content, such as obscene and pornographic images for minors. **(Ken Mercer)**

Safe and Healthy Schools

- F. TEA to create an advisory council on family engagement and empowerment to inform all state and local policymakers on best practices on family and school partnerships. **(Mrs. Bahorich)**

Technology and Instructional Materials (TIMA)

- G. Increase funding for the technology and instructional materials fund (TIMF) to ensure districts can provide adequate technology and instructional materials to meet higher standards for students and oppose any carve-outs from the TIMF that decrease the amount of funds to school districts, including efforts by the state for rating instructional materials. Funding for “quality” reviews should be allocated from a source other than the TIMF. **(Georgina Perez)**

- H. Give the SBOE rule-making authority over all instructional materials, including, but not limited to Commissioner-adopted materials, that collect or use student data online (reference Subchapter D Chapter 32). **(Georgina Perez)**
- I. Include in the SBOE review process a requirement that a submitted material align with 100% of the Texas Essential Knowledge and Skills (TEKS) for the designated standards as compared to the current level of 50%. **(Mr. Rowley)**
- J. Ensure sufficient legislative appropriations to increase staffing at the Texas Education Agency, particularly in the curriculum division, to provide adequate personnel to oversee and support the TEKS review and implementation process and the textbook adoption process. **(Mrs. Cargill)**

Miscellaneous

- K. Change language in waivers to include "non-credit certificates" - Expand the tuition and fee waiver for foster students for any public college or university due to the students aging out of foster care. If the student wanted to pursue any degree program or credit certificate, then the tuition would be covered. **(Barbara Cargill)**
- L. Ensure sufficient funding for TEA Reading and Mathematics Achievement Academies. **(Barbara Cargill)**
- M. Ensure support for TEA's LAR Exceptional Item: Ensuring Equity in Opportunity through Targeted Supports (\$20M).
 - **Attract and train effective, diverse educators** to the profession who better reflect the student population in Texas communities, ensuring equitable distribution of educators and educator training focused on accelerating the academic achievement of student groups that have historically fallen behind and are expected to experience further learning loss due to COVID-19.
 - **Targeted interventions and campus supports** to reduce achievement gaps within district and school environments, including providing equitable access to and effective implementation of high-quality instructional materials that have been shown to reduce the achievement gap.

**Report of the State Board of Education
Committee on Instruction
November 19, 2020**

The State Board of Education Committee on Instruction Board met at 9:01 a.m. on Thursday, November 19, 2020, in the State Board of Education Room, #1-100, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Sue Melton-Malone, chair; Pam Little, vice chair; Georgina C. Pérez; Marty Rowley

Absent: Aicha Davis

Public Testimony

The Committee on Instruction received no presentations of public testimony.

ACTION ITEMS

1. Proposed Amendments to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty (Second Reading and Final Adoption)

(Board agenda page II-1)

[Official agenda item #(1)]

Melissa Lautenschlager, director, instructional materials and implementation division, explained that comments received on this item were all outside the scope of the rulemaking and no changes were recommended since the item was approved for first reading.

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Little, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, §66.15, Administrative Penalty, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

2. Approval of Update to Instructional Materials for Learning A–Z

(Board agenda page II-8)

[Consent agenda item #(2)]

Amie Williams, director of review and adoption, instructional materials and implementation division, explained that Learning A-Z was requesting approval to update content for three adopted products and that curriculum staff had reviewed the requested changes.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Mr. Rowley, and carried unanimously to recommend that the State Board of Education approve the request from Learning A–Z to update content in three of its adopted products Raz Plus ELL Texas Edition, grade 2; Raz Plus ELL Texas Edition, grade 3; and Raz Plus ELL Texas Edition, grade 4.*

The meeting of the Committee on Instruction adjourned at 9:15 a.m.

**Report of the State Board of Education
Committee on School Finance/Permanent School Fund
November 19, 2020**

The State Board of Education Committee on School Finance/Permanent School Fund met at 9:02 a.m. on Thursday, November 19, 2020, in the State Board of Education Room, Room #1-104 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Tom Maynard, chair; Lawrence A. Allen, Jr., vice chair; Donna Bahorich; Patricia Hardy; Ken Mercer

Public Testimony

The Committee on School Finance/Permanent School Fund received no presentations of public testimony.

The Committee on School Finance/Permanent School Fund considered items in the following order: Item number 1, 2, 3, 9, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13

ACTION ITEM

1. Approval of Costs to Administer the 2020-2021 State-Developed Assessments to Private School Students

(Board agenda page III-I)
[Consent agenda item #(3)]

Julie Cole, director of policy and publications, student assessment division, explained that this item applies to private schools using state-developed assessments to evaluate their students. She explained that the cost per assessment was determined by dividing the overall cost by the number of students who participated in the assessment.

