

TO: Governor Abbott  
Lieutenant Governor Patrick  
Speaker Straus of the House of Representatives  
Members of the 85<sup>th</sup> Texas Legislature

FROM: Texas Education Agency

Date: November 1, 2018

RE: Completed Review of Occupational Licensing Requirements

House Bill 91, passed by the 85<sup>th</sup> Texas Legislature, required state licensing authorities to review each license issued by the licensing authority that has an eligibility requirement related to an applicant's criminal history and make a recommendation regarding whether the requirement should be retained, modified, or repealed. The statute also required the agency to provide the Legislature a report on the results of the authority's review by December 1, 2018.

On August 3, 2018, the State Board for Educator Certification reviewed and recommended retaining all eligibility requirements related to an applicant's criminal history.

Attached is the State Board for Educator Certification agenda item detailing this action.

Please contact Government Relations at [GovRel@tea.texas.gov](mailto:GovRel@tea.texas.gov) or 512/463-9682 if you have any questions.

## Item 15:

### Consider and Take Appropriate Action on Review of Occupational License Criteria

#### DISCUSSION AND ACTION

**SUMMARY:** House Bill (HB) 91, enacted by the 85<sup>th</sup> Legislature in 2017, requires that each licensing authority shall, for each license issued by the authority that has an eligibility requirement related to an applicant's criminal history, review the requirement and make a recommendation regarding whether the requirement should be retained, modified, or repealed.

**BACKGROUND INFORMATION:** HB 91, enacted by the 85<sup>th</sup> Legislature in 2017, requires all occupational licensing entities to review all licenses they issue that have a criminal history eligibility requirement to review whether that eligibility requirement should be maintained. This would require the State Board for Educator Certification (SBEC) to review each type of certificate and make a determination as to whether criminal history should be a factor in receiving that certificate. HB 91 requires a report on the results of SBEC's review to legislative leadership with the recommendations of SBEC related to the criminal history eligibility requirement.

The current SBEC rules as specified in §230.11(b)(2), relating to General Requirements, require all applicants for a Texas educator certificate to submit to a criminal history review. Additionally, §249.12(b), relating to Administrative Denial: Appeal, establishes the criteria for which Texas Education Agency staff may administratively deny an application for a Texas educator certificate.

All of the certificates issued and the corresponding eligibility requirements prescribed in SBEC rule are provided in the attachment, along with TEA staff's recommendation.

**ASSOCIATE COMMISSIONER'S RECOMMENDATION:** I recommend that the State Board for Educator Certification:

Approve the recommendation to retain all eligibility requirements related to an applicant's criminal history.

**Staff Members Responsible:**

Doug Phillips, Director, Educator Investigations  
David Rodriguez, Director, Investigations Support

**Attachments:**

- I. Recommendations for Eligibility Requirements Related to Applicant's Criminal History
- II. Statutory Citations

**ATTACHMENT I**

**Recommendation for Eligibility Requirements Related to Applicant’s Criminal History**

Certificate Type	Eligibility Requirement	Recommendation
Standard Classroom Teacher/Provisional Teaching  Standard Other Than Classroom Teacher/Professional  Emergency Permit  Educational Aide/Paraprofessional/Educational Secretary  One Year Certificate  Probationary/Intern	Texas Admin. Code 19 §230.11(b)(2) General Requirements  Texas Admin. Code 19 §249.12(b) Administrative Denial; Appeal	Retain all eligibility requirements

**ATTACHMENT II****Statutory Citations Relating to the Review of Occupational License Criteria:**Texas Admin. Code 19 §230.11(b)(2)

- (b) An applicant for a Texas educator certificate must
- (2) submit to the criminal history review required by the Texas Education Code (TEC) §22.0831, not be disqualified by the TEC, §21.058, §21.060, or other Texas statute, and not be subject to administrative denial pursuant to §249.12 of this title (relating to Administrative Denial; Appeal) or a pending proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases).

Texas Admin. Code 19 §249.12(b)

- (b) The Texas Education Agency (TEA) staff may administratively deny any of the matters set out in subsection (a) of this section based on satisfactory evidence that:
- (1) the person filed a fraudulent application;
  - (2) the person assisted another person in obtaining employment at a school district or open-enrollment charter school, other than by the routine transmission of administrative or personnel files when the person knew that the other person had previously engaged in an inappropriate relationship with a minor or student in violation of the law;
  - (3) the person has committed an act that would make them subject to required revocation under the Texas Education Code, §21.058;
  - (4) the person has committed an act that would make them subject to mandatory permanent revocation or denial under §249.17(i) of this title (relating to Decision-Making Guidelines);
  - (5) the person has engaged in conduct or committed a crime or an offense that:
    - (A) demonstrates that the person lacks good moral character;
    - (B) demonstrates that the person is unworthy to instruct or to supervise the youth of this state; or
    - (C) constitutes the elements of a crime or offense relating directly to the duties and responsibilities of the education profession; or
  - (6) the person failed to comply with the terms or conditions of an order issued by or on behalf of the State Board for Educator Certification or the TEA staff.