

AGENDA

State Board of Education

April 14, 2023

STATE BOARD OF EDUCATION

(updated February 2023)

(State Board for Career and Technology Education)

KEVEN ELLIS, Lufkin
Chair of the State Board of Education
District 9

PAM LITTLE, Fairview
Vice Chair of the State Board of Education
District 12

PAT HARDY, Fort Worth
Secretary of the State Board of Education
District 11

Board Members

MELISSA ORTEGA, El Paso
District 1

JULIE PICKREN, Pearland
District 7

LJ FRANCIS, Corpus Christi
District 2

AUDREY YOUNG, Trinity
District 8

MARISA PEREZ-DIAZ, San Antonio
District 3

TOM MAYNARD, Florence
District 10

STACI CHILDS, Houston
District 4

AICHA DAVIS, Dallas
District 13

REBECCA BELL-METTEREAU
San Marcos, District 5

EVELYN BROOKS, Frisco
District 14

WILL HICKMAN, Houston
District 6

AARON KINSEY, Midland
District 15

Committees of the State Board of Education
(Updated February 2023)

INSTRUCTION

Audrey Young- Chair
Evelyn Brooks-Vice Chair
Aicha Davis
Pam Little
Melissa N. Ortega

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard-Chair
Marisa Perez-Diaz-Vice Chair
Keven Ellis
Patricia Hardy
Aaron Kinsey

SCHOOL INITIATIVES

Will Hickman-Chair
LJ Francis-Vice Chair
Rebecca Bell-Metereau
Staci Childs
Julie Pickren

April 11, 2023

State Board of Education
Austin, Texas

I certify that this is the official agenda of the State Board of Education for its meeting on April 11-14, 2023. Agenda items have been prepared and reviewed by Texas Education Agency staff and are presented for the board's discussion and consideration. Where appropriate, I have proposed an action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mike Morath', with a long horizontal flourish extending to the right.

Mike Morath
Commissioner of Education

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**William B. Travis Building
1701 N. Congress Avenue, Austin, Texas**

SCHEDULE AND AGENDAS

**Committees and Board
State Board of Education, Austin, Texas**

Meeting Times April 11-14, 2023	
<u>Tuesday, April 11, 2023</u>	
1:00 p.m.	Committee of the Full Board (Room 1-104)
<u>Wednesday, April 12, 2023</u>	
9:00 a.m.	Committee of the Full Board (Room 1-104)
<u>Thursday, April 13, 2023</u>	
9:00 a.m.	Committee on Instruction (Room 1-100)
	Committee on School Finance/Permanent School Fund (Room 1-104) The meeting will start at 10:00 a.m. or upon adjournment of the PSF Corporation Meeting.
9:00 a.m.	Committee on School Initiatives (Room 1-111 (WBT) and at Lewisville ISD Administrative Center (Conference Rm), 1565-A West Main Street, Lewisville, Texas 75067)
<u>Friday, April 14, 2023</u>	
9:00 a.m.	General Meeting (Room 1-104)

If the Committee of the Full Board does not complete its agenda Tuesday, it will resume its meeting on Wednesday, Thursday, or Friday. If the Committee of the Full Board does not complete its agenda Wednesday, it will resume its meeting on Thursday or Friday. If the Committee on Instruction does not complete its meeting on Thursday, it will resume its meeting on Friday. If the Committee on School Finance/Permanent School Fund does not complete its agenda Thursday, it will resume its meeting on Friday. If the Committee on School Initiatives does not complete its agenda Thursday, it will resume its meeting on Friday.

NOTE: The chair may permit the board to take up and discuss any of the discussion items on a committee agenda, including hearing any invited presentations to a committee, based upon a recommendation from the committee or inability of the committee to complete its agenda on a preceding day.

The SBOE or a committee of the SBOE may conduct a closed meeting on any agenda item in accordance with Texas Open Meetings Act, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The agenda is online at <https://tea.texas.gov/sboe/agenda/> on the Texas Education Agency website. The posted information contains links to board action items including rule items and rule text, and selected discussion items. Public comments on proposed rules may be submitted electronically. All agenda items and rule text are subject to change at any time prior to each board meeting. To the extent possible, copies of changes made after the agenda and the schedule are published will be available at the board meeting.

TUESDAY
April 11, 2023

1:00 p.m.

COMMITTEE OF THE FULL BOARD – Room 1-104

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

- 1. Texas Workforce Commission Chairman and Commissioner's Comments** **COMMITTEE - DISCUSSION**
(Board agenda page I-1) **SBOE – NO ACTION**

This item provides an opportunity for the board to receive updates from the Texas Workforce Chairman and Commissioner Representing the Public on employer engagement for alignment of education and workforce and other matters related to education and workforce in Texas.

- 2. Ethics Training** **COMMITTEE – DISCUSSION**
(Board agenda page I-2) **SBOE – NO ACTION**

This item provides an opportunity for the State Board of Education (SBOE) to discuss ethics statutes and rules that apply to SBOE members. Statutory authority is the Texas Education Code (TEC), §43.0031 and 19 Texas Administrative Code (TAC), §33.5(s).

- 3. Update on Texas Essential Knowledge and Skills (TEKS) Review** **COMMITTEE - ACTION**
(Board agenda page I-23) **SBOE - ACTION**

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS). Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

COMMITTEE OF THE FULL BOARD (continued)

4. **Discussion of Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter B, State Adoption of Instructional Materials, §66.30, State Review Panels: Eligibility and Appointment (Board agenda page I-26)**

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for the committee to discuss a possible amendment to 19 Texas Administrative Code (TAC) Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter B, State Adoption of Instructional Materials, §66.30, State Review Panels: Eligibility and Appointment. This item would allow the committee to determine if updates to the current rule are needed. Statutory authority is the Texas Education Code (TEC), §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

**WEDNESDAY
April 12, 2023**

9:00 a.m.

COMMITTEE OF THE FULL BOARD – Room 1-104

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

**1. Commissioner's Comments
([Board agenda page I-30](#))**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation.

2. Proposed New Texas Essential Knowledge and Skills for Occupational Safety and Health in 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School (First Reading and Filing Authorization) ([Board agenda page I-31](#))

**COMMITTEE – ACTION
SBOE – ACTION**

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School, §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, and §127.18, Occupational Safety and Health (One Credit), Adopted 2023. The proposal would provide the opportunity for the board to consider two options for Texas Essential Knowledge and Skills (TEKS) in workplace safety and health. One option would establish a one-credit standalone high school course and a second option would establish a set of standards to be imbedded within each career and technical education (CTE) principles course. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c), and 28.025(a).

COMMITTEE OF THE FULL BOARD (continued)

3. **Discussion of Proposed Amendment to 19 TAC Chapter 100, Charters, Subchapter A, Open Enrollment Charter Schools, §100.1, Selection Process (Board agenda page I-41)**

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for the committee to discuss a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process. The proposed amendment would modify the no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf. Statutory authority is the Texas Education Code (TEC), §12.101.

4. **Update on the Review of *Proclamation 2024* Instructional Materials (Board agenda page I-43)**

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for staff to update the State Board of Education (SBOE) on the status of the review of *Proclamation 2024* instructional materials. The SBOE issued *Proclamation 2024* in April 2022, calling for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. All materials submitted in response to *Proclamation 2024* are scheduled to be reviewed for standards alignment in summer 2023. Additionally, materials submitted for science will be reviewed through the Texas Resource Review beginning in May 2023. Instructional materials are scheduled for adoption by the SBOE in November 2023. Statutory authority is the Texas Education Code (TEC), §31.022.

5. **Discussion of Pending Litigation (Board agenda page I-44)**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

The State Board of Education (SBOE) may enter into executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss any litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

**THURSDAY
April 13, 2023**

9:00 a.m.

COMMITTEE ON INSTRUCTION – Room 1-100

Members: Audrey Young, chair; Evelyn Brooks, vice chair; Aicha Davis; Pam Little; and Melissa Ortega. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

- 1. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript)
(Second Reading and Final Adoption)
([Board agenda page II-1](#))**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript). The proposed amendment would add a new requirement that a student who earns a diploma by satisfying the requirements of the Texas First Early High School Completion Program must have successful completion of the program indicated on the academic achievement record, or transcript. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §7.102(c)(13).

COMMITTEE ON INSTRUCTION (continued)

2. **Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School**
(Second Reading and Final Adoption)
(Board agenda page II-7)

COMMITTEE - ACTION
SBOE - ACTION

This item presents for second reading and final adoption proposed revisions to 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School. The proposed revisions would repeal two existing middle school courses, add a new middle school course, and repeal implementation language that will no longer be relevant. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.016.

COMMITTEE ON INSTRUCTION (continued)

3. **Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411; Subchapter M, Law and Public Service, §127.633; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.744, 127.756, 127.757, 127.761, 127.764, 127.765, 127.769, and 127.770
(First Reading and Filing Authorization)
([Board agenda page II-17](#))**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411, Pharmacology (One Credit), Adopted 2015; Subchapter M, Law and Public Service, §127.633, Forensic Science (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.744, Principles of Biosciences (One Credit), Adopted 2015; §127.756, Biotechnology I (One Credit), Adopted 2015; §127.757, Biotechnology II (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); §127.764, Computer Science III (One Credit); §127.765, Digital Forensics (One Credit), Beginning with School Year 2019-2020; §127.769, Foundations of Cybersecurity (One Credit); and §127.770, Cybersecurity Capstone (One Credit). The proposed repeals would remove the Texas Essential Knowledge and Skills (TEKS) for ten career and technical education (CTE) courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.788, 127.791, 127.792, 127.793, and 127.794 beginning with the 2023-2024 school year. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §28.002(a) and (c).

4. **Discussion of Innovative Courses
([Board agenda page II-21](#))**

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item provides an opportunity for the committee to receive an overview of the innovative course process including key data related to historical implementation of innovative courses. Statutory authority is the Texas Education Code (TEC), §28.002(f).