MOTION AND VOTE: *It was moved by Mr. Allen, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve the recommended per-student costs for administering the state assessments to private school students in 2020–2021.*

DISCUSSION ITEMS

2. Discussion of Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide

(Board agenda page III-7)

David Marx, senior director, financial compliance, explained that proposed amendment would update the Financial Accountability System Resource Guide (FASRG). Mr. Marx also explained how the FASRG is used and that is being updated to reflect the latest governmental accounting guidance and legislative changes. Additionally, he summarized some of the changes being made to the FASRG.

3. **Rule Review of 19 TAC Chapter 30, Administration, Subchapter B, State Board of Education: Purchasing and Contracts**
(Board agenda page III-12)

Dean Howard, assistant director, contracts and purchasing division, explained that this item presents the review of an administrative rule that addresses the historically underutilized business (HUB) program and procedures relating to protest for purchasing issues and dispute resolution

4. **Review of Permanent School Fund Securities Transactions and the Investment Portfolio**
(Board agenda page III-16)

Catherine Civileto, deputy executive administrator, provided a summary of the status of the Permanent School Fund (PSF) portfolio. Reports presented to the committee were for the reporting period July through September 2020 unless otherwise noted. Ms. Civileto's report included reporting on the current fair market value of the Fund, the asset allocation mix as of September 30, 2020, PSF transactions occurring in the reporting period, revenues and expenditures for the fiscal period September 1, 2019 through August 31, 2020, revenues and expenditures for September 2020, the first month of fiscal year 2021, the activity in the securities lending program for the fiscal period September 1, 2019 through August 31, 2020, the activity in the securities lending program for September 2020, the first month of fiscal year 2021, the status of transfers from the General Land Office as of September 30, 2020, per approved resolutions, current status of the Bond Guarantee Program and the available capacity in the program, broker commissions on both the internal and external equity portfolios for the period beginning January 1, 2020 through September 30, 2020, fixed income rating changes for the fiscal period September 1, 2019 through August 31, 2020, fixed income ratings for September 2020, the first month of fiscal year 2021, and short-term cash investments.

ACTION ITEMS

5. **Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of July, August, and September 2020**
(Board agenda page III-17)
[Consent agenda item #(4)]

MOTION AND VOTE: *Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent, that the State Board of Education ratify the purchases and sales for the months of July, August and September 2020, in the amount of \$3,050,234,143 and \$3,358,086,350, respectively (Attachment A).*

6. **Approval of an Extension of the Standard Contract with NEPC, LLC and Authorization for Contract Execution by the Commissioner of Education**
(Board agenda Page III-18)
[Consent agenda item #(5)]

Holland Timmins, executive administrator and chief investment officer, stated the purpose of the item was for the committee and board to extend the standard contract with NEPC, LLC and authorize contract execution by the commissioner of education.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve renewal the standard contract with NEPC, LLC beginning September 1, 2021 and ending August 31, 2024, and authorize contract execution by the Commissioner of Education.*

7. **Approval of an Extension of the Standard Contract with Blackrock Investment Management, LLC, and Authorization for Contract Execution by the Commissioner of Education**
(Board agenda page III-19)
[Consent agenda item #(6)]

Mr. Timmins stated the purpose of the item was for the committee and board to extend the standard contract with Blackrock Investment Management, LLC and authorize a contract execution by the commissioner of education.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve renewal of the standard contract with Blackrock Investment Management , LLC beginning September 1, 2021 and ending August 31, 2025, and authorize contract execution by the Commissioner of Education.*

8. **Proposed Amendments to the Investment Procedures Manual**
(Board agenda page III-20)
[Consent agenda item #(7)]

Carlos Veintemillas, deputy chief investment officer and director of fixed income, provided an overview of the amendments to the investment procedures manual which reflected the changes to the strategic asset allocation for the PSF and the PSF Liquid Account adopted in July 2020.

Rhett Humphreys, partner, NEPC, reviewed the amendments and recommended approval by the board.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve the amendments to the Investment Procedures Manual as presented by staff.*

9. Proposed Amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guideline of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules

(First Reading and Filing Authorization)

(Board agenda page III-21)

[Consent agenda item #(8)]

Mr. Veintemillas provided an overview of the proposed amendments and noted the changes would amend the asset allocation of the PSF, update transactions and restrictions that apply to the PSF, include the liquid account in the securities lending program, and update the cross references and a section title.

