Reporting Misconduct & The “Do Not Hire” Registry
August 15, 2019
Agenda

- Purpose of new law
- Enforcement overview
- New reporting requirements
  - Public schools
  - Private schools
- “Do Not Hire” Registry
- Next steps for schools
Key TEA Personnel

TEA Staff

Laura Moriaty
Director, SBEC Enforcement

David Rodriguez
Director, Educator Investigations
Why This Matters

HB 3 (Article 2A) was passed to further protect the safety and welfare of Texas students by:

- Requiring schools to report certain allegations of misconduct against non-certified employees and,
- Creating a Registry of individuals who are not eligible for hire in a Texas public school based on misconduct or criminal history.
Enforcement of Educator Misconduct
Key Statute Changes

78th (2003)
✓ Supt. requirement to report to SBEC

SB 9 80th (2007)
✓ Fingerprinting
✓ DPS Clearinghouse
✓ Investigative warning and show cause

HB 1783 84th (2015)
✓ Report inappropriate relationship between educator and student

SB 7 - 85th (2017)
✓ Auto-revoke sex offender on deferred adjudication
✓ Principal responsible for reporting
✓ Penalty for failure to report to SBEC
✓ Pre-employment Affidavit
✓ Electronic Communication Policy
Cases Opened on Certified Educators

- 2014: 866
- 2015: 910
- 2016: 1090
- 2017: 1205
- 2018: 1384
- 2019 YTD: 1335

Projected FY 2019: ~1450
Through July 2019:
### TEA/SBEC Authority to Investigate - Prior to HB 3

<table>
<thead>
<tr>
<th>Individual</th>
<th>Allegations (Examples)</th>
<th>Authority to Investigate</th>
<th>Possible Enforcement Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>SBEC certified educator</td>
<td>Inappropriate relationship with a student</td>
<td>Yes</td>
<td>Revoke certificate</td>
</tr>
<tr>
<td>SBEC certified educator</td>
<td>Criminal history that places students at risk</td>
<td>Yes</td>
<td>Revoke certificate</td>
</tr>
<tr>
<td>Non-certified school employee</td>
<td>Inappropriate relationship with a student</td>
<td>No</td>
<td>None</td>
</tr>
<tr>
<td>Non-certified school employee</td>
<td>Criminal history that places students at risk</td>
<td>No</td>
<td>Inform school district of criminal history</td>
</tr>
</tbody>
</table>
Key Changes – 86th Legislature

HB 3
• Public schools must report certain allegations against non-certified employees
• TEA given authority to investigate non-certified employees
• TEA required to develop Registry of individuals not eligible for employment
• Schools required to terminate or refuse to hire anyone on the Registry

SB 1476
• Reporting not required if public school finds educator did not engage in certain conduct

SB 1230
• Private schools must report certain allegations against educators
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<tr>
<td>SBEC certified educator</td>
<td>Inappropriate relationship with a student</td>
<td>Yes</td>
<td>Revoke certificate and place on Do Not Hire Registry</td>
</tr>
<tr>
<td>SBEC certified educator</td>
<td>Criminal history that places students at risk</td>
<td>Yes</td>
<td>Revoke certificate and place on Do Not Hire Registry</td>
</tr>
<tr>
<td>Non-certified school employee</td>
<td>Inappropriate relationship with a student</td>
<td>Yes</td>
<td>Place on Do Not Hire Registry</td>
</tr>
<tr>
<td>Non-certified school employee</td>
<td>Criminal history that places students at risk</td>
<td>Yes</td>
<td>Place on Do Not Hire Registry</td>
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</table>
Public schools must report non-certified employees
Exception for certified employees if school investigation found no misconduct
Private schools must report educators
# Public School Reporting Requirements