**THURSDAY
April 13, 2023**

10:00 a.m. or upon adjournment of the PSF Corporation Meeting

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND – Room 1-104

Members: Tom Maynard, chair; Marisa Perez-Diaz, vice chair; Keven Ellis; Patricia Hardy; Aaron Kinsey. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda. A quorum of the Committee of Investment Advisors to the Permanent School Fund may attend the committee meeting and discuss items on the committee agenda.

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

- 1. Report by the State Auditor’s Office on the Audit of the Permanent School Fund’s Financial Statements and Certification of the Bond Guarantee Program for the Fiscal Year Ending August 31, 2022**
(Board agenda page III-1)

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

This item provides an opportunity for representatives of the State Auditor’s Office (SAO) to make a presentation regarding the Audit of the Permanent School Fund’s Financial Statements and the certification of the Bond Guarantee Program for the Fiscal Year Ending August 31, 2022. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Texas Education Code (TEC) §45.053(b).

- 2. Adoption of an Annual Report on the Status of the Bond Guarantee Program**
(Board agenda page III-2)

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the committee and board to adopt an annual report on the status of the Bond Guarantee Program. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and Texas Education Code (TEC), §45.053(c).

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

- 3. Review the Processes for Consideration of Board Member Nominees for State Board Positions**
(Board agenda page III-3)

COMMITTEE - ACTION
SBOE - CONSENT

This item provides an opportunity for the committee and board to review the processes for consideration of board member nominees for state board positions. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Natural Resources Code (NRC), §32.012; and Texas Government Code (TGC), §825.003.

**THURSDAY
April 13, 2023**

9:00 a.m.

COMMITTEE ON SCHOOL INITIATIVES – Room 1-111 (WBT) and at Lewisville ISD Administrative Center (Conference Rm), 1565-A West Main Street, Lewisville Texas 75067
Members: Will Hickman, chair; LJ Francis-vice chair; Rebecca Bell-Metereau; Staci Childs; Julie Pickren. A quorum of the State Board of Education may attend the committee meeting and discuss items on the committee agenda.

Public testimony – Individual testimony will be taken at the time the related item comes up for committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

- 1. Adoption of Rule Review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners ([Board agenda page IV-1](#))**

**COMMITTEE - ACTION
SBOE - ACTION**

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners. Subchapter A establishes the procedures for appeals heard by the SBOE regarding administrative penalties for violations of textbook requirements. Subchapter D sets forth the certification criteria for independent hearing examiners who conduct due process termination, nonrenewal, and suspension without pay hearings at the school district level. Statutory authority for the rule review is TGC, §2001.039. Statutory authority for 19 TAC Chapter 157, Subchapter A, is Texas Education Code (TEC), §31.151 and TGC, §2001.004. Statutory authority for 19 TAC Chapter 157, Subchapter D, is TEC, §21.252.

COMMITTEE ON SCHOOL INITIATIVES (continued)

2. **Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment**
(Board agenda page IV-7)

COMMITTEE - ACTION
SBOE - ACTION

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose an amendment to 19 Texas Administrative Code (TAC) Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment. The proposed amendment would create a carve-out for the Science of Teaching Reading (STR) examination, removing the requirement that a candidate be unable to process only written linguistic information to allow an exemption; would remove the requirement that to qualify for an exemption, a person who is already certified in another state and seeking a one-year certificate in Texas must have a recommendation from an SBEC-approved Texas educator preparation program (EPP); and would eliminate the limitation that persons who qualify for an exemption to one certification examination cannot ever take another certification examination unless they have regained their ability to process written linguistic information. Statutory authority for 19 TAC §230.25 is the Texas Education Code (TEC), §§21.031; 21.041(a) and (b)(1)-(4); 21.045(a)(1); and 21.048(a), (a-2), (b), (c), and (d).

COMMITTEE ON SCHOOL INITIATIVES (continued)

**3. Review of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates
(Board agenda page IV-13)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would remove certificates no longer issued by the SBEC; would strike, where applicable, language referencing deadlines for use of test scores for certificate issuance; would add three new special education certificates into rule; would update language specific to licensure requirements for cosmetology certification; and would propose the addition of a new foreign language certificate to the list of credentials issued by the SBEC. Technical changes would also provide clarification and consistent information related to the classroom teacher certificates issued by the SBEC. Statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), §§21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.0442; 21.048(a) and (a-2); 21.0487; 21.0489; 21.0491; and 22.0831(f)(1) and (2).

**4. Review of Proposed Revisions to 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate
(Board agenda page IV-24)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose revisions to 19 Texas Administrative Code (TAC) Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate. The proposed revisions would update the standards for the School Librarian and Reading Specialist certificates, would provide timelines for transitions for both certificates to the new standards for preparation purposes, and would provide technical edits as necessary. The proposed revisions reflect feedback provided by the SBEC-appointed advisory committees for the School Librarian and Reading Specialist certificates. Statutory authority for 19 TAC Chapter 239, Subchapters B and D, is the Texas Education Code (TEC), §21.031(a); 21.040(2); 21.041(a); 21.041(b)(1)-(4); 21.044; 21.048(a); and 21.054.

COMMITTEE ON SCHOOL INITIATIVES (continued)

5. **Discussion of Ongoing State Board for Educator Certification Activities**
(Board agenda page IV-61)

This item provides an opportunity for the committee to receive updates on current and upcoming State Board for Educator Certification (SBEC) activities and proposed SBEC rules and amendments. Statutory authority is the Texas Education Code (TEC), §§21.031, 21.035, 21.041, and 21.042.

COMMITTEE - DISCUSSION
SBOE – NO ACTION

6. **Open-Enrollment Charter School Generation 28 Application Updates**
(Board agenda page IV-63)

This item provides an opportunity for the committee to receive updates regarding the Generation 28 Open-Enrollment Charter Application cycle. Statutory authority is the Texas Education Code (TEC), §12.101.

COMMITTEE - DISCUSSION
SBOE – NO ACTION

7. **School Safety and Security Progress Report**
(Board agenda page IV-64)

This item provides an opportunity for the committee to receive an update from the Texas School Safety Center (TxSSC) related to the center's biennial report. Statutory authority is the Texas Education Code (TEC), §37.216.

COMMITTEE - DISCUSSION
SBOE – NO ACTION

Information Materials

- 1. State Board of Education Operating Rules (amended February 2, 2023)**
Public testimony information begins on page V-10.
(Board agenda page V-1)

- 2. 2021-2025 Rule Review Plan for State Board of Education Rules**
(Board agenda page V-27)

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

**CONSENT AGENDA
STATE BOARD OF EDUCATION
April 14, 2023**

(1) Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript) (Second Reading and Final Adoption)

This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript). The proposed amendment would add a new requirement that a student who earns a diploma by satisfying the requirements of the Texas First Early High School Completion Program must have successful completion of the program indicated on the academic achievement record, or transcript. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §7.102(c)(13).

(Agenda Exhibit) II-1

(2) Adoption of an Annual Report on the Status of the Bond Guarantee Program

This item provides an opportunity for the committee and board to adopt an annual report on the status of the Bond Guarantee Program. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and Texas Education Code (TEC), §45.053(c).

(Agenda Exhibit) III-2

(3) Review the Processes for Consideration of Board Member Nominees for State Board Positions

This item provides an opportunity for the committee and board to review the processes for consideration of board member nominees for state board positions. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Natural Resources Code (NRC), §32.012; and Texas Government Code (TGC), §825.003.

(Agenda Exhibit) III-3

OFFICIAL AGENDA

**STATE BOARD OF EDUCATION
AUSTIN, TEXAS**

**April 14, 2023
9:00 a.m.**

**William B. Travis Building, Room 1-104
1701 N. Congress Avenue**

Student Performance

Invocation

Pledge of Allegiance

Roll Call

Approval of Minutes

State Board of Education, February 2 & 3, 2023

1. Resolutions

Resolution Regarding Title IX in Texas K-12 Public Schools

Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided in SBOE [Operating Rules](#) or in the information section of the agenda.

2. Approval of Consent Agenda

Any agenda item may be placed on the Consent Agenda by any State Board of Education committee.

[\(Agenda Exhibit\)](#) 16

COMMITTEE OF THE FULL BOARD

3. Update on Texas Essential Knowledge and Skills (TEKS) Review

This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS). Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

(Agenda Exhibit) I-23

4. Proposed New Texas Essential Knowledge and Skills for Occupational Safety and Health in 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School (First Reading and Filing Authorization)

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School, §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, and §127.18, Occupational Safety and Health (One Credit), Adopted 2023. The proposal would provide the opportunity for the board to consider two options for Texas Essential Knowledge and Skills (TEKS) in workplace safety and health. One option would establish a one-credit standalone high school course and a second option would establish a set of standards to be imbedded within each career and technical education (CTE) principles course. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c), and 28.025(a).

(Agenda Exhibit) I-31

COMMITTEE ON INSTRUCTION

5. Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School (Second Reading and Final Adoption)

This item presents for second reading and final adoption proposed revisions to 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School. The proposed revisions would repeal two existing middle school courses, add a new middle school course, and repeal implementation language that will no longer be relevant. No changes are recommended since approved for first reading. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.016.

(Agenda Exhibit) II-7

6. **Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411; Subchapter M, Law and Public Service, §127.633; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.744, 127.756, 127.757, 127.761, 127.764, 127.765, 127.769, and 127.770**
(First Reading and Filing Authorization)

This item presents for first reading and filing authorization the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411, Pharmacology (One Credit), Adopted 2015; Subchapter M, Law and Public Service, §127.633, Forensic Science (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.744, Principles of Biosciences (One Credit), Adopted 2015; §127.756, Biotechnology I (One Credit), Adopted 2015; §127.757, Biotechnology II (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); §127.764, Computer Science III (One Credit); §127.765, Digital Forensics (One Credit), Beginning with School Year 2019-2020; §127.769, Foundations of Cybersecurity (One Credit); and §127.770, Cybersecurity Capstone (One Credit). The proposed repeals would remove the Texas Essential Knowledge and Skills (TEKS) for ten career and technical education (CTE) courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.788, 127.791, 127.792, 127.793, and 127.794 beginning with the 2023-2024 school year. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §28.002(a) and (c).

