

The State Board of Education (SBOE) adopts an amendment to §74.27, concerning innovative courses and programs. The amendment is adopted without changes to the proposed text as published in the October 7, 2022 issue of the *Texas Register* (47 TexReg 6550) and will not be republished. The amendment updates the rule to require that applicants for innovative courses must have piloted the proposed course in a Texas school prior to seeking approval.

REASONED JUSTIFICATION: After the SBOE 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), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process outlined in §74.27 provides authority for the 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.

Each year, the Texas Education Agency provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. At the June 2022 SBOE meeting, the Committee on Instruction requested that an item be placed on the August-September 2022 agenda for the board to consider requiring that an applicant for an innovative course pilot the proposed course in a Texas school prior to seeking approval from the SBOE.

The adopted amendment specifies that innovative courses cannot be approved unless they have been piloted in their entirety in a Texas school prior to seeking approval and that data demonstrating successful piloting of the course in Texas be submitted with the application for an innovative course.

The SBOE approved the amendment for first reading and filing authorization at its September 2, 2022 meeting and for second reading and final adoption at its November 18, 2022 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2023-2024 school year. The earlier effective date will update the requirements for the submission of innovative course applications for the 2022-2023 application cycle. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 7, 2022, and ended at 5:00 p.m. on November 14, 2022. The SBOE also provided an opportunity for registered oral and written comments at its November 2022 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One administrator stated that the proposed requirement to pilot innovative courses would punish students because the courses would not count toward earning an endorsement.

Response. The SBOE disagrees and has determined that piloting innovative courses is an important part of the approval process and will benefit students by ensuring approved innovative courses have been successfully implemented and are of high quality.

Comment. One teacher stated that requiring a pilot of prospective innovative courses would delay esports curriculum from getting into Texas classrooms. The commenter explained that esports is a billion-dollar industry with continual growth and doesn't want Texas to fall behind in the esports movement.

Response. The SBOE disagrees and has determined that the benefits of piloting potential innovative courses outweigh potential harms. Piloting innovative courses is an important part of the approval process and will benefit students by ensuring approved innovative courses have been successfully implemented and are of high quality.

Comment. Three administrators and one teacher expressed concern that funding would not be available for a piloted course.

Response. The SBOE provides the following clarification. Texas public schools receive funding based on attendance, not on the approval status of a course. Additionally, the SBOE has determined that piloting innovative

courses is an important part of the approval process and will benefit students by ensuring approved innovative courses have been successfully implemented and are of high quality.

Comment. One administrator expressed concern that districts will not be able to afford to pilot innovative courses without the additional weighted funding they would receive for approved career and technical education (CTE) innovative courses.

Response. The SBOE disagrees that all districts would not be able to afford to pilot prospective CTE innovative courses without weighted funding and has determined that piloting prospective innovative courses before being approved is appropriate and will ensure that approved courses have been successfully implemented and are of high quality.

Comment. One administrator commented that the proposed requirement to pilot innovative courses would not give CTE programs the flexibility to meet the needs of industry within communities.

Response. The SBOE disagrees that the requirement to pilot innovative courses will limit district flexibility. The SBOE has determined that piloting innovative courses as part of the approval process is appropriate and will help ensure approved innovative courses have been successfully implemented and are of high quality.

Comment. One teacher expressed concern regarding the proposed amendment because it is at odds with the intent and purpose behind ensuring Texas students and communities are afforded access to education innovations. The commenter added that the proposed amendment would put up barriers in the way of progress, cause incalculably broad and significant costs and losses, and prevent any meaningful economic growth or national competitiveness.

Response. The SBOE disagrees that the proposed requirement is at odds with affording access to education innovations and has determined that piloting innovative courses before they are approved will help ensure approved innovative courses have been successfully implemented and are of high quality.

Comment. Three administrators commented that students will not want to take or enroll in a pilot innovative course that will not provide credit toward graduation.

Response. The SBOE disagrees and has determined that piloting innovative courses will help ensure approved innovative courses have been successfully implemented, are of interest to students, and are of high quality.

Comment. One administrator expressed concern regarding the requirement to pilot prospective innovative courses because most school districts only implement courses with a Public Education Information Management System (PEIMS) number.

Response. The SBOE disagrees and provides the following clarification. Local credit courses are assigned PEIMS numbers by the district.

Comment. One administrator stated the proposed rule must ensure that a pilot course counts toward a teacher's course load to prevent districts from adding the pilot course to a full course load of state-approved courses.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §28.002(f), which authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

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

<rule>

§74.27. Innovative Courses and Programs.

- (a) A school district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.
 - (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, 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 piloting of the course in Texas;
 - (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) To request approval of a new innovative course, the applying school district or organization must submit with its request for approval evidence that the course has been successfully piloted in its entirety in at least one school in the state of Texas.
 - (7) 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.