<table>
<thead>
<tr>
<th>Certified Educators</th>
<th>Non-certified Educators and Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Abused or otherwise committed an unlawful act with a student or minor</td>
<td></td>
</tr>
<tr>
<td>✓ Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor</td>
<td></td>
</tr>
<tr>
<td>✓ Possessed, transferred, sold, or distributed a controlled substance</td>
<td></td>
</tr>
<tr>
<td>✓ Illegally transferred, appropriated, or expended school funds or property</td>
<td></td>
</tr>
<tr>
<td>✓ Attempted by fraudulent means to obtain or alter any certificate to gain employment or additional compensation</td>
<td></td>
</tr>
<tr>
<td>✓ Committed a criminal offense on school property or at a school-sponsored event</td>
<td></td>
</tr>
</tbody>
</table>
## Public School Reporting Requirements

### Certified Educators

| Principal requirement: | • Report to Superintendent within 7 business days of learning that an individual was terminated or resigned |

### Superintendent requirement:

| • Report to TEA within 7 business days of learning that an individual was terminated or resigned  
| • By mail, fax, or internet reporting portal (when launched). Do not submit through email. |

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### In Statute

- Required reporting of allegations against SBEC certificate holders - TEC §21.006 / TAC §249.14
- Exception to reporting requirement - TEC §21.006(b),(c), and (c-2) as amended by SB 1476
- Required reporting of allegations against non-certified employees - TEC §22.093 as added by HB3
- Internet portal - TEC §22.095
<table>
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<tr>
<th><strong>Certified Educators</strong></th>
<th><strong>Non-certified Educators and Employees</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>School investigation:</td>
<td></td>
</tr>
<tr>
<td>• Required to complete, despite employee resignation</td>
<td>• None. However, all reports will be reviewed upon receipt to determine if</td>
</tr>
<tr>
<td></td>
<td>a TEA investigation is justified</td>
</tr>
<tr>
<td>Exception to requirement:</td>
<td></td>
</tr>
<tr>
<td>• Not required to report if school investigation determines educator did not abuse or</td>
<td>• None. However, all reports will be reviewed upon receipt to determine if</td>
</tr>
<tr>
<td>engage in relationship</td>
<td>a TEA investigation is justified</td>
</tr>
<tr>
<td>Penalty for non-reporting:</td>
<td></td>
</tr>
<tr>
<td>• SBEC sanctions</td>
<td>• SBEC sanctions</td>
</tr>
<tr>
<td>• Criminal offense if intent to conceal</td>
<td>• Criminal offense if intent to conceal</td>
</tr>
<tr>
<td>• Admin penalty (fines)</td>
<td></td>
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</tbody>
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**In Statute**

- Required reporting of allegations against SBEC certificate holders - TEC §21.006 / TAC §249.14, Exception to reporting requirement - TEC §21.006(b),(c), and (c-2) as amended by SB 1476
- Required reporting of allegations against non-certified employees - TEC §22.093 as added by HB3
- Internet portal - TEC §22.095
# Private School Reporting Requirements

## Private School Educators

<table>
<thead>
<tr>
<th>What to report:</th>
<th>School investigation:</th>
<th>When and how to report:</th>
</tr>
</thead>
</table>
| • Information about an educator's criminal record, or<br>• If an educator was terminated or resigned and there is evidence:  
  ➢ Abused or otherwise committed an unlawful act with a student or minor; or  
  ➢ Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor | • Not required to complete an investigation, but must submit evidence | • Within 7 business days by mail, fax, or internet reporting portal |

### In Statute

- Required reporting by private schools - TEC §21.0062 as created by SB 1230,
- Internet portal - TEC §22.095
Where should schools send reports of misconduct?

The law now requires some reports of misconduct to be submitted to the Commissioner and others to be reported to the SBEC. To simplify the reporting process, schools should send all reports to the TEA Division of Educator Investigations. Reports can be sent by mail, fax, or through the Internet portal. The division’s contact information can be found on the TEA website. Please do not submit reports through email.

