



# Reporting Misconduct & The “Do Not Hire” Registry

August 15, 2019

# Agenda



## Presentation Agenda

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

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# Key TEA Personnel



**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

## 78<sup>th</sup> (2003)

- ✓ Supt. requirement to report to SBEC

## SB 9 80<sup>th</sup> (2007)

- ✓ Fingerprinting
- ✓ DPS Clearinghouse
- ✓ Investigative warning and show cause

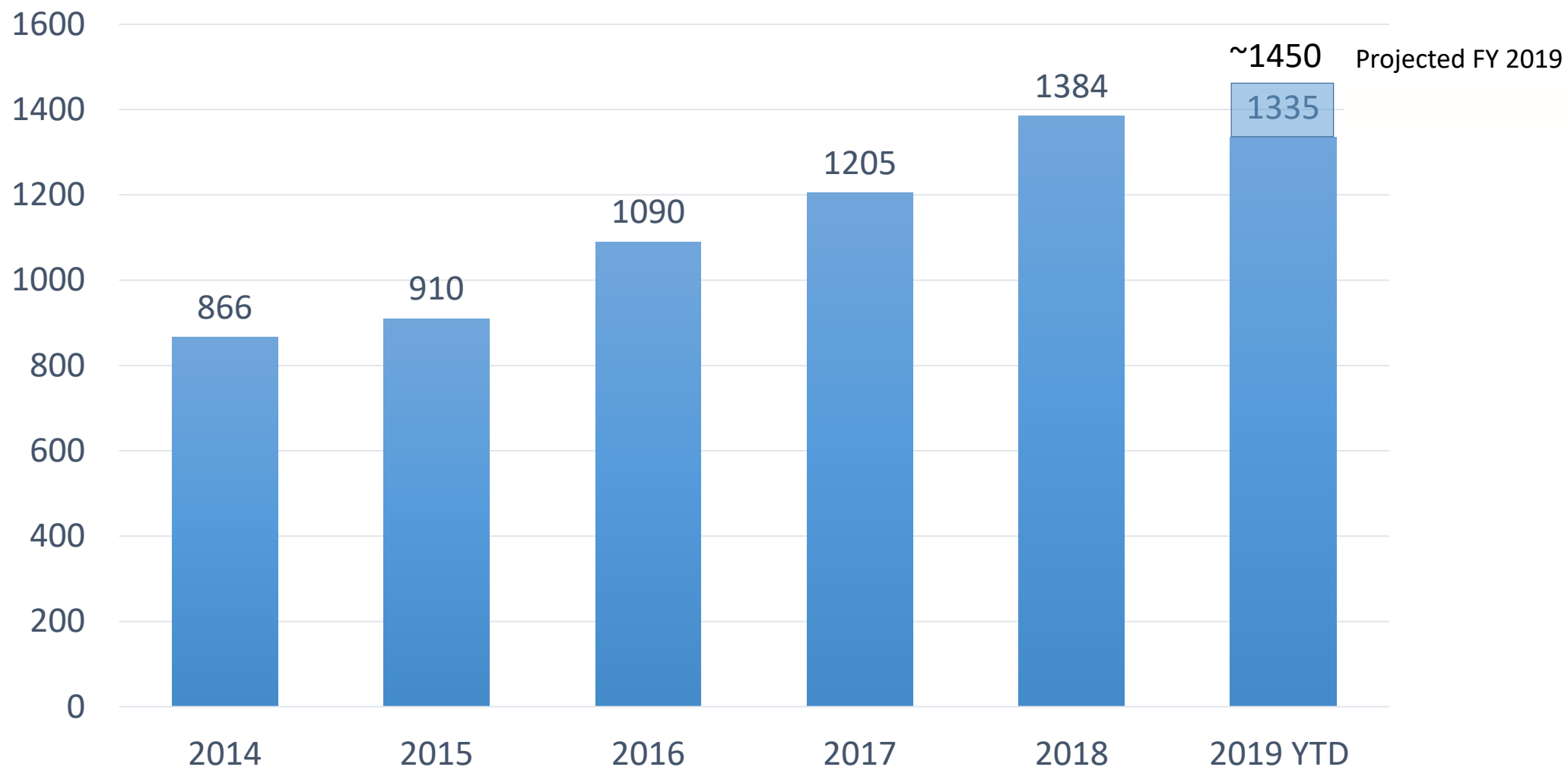
## HB 1783 84<sup>th</sup> (2015)