(Agenda Exhibit) II-17

COMMITTEE ON SCHOOL INITIATIVES

7. **Adoption of Rule Review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners**

Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners. Subchapter A establishes the procedures for appeals heard by the SBOE regarding administrative penalties for violations of textbook requirements. Subchapter D sets forth the certification criteria for independent hearing examiners who conduct due process termination, nonrenewal, and suspension without pay hearings at the school district level. Statutory authority for the rule review is TGC, §2001.039. Statutory authority for 19 TAC Chapter 157, Subchapter A, is Texas Education Code (TEC), §31.151 and TGC, §2001.004. Statutory authority for 19 TAC Chapter 157, Subchapter D, is TEC, §21.252.

(Agenda Exhibit) IV-1

8. **Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose an amendment to 19 Texas Administrative Code (TAC) Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment. The proposed amendment would create a carve-out for the Science of Teaching Reading (STR) examination, removing the requirement that a candidate be unable to process only written linguistic information to allow an exemption; would remove the requirement that to qualify for an exemption, a person who is already certified in another state and seeking a one-year certificate in Texas must have a recommendation from an SBEC-approved Texas educator preparation program (EPP); and would eliminate the limitation that persons who qualify for an exemption to one certification examination cannot ever take another certification examination unless they have regained their ability to process written linguistic information. Statutory authority for 19 TAC §230.25 is the Texas Education Code (TEC), §§21.031; 21.041(a) and (b)(1)-(4); 21.045(a)(1); and 21.048(a), (a-2), (b), (c), and (d).

(Agenda Exhibit) IV-7

9. **Review of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates**

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would remove certificates no longer issued by the SBEC; would strike, where applicable, language referencing deadlines for use of test scores for certificate issuance; would add three new special education certificates into rule; would update language specific to licensure requirements for cosmetology certification; and would propose the addition of a new foreign language certificate to the list of credentials issued by the SBEC. Technical changes would also provide clarification and consistent information related to the classroom teacher certificates issued by the SBEC. Statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), §§21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.0442; 21.048(a) and (a-2); 21.0487; 21.0489; 21.0491; and 22.0831(f)(1) and (2).

(Agenda Exhibit) IV-13

10. Review of Proposed Revisions to 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate

This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose revisions to 19 Texas Administrative Code (TAC) Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate. The proposed revisions would update the standards for the School Librarian and Reading Specialist certificates, would provide timelines for transitions for both certificates to the new standards for preparation purposes, and would provide technical edits as necessary. The proposed revisions reflect feedback provided by the SBEC-appointed advisory committees for the School Librarian and Reading Specialist certificates. Statutory authority for 19 TAC Chapter 239, Subchapters B and D, is the Texas Education Code (TEC), §21.031(a); 21.040(2); 21.041(a); 21.041(b)(1)-(4); 21.044; 21.048(a); and 21.054.

(Agenda Exhibit) IV-24

REPORTS OF COMMITTEES REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS

Committee chairs may provide an update about discussion items considered during the current meeting by any standing committee or ad hoc committee.

REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS

Members of the State Board of Education may present information regarding agenda items or other relevant information about public education.

Information Materials

- 1. State Board of Education Operating Rules (amended February 2, 2023)**
Public testimony information begins on page V-10.
(Board agenda page V-1)

- 2. 2021-2025 Rule Review Plan for State Board of Education Rules**
(Board agenda page V-27)

This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

COMMITTEE OF THE FULL BOARD

Texas Workforce Commission Chairman and Commissioner's Comments

April 11, 2023

COMMITTEE OF THE FULL BOARD: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the board to receive updates from the Texas Workforce Chairman and Commissioner Representing the Public on employer engagement for alignment of education and workforce and other matters related to education and workforce in Texas.

BOARD RESPONSE: Review and comment.

BACKGROUND INFORMATION AND JUSTIFICATION: On an as needed basis, the board will be briefed on significant education and workforce issues and events.

Staff Member Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Ethics Training

April 11, 2023

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the State Board of Education (SBOE) to discuss ethics statutes and rules that apply to SBOE members.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§43.0031](#) and 19 Texas Administrative Code (TAC), §33.5(s).

TEC, §43.0031 requires the SBOE to adopt an ethics policy.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Under the Permanent School Fund (PSF) Code of Ethics, the SBOE is required to participate in yearly ethics training.

Staff Members Responsible:

Von Byer, General Counsel, Legal Services

Christopher Maska, TEA Ethics Advisor, Legal Services

[Attachment I:](#)

A Guide to Ethics Laws for State Officers and Employees

[Attachment II:](#)

Can I Take It?

[Attachment III:](#)

Can I Take This Trip?

[Attachment IV:](#)

Revolving Door

TEXAS ETHICS COMMISSION

A GUIDE TO ETHICS LAWS FOR STATE OFFICERS AND EMPLOYEES



Revised January 1, 2022

Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711

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Promoting Public Confidence in Government

**A GUIDE TO ETHICS LAWS
FOR STATE OFFICERS AND EMPLOYEES**

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INTRODUCTION

As a public servant, you owe a responsibility to the people of Texas in the performance of your official duties. This guide sets out laws that govern your conduct as a public servant. As you read this guide, you should bear in mind that ethical conduct involves more than merely following these laws. As a public servant, you should act fairly and honestly and should avoid creating even the appearance of impropriety.

Laws Interpreted by the Texas Ethics Commission

The Texas Ethics Commission interprets various laws governing the conduct of state officers and employees: the provisions in chapter 572 of the Government Code; the restrictions on benefits, gifts, and honoraria in chapter 36 of the Penal Code and in the lobby law, chapter 305 of the Government Code; and the restrictions on the use of government resources in chapter 39 of the Penal Code.

Some laws governing public servants, such as the nepotism law, are not under the jurisdiction of the Ethics Commission. Also, officers and employees of particular state agencies may be subject to statutes, rules, or personnel guidelines specifically applicable to that agency. Your general counsel or the Office of the Attorney General are the appropriate sources for advice about such laws.

Advisory Opinions

If you are concerned about how any of the laws subject to interpretation by the Ethics Commission apply to you, you may request an advisory opinion. The request must be about the application of one or more of those laws to a specific factual situation, either existing or hypothetical. Gov't Code § 571.091. Unless you waive confidentiality in writing, the Ethics Commission must keep your name confidential.

The legal effect of an Ethics Commission advisory opinion is described in section 571.097 of the Government Code as follows:

It is a defense to prosecution or to imposition of a civil penalty that the person reasonably relied on a written advisory opinion of the commission relating to the provision of the law the person is alleged to have violated or relating to a fact situation that is substantially similar to the fact situation in which the person is involved.

Copies of Ethics Advisory Opinions are available from the Ethics Commission at (512) 463-5800 or at <http://www.ethics.state.tx.us> on the Internet.

PART I. STANDARDS OF CONDUCT AND CONFLICT OF INTEREST

The “Should Not’s”

The legislature has adopted the following standards of conduct for state employees:

A state officer or employee should not:

- (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer’s or employee’s official conduct;
- (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
- (3) accept other employment or compensation that could reasonably be expected to impair the officer’s or employee’s independence of judgment in the performance of the officer’s or employee’s official duties;
- (4) make personal investments that could reasonably be expected to create a substantial conflict between the officer’s or employee’s private interest and the public interest; or
- (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer’s or employee’s official powers or performed the officer’s or employee’s official duties in favor of another.

Gov’t Code § 572.051. A state agency may not use appropriated funds to compensate a state employee who violates those standards. Gov’t Code § 2113.014. Also, in some cases failure to follow the standards of conduct will violate one of the criminal statutes discussed in this guide.

Private Interest in Measure or Decision

If a board member has a private or personal interest in a measure, proposal, or decision pending before the board, the board member must disclose that fact to the rest of the board in an open meeting and must refrain from voting or otherwise participating in the matter. Gov’t Code § 572.058. The law specifies that a person does not have a “private or personal interest” in a matter if the person is engaged in a profession, trade, or occupation, and the person’s interest in the matter is the same as others similarly engaged.

Note: This guide addresses only the laws that the Ethics Commission interprets. Other laws may contain additional “conflict of interest” provisions. In particular, state agency counsels should be aware of the common-law rule restricting a contract between agencies and agency board members. *See* Attorney General Opinion JM-671 (1987).

PART II. ACCEPTANCE OF BENEFITS

Chapter 36 of the Penal Code prohibits public servants from accepting certain gifts or benefits. Violations of the laws in this chapter carry criminal penalties, and complaints alleging such violations are handled by local prosecutors, not by the Texas Ethics Commission.

Bribery

As a public servant, you commit the offense of bribery if you solicit, offer, or accept a “benefit” in exchange for your decision, opinion, recommendation, vote, or other exercise of official discretion. Penal Code § 36.02. Common sense should tell you if something is a bribe. If it is, don’t take it.

Honoraria

You may not solicit, agree to accept, or accept an honorarium in consideration for services you would not have been asked to provide but for your official position. Penal Code § 36.07. Thus, for example, you may not take a speaker’s fee for speaking if your position with the state is one of the reasons you were asked to speak. The honorarium law does not, however, prohibit acceptance of food, transportation, and lodging in connection with a speech that is more than merely perfunctory. If a state officer or the executive head of an agency accepts food, transportation, or lodging under these circumstances, the officer must report it on Part XIII of the annual personal financial statement. (A travel regulation provides that a state employee may not accept money for a travel expense reimbursement from a person that the employee’s employing state agency intends to audit, examine, or investigate or is auditing, examining, or investigating. Gov’t Code § 660.016.)