Rhett Humphreys, partner, NEPC discussed the evaluation of the proposed amendments and noted NEPC agreed with staff's proposed language.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve for first reading and filing authorization proposed amendments to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules.*

10. Authorization to Issue a Request for Qualifications for Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel for the Permanent School Fund

(Board agenda page III-27)

[Consent agenda item #(9)]

Mr. Timmins gave a brief presentation to the committee regarding the Request for Qualifications (RFQ). He explained the Attorney General's Office oversight of outside counsel contracts, reviewed the timeline of the RFQ process, and noted the scoring criteria for selecting counsel firms.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve issuance of a Request for Qualification for Fiduciary, Investment Contracting, Real Estate, Tax and Disclosure Counsel for the Permanent School Fund.*

11. Authorization to Issue a Request for Proposals for High Yield Bonds Discretionary Investment Managers for the Permanent School Fund

(Board agenda page III-28)

[Consent agenda item #(10)]

Mr. Timmins presented the Request for Proposals (RFP) for the High Yield Bonds Discretionary Investment Management to the committee. Mr. Timmins addressed the selection criteria and the timeline in the RFP. A three percent allocation to this sector has been approved as part of the overall asset allocation plan.

MOTION AND VOTE: *By unanimous consent, the committee recommended that the State Board of Education approve issuance of a Request for Proposals for U.S. High Yield Fixed Income Discretionary Investment Managers for the Permanent School Fund.*

12. Report on the Permanent School Fund Liquid Account

(Board agenda page III-29)
[Consent agenda item #(11)]

Ms. Civileto provided a summary on the status of the PSF Liquid Account. Reports presented to the committee were for the reporting period July through September 2020 unless otherwise noted. Ms. Civileto's report included reporting on the current fair market value of the Liquid Account, the asset allocation mix as of September 30, 2020, transfer activity between the GLO and the Liquid Account, cumulative Income and Realized Gains transferred to the SBOE from the Liquid Account as of September 30, 2020, transactions occurring in the reporting period, and ratification of the cumulative Purchases and Sales of the Liquid Account since its inception, September 1, 2019 through September 30, 2020.

MOTION AND VOTE: *Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent, that the State Board of Education ratify the purchases and sales of the Permanent School Fund Liquid Account for the period September 1, 2019 through September 2020, in the amounts of \$3,561,837,642 and \$671,509,016, respectively (Attachment B).*

DISCUSSION ITEM

13. Report on the Permanent School Fund Liquid Account

(Board agenda page III-30)

Mr. Timmins reminded the committee that they were now in the blackout period for applicants for both the RFQ and RFP. He was pleased to report the PSF annual report received the GFOA certificate of achievement for excellence in financial reporting. Mr. Timmins also updated the committee on the Emerging Manager RFP and the PSF intern program.

The meeting of the Committee on School Finance/Permanent School Fund adjourned at 10:38 a.m.

**Report of the State Board of Education
Committee on School Initiatives
November 19, 2020**

The State Board of Education Committee on School Initiatives met at 9:06 a.m. on Thursday, November 19, 2020, in Room, #1-111, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Barbara Cargill, chair; Marisa B. Perez-Diaz, vice chair; Ruben Cortez, Jr.; Keven Ellis; Matt Robinson

Non-Committee Members Present: Donna Bahorich; Pat Hardy; Pam Little; Tom Maynard; Sue Melton-Malone; Georgina Pérez; Marty Rowley

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #1, #4 and #5. Information regarding the individuals who presented public testimony is included in the discussion of that item.

The Committee on School Initiatives considered items in the following order: Item number 1, 2, 5, 6, 7, 4, 3

DISCUSSION ITEMS

1. Open-Enrollment Charter School Generation 26 Application Updates
(Board agenda page IV-1)

Public testimony was provided by the following individual:

NAME: Renee Walker
AFFILIATION: Self

Heather Mauzé, director of the division of charter school administration, provided updates regarding the Generation Twenty-Six Open-Enrollment Charter Application cycle.

2. Rule Review of 19 TAC Chapter 30, Administration, Subchapter A, State Board of Education: General Provisions
(Board agenda page IV-2)

Cristina De La Fuente-Valadez, director of rulemaking, informed the committee that the adoption of the review of 19 TAC Chapter 30, Subchapter A, would be presented for action at the next State Board of Education (SBOE) meeting. Ms. De La Fuente-Valadez stated that, in consultation with agency legal counsel, a separate action item proposing an amendment would also be presented for first reading and filing authorization to update procedures as needed.