- ✓ Report inappropriate relationship between educator and student

## SB 7 - 85<sup>th</sup> (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



## TEA/SBEC Authority to Investigate - Prior to HB 3

Individual	Allegations (Examples)	Authority to Investigate	Possible Enforcement Action
SBEC certified educator	Inappropriate relationship with a student	Yes	Revoke certificate
SBEC certified educator	Criminal history that places students at risk	Yes	Revoke certificate
Non-certified school employee	Inappropriate relationship with a student	No	None
Non-certified school employee	Criminal history that places students at risk	No	Inform school district of criminal history



# Key Changes – 86<sup>th</sup> 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

# TEA/SBEC Authority to Investigate – With HB 3

Individual	Allegations (examples)	Authority to Investigate	Possible enforcement action
SBEC certified educator	Inappropriate relationship with a student	Yes	Revoke certificate <b>and place on Do Not Hire Registry</b>
SBEC certified educator	Criminal history that places students at risk	Yes	Revoke certificate <b>and place on Do Not Hire Registry</b>
Non-certified school employee	Inappropriate relationship with a student	<b>Yes</b>	<b>Place on Do Not Hire Registry</b>
Non-certified school employee	Criminal history that places students at risk	<b>Yes</b>	<b>Place on Do Not Hire Registry</b>

# New Reporting Requirements

- ✓ **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

	Certified Educators	Non-certified Educators and Employees
What to report:	<ul style="list-style-type: none"><li>✓ Abused or otherwise committed an unlawful act with a student or minor</li><li>✓ Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor</li></ul>	
	<ul style="list-style-type: none"><li>✓ Possessed, transferred, sold, or distributed a controlled substance</li><li>✓ Illegally transferred, appropriated, or expended school funds or property</li><li>✓ Attempted by fraudulent means to obtain or alter any certificate to gain employment or additional compensation</li><li>✓ Committed a criminal offense on school property or at a school-sponsored event</li></ul>	

# Public School Reporting Requirements

	Certified Educators	Non-certified Educators and Employees
Principal requirement:	<ul style="list-style-type: none"> <li>Report to Superintendent within 7 business days of learning that an individual was terminated or resigned</li> </ul>	
Superintendent requirement:	<ul style="list-style-type: none"> <li>Report to TEA within 7 business days of learning that an individual was terminated or resigned</li> <li>By mail, fax, or internet reporting portal (when launched). Do not submit through email.</li> </ul>	



## 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

# Public School Reporting Requirements

	Certified Educators	Non-certified Educators and Employees
School investigation:	<ul style="list-style-type: none"> <li>Required to complete, despite employee resignation</li> </ul>	
Exception to requirement:	<ul style="list-style-type: none"> <li>Not required to report if school investigation determines educator did not abuse or engage in relationship</li> </ul>	<ul style="list-style-type: none"> <li>None. However, all reports will be reviewed upon receipt to determine if a TEA investigation is justified</li> </ul>
Penalty for non-reporting:	<ul style="list-style-type: none"> <li>SBEC sanctions</li> <li>Criminal offense if intent to conceal</li> <li>Admin penalty (fines)</li> </ul>	<ul style="list-style-type: none"> <li>SBEC sanctions</li> <li>Criminal offense if intent to conceal</li> </ul>



**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

What to report:	<ul style="list-style-type: none"> <li>• Information about an educator's criminal record, or</li> <li>• If an educator was terminated or resigned and there is evidence: <ul style="list-style-type: none"> <li>➤ Abused or otherwise committed an unlawful act with a student or minor; or</li> <li>➤ Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor</li> </ul> </li> </ul>
School investigation:	<ul style="list-style-type: none"> <li>• Not required to complete an investigation, but must submit evidence</li> </ul>
When and how to report:	<ul style="list-style-type: none"> <li>• Within 7 business days by mail, fax, or internet reporting portal</li> </ul>



In Statute

Required reporting by private schools - TEC §21.0062 as created by SB 1230, Internet portal - TEC §22.095

# Frequently Asked Question



**Question**

**Where should schools send reports of misconduct?**



**Answer**

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.