Once launched in early 2020, the Internet reporting portal will serve as the most confidential and expedient method for sending reports. Additionally, the portal will create a digital record to prove that a school sent the information.
“Do Not Hire” Registry

✓ TEA will develop a registry and make it available to schools
✓ TEA will investigate allegations and place individuals on the Registry who are not eligible for employment
✓ Public schools must check the Registry before any hiring
The “Do Not Hire” Registry is an online list of individuals who are not eligible for employment in a Texas public school based on misconduct or criminal history.

In Statute: Registry of persons not eligible for employment in public schools - TEC §22.092 as created by HB 3, individuals not eligible for employment - TEC §22.0832, §22.0833, §22.085 and §21.058(b)
Who Will be Placed on the Registry?

- Individuals who had an SBEC certificate previously revoked for abusing or soliciting an inappropriate relationship with a student or minor

- Non-certified employees found by the Commissioner to have
  - Abused or otherwise committed an unlawful act with a student or minor;
  - Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;

- Were found to be ineligible due to having been convicted or placed on deferred adjudication for certain criminal history
How will TEA Investigate Reports of Misconduct for the Purposes of the Registry?

School submits report of misconduct to TEA

DPS notifies TEA of criminal history

Agency sends notice to individual

Did individual show cause?

Yes

No

Agency conducts investigation

Agency adds investigation warning to website

Are allegations substantiated?

Yes

No

Did individual appeal?

Yes

No

Administrative Hearing

Ruling against individual?

Yes

No

Warning removed from website

Placed on Registry

Yes

No
## Implementation Timeline

- **TEA begins rulemaking process**
- **TEA begins development of Registry and reporting portal**
- **July/August 2019**
  - TEA provides schools with TAC §249 Rules training proposed at resources for SBEC meeting
  - TAC §153 rules November 2019
  - TEA continues work on Registry development
  - Anticipated
  - Schools begin reporting allegations against non-certified individuals
  - TEA begins investigating non-certified individuals
  - TEA begins finalized investigating non-certified individuals
  - Rulemaking process finalized
  - January / February 2020

**October 2019**

- TEA provides schools with training resources for the Registry

**December 2019**

- TEA provides schools with training resources for the Registry
How will the Registry work?

- School staff will access TEA secure application to check the Registry
- User will upload identifiers for current employees or individuals being considered for employment
- Registry will return a result if an individual is under investigation or on the Registry
- Registry check will be tied to current fingerprinting process
- School staff will also have access to the reporting portal
What does this mean for public schools?

- Effective 09/01/2019, public schools should create a procedure for investigating and reporting allegations against non-certified employees.
- Upon launch in early 2020, public schools must check the Registry before hiring potential employees.
- Going forward, schools must terminate the employment of anyone on the Registry.
- The agency recommends that schools create a procedure for periodically checking all employees against the Registry.

Registry of persons not eligible for employment in public schools - TEC §22.092 as created by HB 3, Individuals not eligible for employment - TEC §22.0832, §22.0833, §22.085 and §21.058(b)
What does this mean for public schools?

- TEA will periodically review school records to verify compliance
- Non-compliance is violation of charter or termination of District of Innovation status

In Statute

Registry of persons not eligible for employment in public schools - TEC §22.092 as created by HB3, Individuals not eligible for employment - TEC §22.0832, §22.0833, §22.085 and §21.058(b)
**Will the public be able to see who is on the Registry?**

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
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</table>
| **Will the public be able to see who is on the Registry?** | TEA will create a webpage where members of the public can search the Registry by name. However, privacy laws prevent the agency from publishing SSNs or DOBs accessible by the public. Therefore, members of the public will only be able to see the name and status (“under investigation” or “ineligible for hire”) of any individual on the Registry.  
Public schools and private schools, who are given access to the confidential portal, will be able to view personal identifiers to confirm an individual’s identity. These schools will also be able to upload and search names in bulk. |
Stay tuned for the most up-to-date information from TEA on the implementation of House Bill 3

Visit tea.texas.gov/HB3 for the most up-to-date information

Email HB3info@tea.texas.gov with any questions
Thank you!

For Additional Questions:
 HB3info@tea.texas.gov

Include the topic name in the subject line