Prohibitions on Gifts

Most public servants are subject to one or more prohibitions on the acceptance of “benefits” from persons subject to their jurisdiction. Penal Code § 36.08. For example, a public servant in an agency performing regulatory functions or conducting inspections or investigations may not accept a benefit from a person the public servant “knows to be subject to regulation, inspection, or investigation by the public servant or his agency.” *Id.* § 36.08(a). Similarly, a public servant who “exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions” of the agency may not accept a benefit from a person the public servant knows is interested in or likely to become interested in such a transaction. *Id.* § 36.08(d). (The Appendix contains the full text of section 36.08.) *These prohibitions apply regardless of whether the donor is asking for something in return.*

The statutory definition of “benefit” is “anything reasonably regarded as pecuniary gain or pecuniary advantage.” Penal Code § 36.01(3). In advisory opinions, the Ethics Commission has stated that the following gifts are benefits: a \$50 clock, a hotel room, a hunting trip, football tickets, a \$160 rifle, and a \$60 restaurant meal. Texas Ethics Comm’n Op. Nos. 97, 94, 90, 69, 60 (1992).

Exceptions to Gift Prohibitions

There are exceptions to the prohibitions set out in Penal Code section 36.08. These exceptions are exceptions to criminal liability under that section. You should also make sure that the laws and rules specifically applicable to your agency permit you to accept a benefit permitted under the Penal Code. Even if the acceptance of a gift is legally permissible, you should consider whether the gift raises the appearance of impropriety.

The following exceptions are most likely to be relevant to state officers or employees. (The Appendix contains the full text of section 36.10, which sets out the exceptions to section 36.08.)

- You may accept non-cash items of less than \$50 in value. Penal Code § 36.10(a)(6). If a *lobbyist* provides you with food, beverages, entertainment, lodging, or transportation, however, the lobbyist must be present at the event.
- You may accept benefits in the form of food, lodging, transportation, or entertainment in any amount if you accept them as a “guest” and report them if there is an applicable reporting requirement. Penal Code § 36.10(b). In order for you to accept something as a “guest,” the donor must be present.

Lobbyists may provide you with transportation and lodging only in connection with a fact-finding trip related to your official duties or in connection with an event, such as a conference, at which you will be providing “more than perfunctory” services in your official capacity.

State officers and agency heads: You will be required to report on your personal financial statement the acceptance of gifts worth more than \$470, except for gifts from a member of your immediate family or from a lobbyist required to report the gift. You must also report on your personal financial statement your acceptance of meals, transportation, or lodging provided in connection with a speech or other services you provided in your official capacity. (*See above discussion on “Honoraria.”*)

- You may accept a benefit from a person such as a friend, relative, or business associate with whom you have a relationship independent of your official status *if the benefit is given on account of that relationship rather than your official status*. Penal Code § 36.10(a)(2).
- You may accept a payment for which you give legitimate consideration *in a capacity other than as a public servant*. Penal Code § 36.10(a)(1). The use of the term “legitimate consideration” means that the payment you receive must reflect the actual value of the services or goods you provide in exchange for the payment. Texas Ethics Comm’n Op. No. 41 n.1 (1992).
- You may accept certain gifts, awards, and mementos from persons required to register as lobbyists. “Gift” in this context does not include food, entertainment, transportation, or lodging, which are discussed above. Penal Code § 36.10(a)(5). (*See discussion of “Gifts Prohibited by the Lobby Statute” below.*)

Gifts Prohibited by the Lobby Statute

The lobby law, chapter 305 of the Government Code, contains restrictions on gifts from a person required to register under that chapter. For the most part, the lobby statute is stricter than the Penal Code. For instance, you may not accept transportation and lodging in connection with a pleasure trip from a lobbyist. There is, however, one exception to the general rule that the lobby law is stricter than the Penal Code: Under section 36.10(a)(5) of the Penal Code, there is an exception from the Penal Code prohibition on the acceptance of benefits for a gift, award, or memento that is required to be reported by a lobbyist. Because of this exception, there are circumstances in which it is permissible for you to accept a gift from a lobbyist that you could not accept from a non-lobbyist. If you are thinking about relying on this exception, you should ask the Ethics Commission for advice before you do so.

Gifts to State Agencies

The Ethics Commission has issued several opinions in response to questions about the acceptance of gifts by a state agency. Texas Ethics Comm'n Op. Nos. 118 (1993), 63, 62, 51, 31 (1992). Chapter 305 of the Government Code, which regulates lobbying, and chapter 36 of the Penal Code, which regulates gifts to public officers and employees, do not apply to gifts given to a state agency. Texas Ethics Comm'n Op. Nos. 62, 31 (1992). The statutes applicable to a specific state agency determine whether the agency has authority to accept gifts. *Id.* Also, even if an agency has authority to accept gifts, it may do so only in accordance with the provisions of Government Code chapter 575.

Although questions about the specific authority of a state agency to accept gifts are outside the Ethics Commission's advisory opinion authority, previous ethics advisory opinions have set out some general guidelines about the acceptance of gifts by a state agency. First, the commission has noted that even if a state agency has authority to accept gifts generally, the agency may accept gifts on behalf of the agency only if the gifts can be used in carrying out the agency's powers and duties. A gift to a state agency becomes state property, and an officer or employee of the agency cannot be permitted to use it for private purposes. Consequently, acceptance of gifts by a state agency is not a permissible way of acquiring gifts for the personal enjoyment of individual state officers and employees.

Gifts to state agencies, even if legally permissible, may raise questions about impropriety. If the donor is subject to agency regulation or oversight, or engages in a business that can be affected by agency action, then it may be that the donor hopes or expects to gain favor with the agency. Even if that is not the case, it may appear to be so, especially to someone whose interests are different from those of the donor and who may feel at a disadvantage because of the donor's generosity.

Donation of Gifts to Charity

What should you do if someone sends you an unsolicited gift that you may not accept? Often public servants would prefer to donate such gifts to charity or to a governmental body, rather than returning them to the donor. A provision of the Penal Code allows such donations in specified circumstances:

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under [section 36.08] may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Penal Code § 36.08(i).

PART III. ABUSE OF OFFICE

Chapter 39 of the Penal Code contains several provisions prohibiting a public servant from using his or her official position in various ways for non-governmental purposes.

Misuse of Government Property

As a public servant, you commit an offense if, with intent to obtain a benefit or harm another, you *misapply any thing of value belonging to the government* that has come into your custody or possession by virtue of your public office or employment. Penal Code § 39.02(a)(2). Simply stated, this means that you are to use government property for governmental purposes, not for personal or private purposes.

Frequent Flyer Miles: Penal Code section 39.02(d) specifically provides that travel discount awards such as “frequent flyer” miles, hotel or rental car discounts, or food coupons are not things of value belonging to the government for purposes of the criminal law prohibiting misapplication of a thing of value belonging to the government. This means that personal or private use of travel awards accrued on state business is not a crime. The law does not, however, prevent a particular agency from adopting a policy requiring that such travel awards be used for agency purposes.

Political Campaigns: Do not use state time or state equipment to work on an individual’s political campaign. See Texas Ethics Comm’n Op. No. 172 (1993). Also, chapter 556 of the Government Code prohibits a state agency from using appropriated funds in connection with a political campaign. Further, it prohibits a state officer or employee from using official authority to interfere with or attempt to influence the result of an election. Gov’t Code § 556.004. The Ethics Commission does not have authority to interpret chapter 556 of the Government Code.

Misuse of Official Information

As a public servant, you may have access to information that has not been made public. Chapter 39 of the Penal Code restricts your use of such information in the following ways:

- You may not use the information to acquire or help another person to acquire a pecuniary interest in any property, transaction, or enterprise affected by the information. Penal Code § 39.06(a)(1).
- You may not speculate or aid another to speculate on the basis of the information. Penal Code § 39.06(a)(2).
- You may not disclose or use the information with the intent to obtain a benefit or to harm another. Penal Code § 39.06(b).

PART IV. OTHER EMPLOYMENT

Concurrent Employment

Some of the laws under the jurisdiction of the Ethics Commission are relevant to questions about other employment by a state officer or employee. For example, under the bribery law, you may not solicit or accept a “benefit” in exchange for your decision, opinion, recommendation, vote, or other exercise of discretion as a public servant. Penal Code § 36.02. A salary is a benefit. *See generally* Texas Ethics Comm’n Op. No. 155 (1993). Therefore, the crime of bribery occurs if a state officer accepts other employment in exchange for official action or inaction. In addition, under the honorarium law a state officer may not accept an honorarium for performing services that he or she would not have been asked to provide but for his or her official status. Other laws outside the Ethics Commission’s jurisdiction may also restrict your employment. For information about such laws, consult your general counsel or the Office of the Attorney General.

Future Employment

If you are about to leave your position with the state, you should be aware of laws that might restrict your future employment. Chapter 572 of the Government Code contains three “revolving door” provisions. Each provision applies to different groups of former officers and employees of state agencies.

Note: If other law restricts you from representing a person before an agency after you leave your position, that law prevails over the second and third Government Code provisions (in section 572.054) discussed below.

Revolving Door #1

The first revolving door provision will apply to you if you are a former state officer or employee of a state agency. For two years after you cease to be a state officer or employee of an agency, you may not accept employment from a person if you participated on behalf of the state agency in a procurement or contract negotiation involving that person.

Note: The first revolving door provision only applies to a state officer or employee whose service or employment with a state agency ceases on or after September 1, 2015.