**Key Takeaway**

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

# What is the “Do Not Hire” Registry?

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.



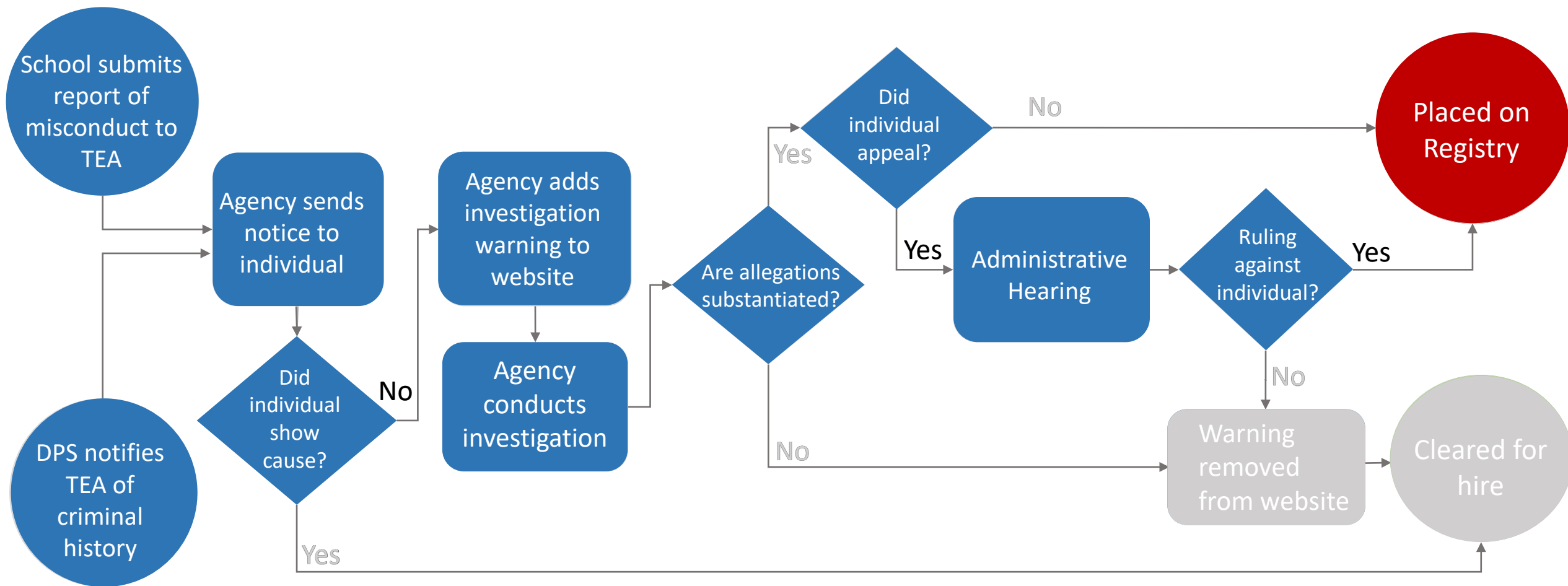
In Statute

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?



# Implementation Timeline

- TEA begins rulemaking process
  - TEA begins development of Registry and reporting portal
- July/August 2019**

- TAC §249 Rules proposed at SBEC meeting
- October 2019**

- TEA provides schools with training resources for the Registry
- December 2019**

- September 2019**
- TAC §153 rules proposed
  - Schools begin reporting allegations against non-certified individuals
  - TEA begins investigating non-certified individuals

- November 2019**
- TEA continues work on Registry development

- January / February 2020**
- Anticipated launch of Registry
  - Rulemaking process finalized

# 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.



**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)

# 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)



# Frequently Asked Questions (FAQ)



## Question

**Will the public be able to see who is on the Registry?**



## Answer

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.