ACTION ITEM

3. Recommended Revisions to the Framework for School Board Development (Board agenda page IV-7) [Official agenda item #(11)]

Public testimony was provided by the following individuals:

NAME: Anna Eastman
AFFILIATION: Self

NAME: Dan Micciche
AFFILIATION: Texas Association of School Boards

NAME: Kristi Hassett
AFFILIATION: Self

NAME: Phil Gore
AFFILIATION: Texas Association of School Boards

NAME: Cathy Mincberg
AFFILIATION: Self

NAME: Kevin Brown
AFFILIATION: Texas Association of School Administrators

NAME: Becky St. John
AFFILIATION: Self

NAME: Rick Lambert
AFFILIATION: Self

NAME: Drew Howard
AFFILIATION: Self

NAME: Craig Adams
AFFILIATION: Self

NAME: Karen Freeman
AFFILIATION: Self

NAME: Robert Glaser
AFFILIATION: Houston Community College

NAME: Trish Bode
AFFILIATION: Self

Jeff Cottrill, deputy commissioner, governance and accountability, offered to coordinate with staff from the Texas Association of School Boards to provide recommended amendments to the State Board of Education at its meeting on Friday, November 20, 2020.

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Ms. Perez-Diaz, and carried unanimously to recommend that the State Board of Education adopt the recommended revisions to the School Board Member Training—Framework for School Board Development.*

DISCUSSION ITEM

4. **Discussion of Proposed Amendments to 19 TAC Chapter 61, School Districts, Subchapter B, Special Purpose Districts**
(Board agenda page IV-11)

Dr. Cottrill explained that Boys Ranch Independent School District (ISD) inquired about having operating flexibility similar to what is available to districts of innovation under Texas Education Code (TEC), Chapter 12A. Because Boys Ranch ISD does not receive an accountability rating under TEC, Chapter 39, it is not eligible to be designated as a district of innovation. The SBOE has regulatory authority over Boys Ranch ISD and is permitted to adopt rules for its governance. Dr. Cottrill explained that this item gives the board the opportunity to discuss further rules to be considered regarding Boys Ranch ISD and indicated that a proposal would be presented for consideration by the board at the January meeting.

ACTION ITEMS

5. **Review of Proposed New 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate**
(Board agenda page IV-12)
[Official agenda item #(12)]

Public testimony was provided by the following individual:

NAME: Mark Wiggins
AFFILIATION: Association of Texas Professional Educators

Marilyn Cook, director, educator certification, explained that proposed new 19 TAC Chapter 239, Subchapter E, would provide for the requirements and validity period for Legacy Master Teacher certificate holders.

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz, seconded by Dr. Ellis, and carried unanimously to recommend that the State Board of Education take no action on proposed new 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate*

6. **Review of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6–12 Assignments; Subchapter E, Grades 9–12 Assignments; Subchapter F, Special Education–Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments**

(Board agenda page IV-17)

[Official agenda item #(13)]

Ms. Cook explained that the proposed revisions to 19 TAC Chapter 231 would implement the statutory requirements in House Bill (HB) 3, 86th Texas Legislature, 2019, that requires that all master teacher certificates be designated as "legacy" certificates and recognized for assignment purposes until they expire. The proposed revisions would also incorporate courses approved by the State Board of Education (SBOE), would add certificate areas to the list of credentials appropriate for placement into an assignment, and would reorganize current provisions to improve readability and align citations.

MOTION AND VOTE: *It was moved by Dr. Robinson, seconded by Ms. Perez-Diaz, and carried unanimously to recommend that the State Board of Education take no action on the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6–12 Assignments; Subchapter E, Grades 9–12 Assignments; Subchapter F, Special Education–Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments.*

7. **Review of Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs**

(Board agenda page IV-93)

[Official agenda page #(14)]

Mark Olofson, director, educator data and preparation program management, explained that the proposed amendments to 19 TAC Chapter 229 would provide for adjustments to the 2019–2020 Accountability System for Educator Preparation (ASEP) due to Governor Abbott's disaster declaration related to COVID-19; would include an accountability indicator for Educator Preparation Programs (EPPs) based on the improvement in achievement of students taught by beginning teachers; would provide an index for the determination of EPP accreditation status; and would provide updates to the ASEP manual.

It was moved by Ms. Perez-Diaz, seconded by Dr. Robinson, and carried unanimously to recommend that the State Board of Education take no action on the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs.

The meeting of the Committee on School Initiatives adjourned at 12:22 p.m.