Revolving Door #2

The second revolving door provision will apply to you if you are a former board member or executive director of a regulatory agency. For two years after you cease to be a member of the board, you may not make any communication to or appearance before an officer or employee of the board on behalf of any person with the intent to influence agency action in connection with any matter on which that person seeks official action. The restriction applies even if the agency initiates the contact and even if you are communicating on your own behalf (subject to your due process rights). It does not, however, prevent you from merely providing information to the agency, as long as you are not doing so with the intent to influence agency action on behalf of a person.

Revolving Door #3

The third revolving door provision applies to all former board members and executive directors of regulatory agencies. It also applies to former employees who, at the time of leaving the agency, were compensated at or above a certain salary level. The law applies to a former employee whose compensation at the time of leaving state employment was at or above the level prescribed by the general appropriations act for step 1, salary group A17, of the position classification salary schedule. (The 2022-2023 General Appropriations Act prescribed the minimum annual salary for that salary group (A17) as \$36,976 for fiscal years 2022 and 2023.)

A former board member or employee covered by the third provision may *never* represent a person or receive compensation for services rendered on behalf of any person regarding a “particular matter” in which he or she “participated” while serving with the agency. A “particular matter” is a *specific* matter before the agency, such as an investigation, application, contract, rulemaking proceeding, administrative proceeding, request for a ruling, etc. This revolving door provision prohibits you from representing a person, or getting paid to help a person, regarding a *specific* matter in which you were either personally involved or that was a matter within your official responsibility while a state officer or employee. It does not prohibit you from working on the *type of matters* you worked on at the agency. *This restriction lasts forever.*

Note: For purposes of the Government Code revolving door statutes, a “person” is an individual or business entity. Gov’t Code § 572.002(7). The statutes do not restrict former state officers or employees from representing or providing services on behalf of nonprofit or governmental entities. Texas Ethics Comm’n Op. No. 232 (1994).

Violation of either of the second or third revolving door provisions is a Class A misdemeanor. The Texas Ethics Commission may assess a civil penalty for a violation of any of the three revolving door laws.

PART V. PERSONAL FINANCIAL STATEMENTS

Board members and executive directors of most state agencies are required to file a personal financial statement with the commission on or before April 30 each year if they served at any time beginning on January 1 and continuing through April 30 of that year. Gov’t Code § 572.026(a). If your term as a board member is ending or if you plan to resign from a board, you should be aware of the “holdover” provision of the Texas Constitution. Under this provision, a state officer “holds over” in office until replaced. A person who no longer attends meetings may nonetheless “holdover” as a board member. Thus, if you resign or your term expires before January 1 of a given year, you will still be required to file a financial statement for that year if your successor was not appointed before January 1.

However, if you are an appointed officer, as defined by section 572.002 of the Government Code, you are not required to file a personal financial statement if the following criteria are met before January 1 of the year the statement is due: (1) your term expired, you resigned, your agency was abolished, or your agency functions were transferred to another agency; and (2) you ceased to participate in the state agency’s functions. If your term expired or if you resigned, you

are required to provide written notice of your intent to not participate in the agency's functions to the Office of the Governor and to the Texas Ethics Commission.

Anyone who asks for extra time to file by April 30 is entitled to a one-time, 60-day extension. Call the Ethics Commission legal staff at (512) 463-5800 if you have questions when completing the form.

Note: New state law requires a personal financial statement filed with the Ethics Commission to be filed electronically. Please visit the Ethics Commission website at www.ethics.state.tx.us for information regarding the filing application and instructions.

Note: The commission imposes a civil penalty of \$500 for late filings. The commission has the authority to raise this penalty. There are criminal penalties for failing to file at all.

PART VI. LOBBYING BY STATE OFFICERS AND EMPLOYEES

The provisions of Government Code chapter 556 prohibit the use of appropriated funds to influence legislation. Those provisions are not under the Ethics Commission's jurisdiction. The lobby law, chapter 305 of the Government Code, is not applicable in this context. Note, however, that a *gift* from a state agency to a legislator may be prohibited under the Penal Code.

SUMMARY

This guide is intended to make you familiar with the laws interpreted by the Texas Ethics Commission that govern your conduct as a state officer. For further guidance, you should consult your agency's ethics advisor or general counsel. Also, feel free to call the Ethics Commission at (512) 463-5800 for advice or visit our Internet site at <http://www.ethics.state.tx.us>.

APPENDIX

Penal Code Provisions Regarding Gifts to a Public Servant

§ 36.08. Gift to Public Servant by Person Subject to His Jurisdiction

- (a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.
- (b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his agency.
- (c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.
- (d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.
- (e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.
- (f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.
- (g) A public servant who is a hearing examiner employed by an agency performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the agency in a contested case, who is doing business with the agency, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) does not apply to a benefit under this subsection.
- (h) An offense under this section is a Class A misdemeanor.
- (i) A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the

benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

§ 36.09. Offering Gift to Public Servant

- (a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.
- (b) An offense under this section is a Class A misdemeanor.

§ 36.10. Non-Applicable

- (a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:
 - (1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;
 - (2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
 - (3) a benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
 - (4) a political contribution as defined by Title 15, Election Code;
 - (5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;
 - (6) an item with a value less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
 - (7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
 - (8) transportation, lodging, and meals described by Section 36.07(b); or
 - (9) complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered:

- (A) to a public servant who is a first responder; and
- (B) through a program or clinic that is:
 - (i) operated by a local bar association or the State Bar of Texas; and
 - (ii) approved by the head of the agency employing the public servant, if the public servant is employed by an agency.
- (b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.
- (c) Section 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.
- (d) Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code. Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.
- (e) In this section, “first responder” means:
 - (1) a peace officer whose duties include responding rapidly to an emergency;
 - (2) fire protection personnel, as that term is defined by Section 419.021, Government Code;
 - (3) a volunteer firefighter who performs firefighting duties on behalf of a political subdivision and who is not serving as a member of the Texas Legislature or holding a statewide elected office;
 - (4) an ambulance driver; or
 - (5) an individual certified as emergency medical services personnel by the Department of State Health Services.

- ✓ **FEES FOR SERVICES:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case you may accept the offer without restriction. Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.
- ✓ **POLITICAL CONTRIBUTIONS:** You may accept a political contribution as a candidate or officeholder.
- ✓ **GOVERNMENT PROPERTY:** You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- ✓ **FOOD, ENTERTAINMENT, TRANSPORTATION, & LODGING:** Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a "guest" and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. As to reporting requirements, certain elected officeholders, state agency board members, and state agency heads are required to file annual personal financial statements on which they must report certain gifts worth more than \$470. For most state *employees*, there is no applicable reporting requirement. Board members and agency heads may be required to report certain gifts on their annual personal financial statement.

DONATIONS TO CHARITY

If you receive an unsolicited benefit that you are prohibited from accepting, you may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes.

Texas Ethics Commission

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Can I Take It?



A Guide for Officers and Employees in the Executive Branch of State Government.

Note: Employees of the Governor or Lieutenant Governor should refer to the "Can I Take It?" brochure specifically applicable to those offices.

Revised March 16, 2021

Can I Take It?

RULE NO. 1

YOU MAY NEVER TAKE ANYTHING AS CONSIDERATION FOR AN OFFICIAL ACT

The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, and any other exercise of official discretion.

RULE NO. 2

YOU MAY NOT ACCEPT AN HONORARIUM FOR SERVICES YOU WOULD NOT HAVE BEEN ASKED TO PROVIDE BUT FOR YOUR OFFICIAL STATUS

This means, for example, that you may not accept a gift or payment for giving a speech if your official position was a reason for your being asked to give the speech. You may, however, accept meals, transportation, and lodging in connection with a speech as long as your speech is more than merely perfunctory. Also, you may accept a gift that is not a "benefit" such as a plaque or something of minimal value like a coffee cup, key chain, or "gimme" cap.

THE OTHER RULES: If acceptance of a gift or payment is permissible under Rule Nos. 1 and 2, the next step is to determine whether or not the person making the offer is a registered lobbyist.

A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST:

1. You may not accept:

- ✗ Loans, cash, or negotiable instruments other than political contributions.
- ✗ Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.)

2. You may accept:

- ✓ Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- ✓ Entertainment worth up to \$500 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- ✓ Gifts, other than awards and mementos, that together do not exceed \$500 in value during a calendar year.
- ✓ Awards and mementos worth not more than \$500. This is not an annual cap, but a cap on the value of each individual award or memento.
- ✓ Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.
- ✓ Tickets or other expenditures for attendance at a political fundraiser or charitable event if the lobbyist is present at the event.

Note: You can find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at 512-463-5800 or by going to www.ethics.state.tx.us/search/lobby.html.

PLEASE NOTE

Your name will appear on a lobbyist's activities report:

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed \$132.60,* which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed \$90; or
- each time an expenditure is made for you to attend political fundraisers or charity events, regardless of the amount spent.

* effective January 6, 2019

B. IF THE PERSON MAKING THE OFFER IS NOT A REGISTERED LOBBYIST:

A state officer or employee may not take any benefit from a person subject to the regulation, inspection, or investigation by that person or that person's agency. (A "benefit" is anything reasonably regarded as pecuniary gain or advantage.) There are, however, many exceptions to this general rule. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into *any one* of the following categories.**

- ✓ ITEMS WORTH LESS THAN \$50: You may accept an item with a value of less than \$50. This exception does not apply to cash, checks, or negotiable instruments.
- ✓ INDEPENDENT RELATIONSHIP: There is an exception from the general prohibition on the acceptance of benefits for a gift based on
 - kinship
 - a personal relationship independent of your official status
 - a professional relationship independent of your official status
 - a business relationship independent of your official status.

(over)

HONORARIUM LAW

As a public servant, you may not accept an honorarium in consideration for services that you would not have been requested to provide but for your official position or duties. You may, however, accept food, transportation, and lodging in connection with services rendered at a conference or seminar.