# House Bill 3 Resources

Stay tuned for the most up-to-date information from TEA on the implementation of House Bill 3



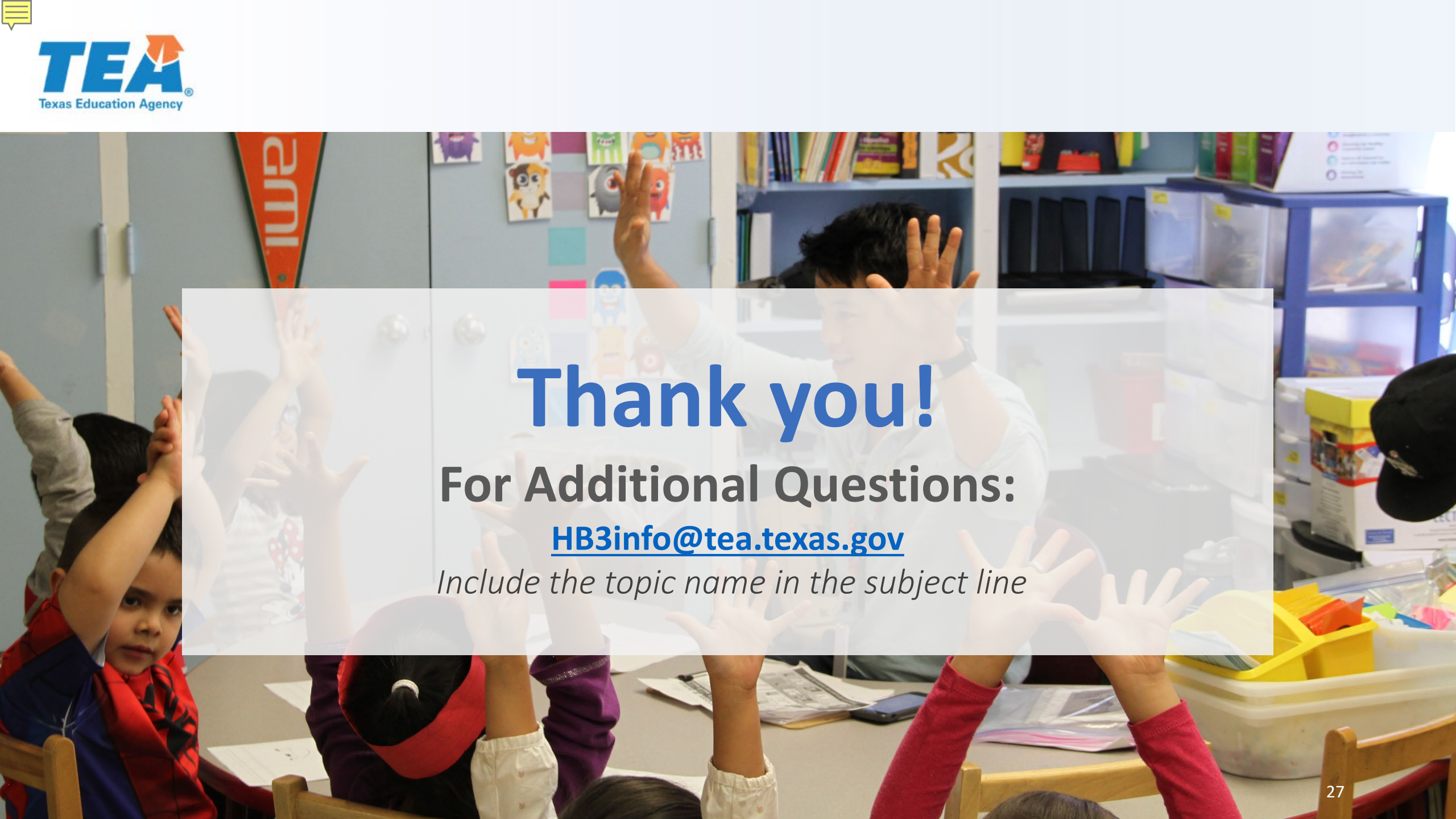
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Email [HB3info@tea.texas.gov](mailto:HB3info@tea.texas.gov) with any questions



**Thank you!**  
**For Additional Questions:**  
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*Include the topic name in the subject line*