

The State Board of Education (SBOE) proposes the repeal of §§116.1-116.7, 116.21-116.24, and 116.51-116.56, concerning Texas Essential Knowledge and Skills (TEKS) for physical education. The proposed repeals would remove the TEKS for Kindergarten-Grade 12 physical education and related implementation language that will be superseded by 19 TAC §§116.11-116.17, 116.25-116.28, and 116.61-116.64 beginning with the 2022-2023 school year.

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 November 2020 SBOE meeting, the board approved for second reading and final adoption proposed new §§116.11-116.17, 116.25-116.28, and 116.61-116.64 to be implemented beginning in the 2022-2023 school year.

The proposed repeals would remove sections that will be superseded by §§116.11-116.17, 116.25-116.28, and 116.61-116.64 effective August 1, 2022.

The SBOE approved the proposed repeals for first reading and filing authorization at its April 8, 2022 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, has determined that for the first five years the proposal is in effect, 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: Texas Education Agency (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 repeal existing regulations by removing the physical education TEKS that will be superseded by a newly adopted set of TEKS.

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 expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be removing the TEKS for Kindergarten-Grade 12 physical education and related implementation language that will be superseded by §§116.11-116.17, 116.25-116.28, and 116.61-116.64 beginning with the 2022-2023 school year. 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 May 6, 2022, and ends at 5:00 p.m. on June 10, 2022. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_\(TAC\)/Proposed_State_Board_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/). The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in June 2022 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 May 6, 2022.

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; and TEC, §28.002(c), which requires the SBOE to identify by rule 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.

CROSS REFERENCE TO STATUTE. The repeals implement Texas Education Code, §7.102(c)(4) and §28.002(a) and (c).

<rule>

§116.1. Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary.

§116.2. Physical Education, Kindergarten.

§116.3. Physical Education, Grade 1.

§116.4. Physical Education, Grade 2.

§116.5. Physical Education, Grade 3.

§116.6. Physical Education, Grade 4.

§116.7. Physical Education, Grade 5.

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<rule>

§116.21. Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School.

§116.22. Physical Education, Grade 6.

§116.23. Physical Education, Grade 7.

§116.24. Physical Education, Grade 8.

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<rule>

§116.51. Implementation of Texas Essential Knowledge and Skills for Physical Education, High School.

§116.52. Foundations of Personal Fitness (One-Half Credit).

§116.53. Adventure/Outdoor Education (One-Half Credit).

§116.54. Aerobic Activities (One-Half Credit).

§116.55. Individual Sports (One-Half Credit).

§116.56. Team Sports (One-Half Credit).