CAMPAIGN AND OFFICEHOLDER CONTRIBUTIONS

A candidate or elected officeholder must report all campaign or officeholder contributions, this includes contributions in the form of transportation or lodging.

No corporate contributions. A candidate may not accept a campaign contribution, nor may an officeholder accept an officeholder contribution, from a corporation or labor union.

FINANCIAL STATEMENT

Some government officials are required to file an annual personal financial statement. A filer must report any gifts, including trips, that exceed \$250 in value, except gifts reportable as a political contribution, or a lobby expenditure, or a gift received from an individual related within the second degree by consanguinity or affinity. Also, a filer must report transportation, meals, or lodging provided by a third party in connection with a conference or similar event, unless a lobbyist reports the expenditures.

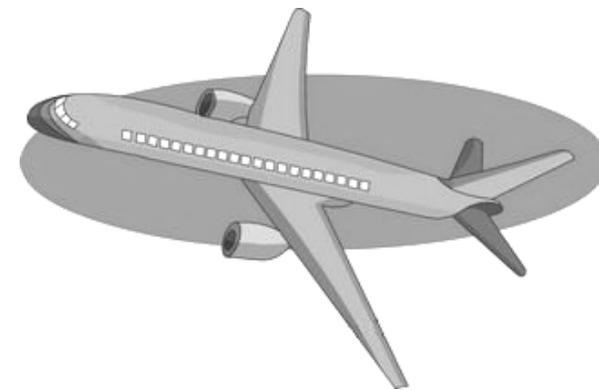
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Can I Take This Trip?



A Texas Ethics Commission guide
to the acceptance of trips by
government officers and employees.

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Revised February 24, 1997

Can I Take This Trip?

Officers and employees of governmental bodies often ask the Ethics Commission whether it is permissible to take a trip paid for by a third party. To answer such questions, it is first necessary to determine whether the third party is providing the trip to the governmental body or to the individual. If the trip is being provided to an individual government officer or employee, rather than to the governmental body itself, the individual must consider the restrictions and reporting requirements in *all* of the following laws:

- ◆ the lobby law in chapter 305, Government Code
- ◆ the gift laws in chapter 36, Penal Code
- ◆ the honorarium law in chapter 36, Penal Code
- ◆ the campaign finance law in title 15, Election Code
- ◆ the law requiring certain government officials to file an annual personal financial statement in chapter 572, Government Code.

It is important to review the restrictions in all of those laws because what is permissible under one law may not be permissible under another.

GIFTS TO THE GOVERNMENT

Under the appropriate circumstances, a governmental body may accept an offer by a third party to pay travel expenses for a government officer or employee to conduct government business.

Whether a governmental body may accept a gift depends on the laws specifically applicable to the governmental body, not on the laws under the jurisdiction of the Texas Ethics Commission. Individual employees may not make decisions about accepting gifts on behalf of a governmental body; only the governing board may make such decisions.

An individual government officer or employee who intends to accept a trip for himself or herself should first review the restrictions and reporting requirements in the laws discussed below.

LOBBY LAW

Under the lobby law, an officer or employee in the legislative or executive branch of *state government* is subject to a general prohibition on the acceptance of transportation and lodging from a registered lobbyist. There are exceptions to this rule: one for transportation and lodging in connection with a fact-finding trip, one for transportation and lodging in connection with a conference or similar event, and one for incidental transportation.

Fact-finding trips. There is an exception to the prohibition on lobbyist-paid trips for necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, but not including attendance at merely ceremonial events or pleasure trips. A lobbyist who provides transportation or lodging in connection with a fact-finding trip must be present at the event.

Conferences or similar events. There is also an exception for necessary expenditures for transportation and lodging provided in connection with a conference or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory. A lobbyist who provides transportation or lodging in connection with a conference or similar event must be present at the event.

Incidental transportation. The prohibition on lobbyist-paid transportation does not apply to transportation of incidental value, such as a short ride in a car or taxi.

Note: A lobbyist is required to report lobby expenditures, including expenditures for transportation and lodging.

GIFT LAWS

Under chapter 36 of the Penal Code, most public servants, at both the state and local level, are subject to a prohibition on the acceptance of a benefit from someone subject to their jurisdiction. (The Governor and the Governor's employees, the Lieutenant Governor and the Lieutenant Governor's employees, and members of the legislature and legislative employees are subject to a prohibition on the acceptance of a benefit from anyone.) There are, however, exceptions to those prohibitions, including an exception for something worth less than \$50 and an exception for something from a close friend or family member. There is also a specific exception for benefits in the form of transportation and lodging accepted as a "guest" and reported in accordance with any applicable reporting requirement. In order for something to be accepted as a guest, the donor must be present.

Revolving Door

A GUIDE TO THE REVOLVING DOOR PROVISIONS

THIS GUIDE IS FOR former board members, officers, and employees of certain agencies in the executive branch of state government. Chapter 572 of the Government Code contains three revolving door provisions. Each provision applies to different groups of former members, officers, and employees.

The revolving door provisions do not apply to former officers or employees of the legislative or judicial branches of state government.

Caveat: *Other law “that restricts the representation of a person before a particular state agency by a former state officer or employee of that agency” prevails over the second and third provisions in section 572.054. For example, a former employee of the Public Utility Commission is not subject to the second or third revolving door provisions because the Public Utilities Regulatory Act contains a specific revolving door provision that applies to former employees of the Public Utility Commission.*

The First Revolving Door Rule

Two-year Prohibition Applicable to Former State Officers and Employees

The first revolving door rule applies to all former state officers and employees of a state agency.

With respect to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications between September 1, 2015, and August 31, 2017, if a state officer or employee has participated on behalf of the agency in a procurement or contract negotiation involving any person, then he or she may not accept employment from that person for two years after the date he or she leaves the agency.

With respect to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or qualifications on or after September 1, 2017, if a state officer or employee of a state agency participated on behalf of the agency in a procurement or contract negotiation involving any person, then he or she may not accept employment from that person for two years after the date the contract is signed or the procurement is terminated or withdrawn.

The Second Revolving Door Rule

Two-year Prohibition Applicable to Former Board Members and Executive Directors

The second revolving door rule applies to all former board members and former executive heads of regulatory agencies. For two years after a board member or executive head leaves a regulatory agency, he or she *may not* appear before or communicate with officers or employees of the agency with the intent to influence the board on behalf of any person in connection with any matter on which the person seeks official action.

The law is not an absolute prohibition on communications to an agency by a former board member or former executive head of the agency. *The restriction applies only to communications and appearances intended to influence agency action.* If, for example, a current board member calls a former board member to get information about past board activities, the former board member is free to provide information -- as long as the former board member does not try to influence the actions of the current board. This restriction applies regardless of who initiated the contact and even if a former board member or executive head is communicating on their "own behalf" with the intent to influence agency action, subject to any constitutional due process right to be heard by the agency.

The Third Revolving Door Rule

Continual Prohibition Applicable to Former Board Members and Upper-level Employees

The third revolving door rule deals with work on specific “matters” and applies to all former officers and certain former employees of regulatory agencies.

Former Officers. The provision applies to a former “officer” of a regulatory agency. Board members of state agencies are officers. An individual elected or appointed as the head of an agency that does not have a board is an officer.

For example, the Agriculture Commissioner and the Insurance Commissioner are state officers.

Former Employees Paid at or Above Certain Level. The provision applies to a former employee of a regulatory agency whose ending pay was at or above the amount prescribed for salary group A17, of the state position classification salary schedule. (The 2020-2021 General Appropriations Act prescribed the minimum annual salary for that salary group (A17) as \$36,976 for fiscal years 2020 and 2021.) A former employee who received that amount or more at the time of leaving state employment is subject to the third revolving door rule, regardless of whether the former employee held a classified position or a position exempt from the classification schedule.

An officer or employee subject to the third revolving door prohibition *may never* represent a person or receive compensation for services rendered on behalf of any person regarding a "particular matter" in which he or she "participated" while serving with the agency, either through personal involvement or because the matter was within his or her official responsibility. In this context, "participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

The most common question raised about the third revolving door rule is whether proposed future employment would involve work on a "particular matter" that a person participated in as a state officer or employee. A "particular matter" is defined narrowly to mean something quite specific, such as an investigation, application, contract, rulemaking, or other administrative proceeding.

This means a person subject to the third revolving door prohibition may work on matters similar to matters he or she worked on as a state employee, but not on exactly the same matters. For example, a former employee of a regulatory agency who worked on Permit Application X at the agency could not leave the agency and work on Permit Application X on behalf of the applicant. The former employee could, however, work on Permit Application Z, even if Permit Application Z involved issues similar to the issues raised in connection with Permit Application X.

**Representation of
Nonprofit Organizations or
Governmental Bodies**

All of the revolving door laws apply to activity on behalf of a "person." Under the revolving door laws, a "person" is an individual or business entity. It does not include a nonprofit organization or governmental body.

Penalties

A violation of the second or third revolving door provisions is a Class A misdemeanor.

The Texas Ethics Commission may assess a civil penalty for a violation of any of the three revolving door laws.

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Revised October 3, 2019

REVOLVING DOOR



LEAVING A STATE AGENCY?

*A Texas Ethics Commission Guide to the
Revolving Door Provisions in Chapter 572
of the Texas Government Code*

Update on Texas Essential Knowledge and Skills (TEKS) Review

April 14, 2023

COMMITTEE OF THE FULL BOARD: ACTION STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item provides the opportunity for staff to present an update on the review of the Texas Essential Knowledge and Skills (TEKS) and the English Language Proficiency Standards (ELPS).

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), requires the SBOE to by rule identify 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.

TEC, §28.025(a), requires the SBOE to by rule determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for all subjects effective September 1, 1998. The English language arts and reading TEKS were amended effective September 4, 2008. The Spanish language arts and reading TEKS were amended effective November 26, 2008. The TEKS for high school English elective courses were amended effective August 23, 2010. The English and Spanish language arts and reading TEKS for Kindergarten-Grade 8 were amended effective September 25, 2017, and the English language arts and reading and English as a second language (ESL) TEKS for high school were amended effective November 12, 2017. The K-12 TEKS for English and Spanish language arts and reading were again amended effective August 1, 2019, to make technical adjustments to the standards. The mathematics TEKS were amended effective August 1, 2006. The secondary mathematics TEKS were amended effective February 22, 2009. The mathematics TEKS were again amended effective September 12, 2012. The science TEKS were amended effective August 4, 2009 and were amended again to streamline the science TEKS effective August 27, 2018. The social studies TEKS were amended effective August 23, 2010 and were amended again to streamline the social studies TEKS in 2018. The career and technical education (CTE) TEKS were amended effective August 23, 2010. The CTE TEKS were again amended effective August 28, 2017. The fine arts TEKS were amended effective August 24, 2015. The TEKS for languages other than English (LOTE) were amended effective July 15, 2014, and December 31, 2014. The technology applications TEKS were amended effective September 26, 2011. The health education TEKS and the physical education TEKS were amended to be effective August 1, 2022. The science TEKS were once again amended effective April 28, 2021, November 30, 2021, and April 26, 2022. The revised science TEKS are scheduled to be implemented in the 2024-2025 school year. The technology applications TEKS were amended effective August 7, 2022, and are scheduled to be implemented in the 2024-2025 school year. At the November 2022 meeting, the SBOE approved proposed revisions to the social studies TEKS for implementation beginning in the 2024-2025 school year.

At the June 2019 SBOE meeting, the board held a work session to discuss updating the TEKS and instructional materials review and adoption schedule. At the September 2019 meeting, the board approved the schedule through the 2030-2031 school year. The board held another work session to discuss updates to the TEKS and instructional materials review and adoption schedule at the January 2021 meeting. The board approved updates to the TEKS and instructional materials review and adoption schedule at the April 2021 meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The board received training from a standards writing advisor at the July 2014 meeting. The standards writing advisor provided additional training to Texas Education Agency (TEA) staff in October 2014 to support future facilitation of the TEKS review committees.

In 2017, the SBOE significantly revised the process for the review and revision of the TEKS. The 2017 TEKS review process was used for the streamlining of the social studies TEKS. At the November 2018 meeting, the SBOE approved updates to the 2017 TEKS review and revision process to better clarify the process. The updated process was used for the review of the physical education, health education, and science TEKS.

In early 2019, the SBOE began the review of the ELPS in accordance with the SBOE's approved TEKS and instructional materials review schedule. At the January 2021 meeting, the board held a work session to discuss the timeline for the TEKS review and revision process and associated activities, including updates to State Board for Educator Certification teacher assignment rules and certification exams, adoption of instructional materials, and the completion of the Texas Resource Review. TEA provided an overview of CTE programs of study and a skills gap analysis to inform the review and revision of the CTE TEKS. The board discussed potential adjustments to the TEKS and Instructional Materials Review and Adoption Schedule. At the April 2021 meeting, the SBOE approved revisions to the TEKS and Instructional Materials Review and Adoption Schedule.

At the June and November 2021 SBOE meetings, the board discussed the review of the social studies TEKS. Work groups were convened to develop recommendations for the social studies TEKS in January, February, March, April, May, June, July, and August 2022. At a special called meeting held August 1, 2022, the SBOE discussed the proposed new social studies TEKS and held a public hearing regarding the new standards. The board determined that it would not move forward with new social studies TEKS at its August/September 2022 meeting. Instead, the board asked TEA staff to bring to the next meeting a draft of the current standards that only adds content to address requirements from Senate Bill (SB) 3, 87th Texas Legislature, Second Called Session, 2021.

At the November 2022 SBOE meeting, the board approved for second reading and final adoption proposed amendments to 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, and Subchapter C, High School. Additionally at that meeting, the board approved a CTE TEKS review process that mirrors the process for other subjects, but accounts for factors unique to CTE. Staff provided SBOE members with applications received for work group members to review and revise the CTE TEKS for entrepreneurship and career preparation in November 2022 and January 2023. The approvals were due to TEA staff on December 1, 2022, and January 2023, respectively.

TEA convened work groups for entrepreneurship and career preparation CTE TEKS in February and March 2023. The work groups are also expected to convene in April 2023 to finalize their draft recommendations for revisions to the TEKS for these courses.

In February 2023, TEA posted a work group application to develop recommendations for revisions to the TEKS for certain courses in the Agriculture, Food, and Natural Resources career cluster; two CTE science courses that may satisfy a science graduation requirement, Principles of Technology and Scientific Research and Design; and the Aviation Maintenance program of study. TEA provided SBOE members with applications received in February, March, and April 2023. The approvals were due to TEA staff on March 3 and March 24. Additional applications are due April 14.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Discussion of Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter B, State Adoption of Instructional Materials, §66.30, State Review Panels: Eligibility and Appointment

April 11, 2023

**COMMITTEE OF THE FULL BOARD: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: This item provides an opportunity for the committee to discuss a possible amendment to 19 Texas Administrative Code (TAC) Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter B, State Adoption of Instructional Materials, §66.30, State Review Panels: Eligibility and Appointment. This item would allow the committee to determine if updates to the current rule are needed.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

TEC, §7.102, requires the State Board of Education (SBOE) to adopt rules related to TEC, Chapter 31.

TEC, §31.002, defines instructional material, open education resource instructional material, publisher, and technological equipment.

TEC, §31.003, authorizes the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.005, authorizes an open-enrollment charter school to use the instructional materials allotment and subjects the school to TEC, Chapter 31, as if the school were a school district.

TEC, §31.022, requires the SBOE to adopt a review and adoption cycle for instructional materials in prekindergarten-Grade 12 and establishes priorities for that cycle. The statute requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years and the enrichment curriculum as appropriate. TEC, §31.022, also establishes requirements for the SBOE to meet regarding issuing proclamations.

TEC, §31.0221, requires the SBOE to adopt rules for the midcycle review and adoption of instructional materials for a subject for which materials are not currently under review as part of the regular adoption cycle. The rules must require participating publishers to pay a fee to cover costs of the review, to enter into an appropriate contract that ends at the same time as other products adopted for that subject area, and to commit to providing adopted materials in the agreed-upon manner.

TEC, §31.023, requires the SBOE to adopt a list of instructional materials that meet applicable physical specifications and contain material covering at least half of the applicable TEKS in the student version and in the teacher version.

TEC, §31.024, requires the SBOE to make decisions on the adopted list by majority vote and to provide a list of adopted materials no later than December 1 of the year prior to the year the materials are expected to be in classrooms.

TEC, §31.0241, requires the SBOE to include open-source materials produced by eligible institutions on the adopted list if they meet certain requirements.

TEC, §31.0242, prescribes time periods and duties for the SBOE with regard to review of open-source materials.

TEC, §31.026, requires the SBOE to execute contracts with publishers of adopted materials that coincide with the board's review cycle and that specify a price fixed for the term of the contract that does not exceed the lowest price paid by any other state or any school or school district.

TEC, §31.0261, allows the SBOE to execute contracts for the printing of adopted open-source instructional materials and requires that the contracts allow a school district to purchase printed copies of those materials.

TEC, §31.035, allows the SBOE to adopt supplemental instructional materials that are not on the adopted list if the material covers one or more primary focal points or topics of a subject in the required curriculum, is not designed to serve as the only instructional material for the course, meets applicable physical specifications, and is free from factual errors. The statute requires the SBOE to identify the TEKS that are covered by the supplemental instructional material and requires the material to comply with the review and adoption cycle provisions.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Any proposed amendment to §66.30 will be presented for first reading and filing authorization at the June 2023 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 66.30 addresses the eligibility for instructional materials state review panels and the process for nomination and selection to the state review panels.

Staff Member Responsible:

Amie Phillips, Director, Instructional Materials Review

Attachment:

Text of 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter B, State Adoption of Instructional Materials, §66.30, State Review Panels: Eligibility and Appointment

ATTACHMENT
Text of 19 TAC

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter B. State Adoption of Instructional Materials

§66.30. State Review Panels: Eligibility and Appointment.

- (a) The commissioner of education shall determine the number of review panels needed to review instructional materials under consideration for adoption, the number of persons to serve on each panel, and, subject to this section, the process for selecting panel members.
- (b) As determined by this section, panel members shall serve with the advice and consent of the member from whose district the panel member resides.
- (c) The commissioner shall solicit nominations for possible appointees to state review panels from the State Board of Education (SBOE), school districts, open-enrollment charter schools, and educational organizations in the state. Nominations may be accepted from any Texas resident. Nominations shall not be made by or accepted from any publishers; hardware or software providers; authors; depositories; agents for publishers, hardware or software providers, authors, or depositories; or any person who holds any official position with a publisher, hardware or software provider, author, depository, or agent.
- (d) A person nominated to serve on a state review panel shall disclose in any nomination or application, in a manner designated by the commissioner, his or her residence and whether currently or at any time in the 36 months preceding the appointment the person:
 - (1) was employed by or received funds from any individual or entity affiliated with a publishing company involved in or connected to the adoption of instructional materials;
 - (2) owned or controlled any interest valued at more than \$5,000 in a privately owned publishing company or an entity receiving funds from a publishing company involved in or connected to the adoption of instructional materials or had direct ownership of stock of a publicly traded company involved in or connected to the adoption of instructional materials; or
 - (3) was employed by an institution of higher education that has submitted open education resource instructional materials or is a publisher of instructional materials.
- (e) The commissioner shall propose appointments to state review panels that, to the extent possible, as determined by the commissioner, include the following:
 - (1) individuals nominated by SBOE members;
 - (2) individuals representing a diverse mixture of gender, race, and SBOE districts;
 - (3) a majority of members with content expertise and experience;
 - (4) academic experts in each subject area for which instructional materials are being considered, giving priority to content-relevant educators and professors; and
 - (5) educators, parents, business and industry representatives, and employers.
- (f) For purposes of this section, an "academic expert" is a person who:
 - (1) is a public-school teacher with at least ten years of classroom teaching experience; or
 - (2) has at least a master's degree in the subject area; or
 - (3) is a professor at an accredited four-year institution of higher education in Texas.
- (g) The commissioner shall notify the SBOE of the proposed appointments. The commissioner shall assign each appointee to the SBOE district in which he or she resides.

- (h) An SBOE member may reject the proposed appointment of a panel member representing that member's SBOE district by notifying the commissioner via electronic mail within five business days of receiving the proposed appointment list. Failure to reject a proposed appointment within five business days constitutes consent for the appointment.
- (i) After close of the five-business-day period under subsection (h) of this section, the commissioner may propose additional members if necessary. The commissioner shall provide to the SBOE member who represents the district of residence for each additional proposed panel member the opportunity for review of additional members in accordance with the time period and rejection rules under subsection (h) of this section. The SBOE shall be notified of finalized appointments made by the commissioner to state review panels. The final list of appointees, their roles, and who nominated them shall be given to each member of the SBOE no later than the first public meeting following the finalization of the panels.
- (j) The commissioner shall inform nominees who are not appointed to a state review panel that all members of the public may review instructional materials and give input during the public comment period.
- (k) The role of each appointee shall be designated by the commissioner and disclosed to all appointees on each panel.
- (l) Members of a state review panel may be removed at the discretion of the commissioner at any time prior to the completion of the review.

Commissioner's Comments

April 12, 2023

COMMITTEE OF THE FULL BOARD: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the board to be briefed on current agenda items, agency operations, policy implementation, and public education-related legislation.

BOARD RESPONSE: Review and comment.

BACKGROUND INFORMATION AND JUSTIFICATION: On an as needed basis, the board will be briefed on significant public education issues and events.

Staff Member Responsible:

Yolanda Walker, Executive Director, State Board of Education Support Division

**Proposed New Texas Essential Knowledge and Skills for Occupational Safety and Health in
19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and
Career and Technical Education, Subchapter B, High School
(First Reading and Filing Authorization)**

April 14, 2023

**COMMITTEE OF THE FULL BOARD: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School, §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, and §127.18, Occupational Safety and Health (One Credit), Adopted 2023. The proposal would provide the opportunity for the board to consider two options for Texas Essential Knowledge and Skills (TEKS) in workplace safety and health. One option would establish a one-credit standalone high school course and a second option would establish a set of standards to be imbedded within each career and technical education (CTE) principles course.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c), and 28.025(a).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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.

TEC, §28.025(a), requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under TEC, §28.002.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed new section is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will allow districts to implement TEKS for occupational safety and health beginning with the 2023-2024 school year.

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for career development in 2015 for implementation in the 2017-2018 school year. At the November 2022 SBOE meeting, the SBOE asked Texas Education Agency (TEA) staff to develop recommendations for TEKS for a new occupational safety and health course. At the January-February 2023 SBOE meeting, the SBOE discussed the development of the new standards.

BACKGROUND INFORMATION AND JUSTIFICATION: In response to proposed updates to the state accountability system, TEA received feedback regarding the potential addition of industry-based certifications and/or additional courses to various career and technical education programs of study. Specifically, the agency received feedback recommending the development and adoption of a new TEKS-based course related to training standards established by the Occupational Safety and Health Administration, which could be included in a variety of relevant programs of study. TEA staff provided this feedback to the SBOE at the November 2022 meeting, and the SBOE agreed to move forward with development of TEKS for a course in occupational safety and health for implementation beginning in the 2023-2024 school year.

TEA staff developed a draft of TEKS for a new occupational safety and health course, and the draft was shared with board members in January 2023. A discussion item was presented to the board at the January-February 2023 SBOE meeting. In March 2023, the draft TEKS were presented to two CTE work groups for their review and feedback. Some work group members expressed interest in the standalone course while others expressed a preference for embedding occupational safety and health standards into existing CTE principles courses.

The proposal in Attachment I presents two options for adding standards in occupational safety and health into the CTE TEKS. Proposed new 19 TAC §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, presents standards that would be embedded into the content for relevant CTE principles courses. Proposed new 19 TAC §127.18, Occupational Safety and Health (One Credit), Adopted 2023, presents standards for a one-credit standalone course in occupational safety and health. The SBOE may choose to approve both proposals for first reading and filing authorization in order to solicit feedback from the public to help inform a decision that would be made at a future meeting.

FISCAL IMPACT: TEA has determined that there are no additional costs to state government.

During the first five years the proposal is in effect, there may be fiscal implications for school districts and charter schools to implement the proposed new TEKS, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

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: 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 create a new regulation by requiring school districts that wish to offer occupational safety and health standards to implement the new 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 expand, limit, or repeal 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: The proposed new TEKS would support student learning in workplace safety as part of select programs of study. 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 or 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 12, 2023, and ends at 5:00 p.m. on June 16, 2023. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in June 2023 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 12, 2023.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for first reading and filing authorization proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School, §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, and §127.18, Occupational Safety and Health (One Credit), Adopted 2023.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed New 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter B, High School, §127.17, Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023, and §127.18, Occupational Safety and Health (One Credit), Adopted 2023

ATTACHMENT
Text of Proposed New 19 TAC

Chapter 127. Texas Essential Knowledge and Skills for Career Development and Career and Technical Education

Subchapter B. High School

§127.17. Career and Technical Education Standards in Occupational Safety and Health, Adopted 2023.

- (a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2023-2024 school year.
- (b) General requirements. These standards may not be offered as a standalone course. These standards shall be offered together with the essential knowledge and skills for the following career and technical education (CTE) principles courses:
- (1) Principles of Education and Training;
 - (2) Principles of Health Science;
 - (3) Principles of Hospitality and Tourism;
 - (4) Principles of Law, Public Safety, Corrections, and Security;
 - (5) Principles of Applied Engineering;
 - (6) Principles of Biosciences;
 - (7) Principles of Agriculture, Food, and Natural Resources;
 - (8) Principles of Architecture;
 - (9) Principles of Construction;
 - (10) Principles of Information Technology;
 - (11) Principles of Cosmetology Design and Color Theory;
 - (12) Principles of Manufacturing;
 - (13) Principles of Transportation Systems; and
 - (14) Principles of Distribution and Logistics.
- (c) Introduction.
- (1) CTE instruction provides content aligned with challenging academic standards, industry-relevant technical knowledge, and college and career readiness skills for students to further their education and succeed in current and emerging professions.
 - (2) The goal of the occupational safety and health standards is to ensure that students develop safety consciousness in the workplace. Students build a strong foundation in the occupational safety and health concepts that are critical to protecting individuals in the workplace, increasing safety and health, and reducing the occurrence of job-related injuries and fatalities.
 - (3) These standards are required to be addressed in their entirety as part of each of the CTE principles courses identified in subsection (b) of this section.
 - (4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (d) Knowledge and skills.
- (1) The student understands the foundations of occupational safety and health. The student is expected to:

- (A) explain and discuss the responsibilities of workers and employers to promote safety and health in the workplace and the rights of workers to a secure workplace;
- (B) explain and discuss the importance of Occupational Safety and Health Administration (OSHA) standards and OSHA requirements for organizations, how OSHA inspections are conducted, and the role of national and state regulatory entities such as the National Institute of Occupational Safety and Health, Centers for Disease Control and Prevention, National Center for Construction Education and Research, Texas Workforce Commission, and Texas Department of Insurance;
- (C) explain the role industrial hygiene plays in occupational safety and explain various types of industrial hygiene hazards, including physical, chemical, biological, and ergonomic;
- (D) identify and explain the appropriate use of types of personal protective equipment used in general industry;
- (E) discuss the importance of safe walking and working surfaces in the workplace and best practices for preventing or reducing slips, trips, and falls in the workplace;
- (F) describe types of electrical hazards in the workplace and the risks associated with these hazards and describe control methods to prevent electrical hazards in the workplace;
- (G) analyze the hazards of handling, storing, using, and transporting hazardous materials and identify and discuss ways to reduce exposure to hazardous materials in the workplace;
- (H) identify workplace health and safety resources, including emergency plans and Safety Data Sheets, and discuss how these resources are used to make decisions in the workplace;
- (I) describe the elements of a safety and health program, including management leadership, worker participation, and education and training;
- (J) explain the purpose and importance of written emergency action plans and fire protection plans and describe key components of each such as evacuation plans and emergency exit routes, list of fire hazards, and identification of emergency personnel;
- (K) explain the components of a hazard communication program; and
- (L) explain and give examples of safety and health training requirements specified by standard setting organizations.

§127.18. Occupational Safety and Health (One Credit), Adopted 2023.

- (a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2023-2024 school year.
- (b) General requirements. This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of this course.
- (c) Introduction.
 - (1) Career and technical education instruction provides content aligned with challenging academic standards, industry-relevant technical knowledge, and college and career readiness skills for students to further their education and succeed in current and emerging professions.
 - (2) In Occupational Safety and Health, students gain a strong foundation of safety consciousness in the workplace to increase safety and health and reduce the occurrence of job-related injuries and fatalities.
 - (3) Occupational safety and health concepts are critical and should be applied across all programs of studies and career clusters as appropriate. Students are encouraged to apply their experiences on a jobsite to the knowledge and skills taught in this course.

- (4) Successful completion of the standards in this course may lead to a student earning a ten-hour general industry Occupational Safety and Health Administration (OSHA) card. To earn the ten-hour OSHA card, the course must be taught by an authorized OSHA outreach training program trainer.
 - (5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.
 - (6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (d) Knowledge and skills.
- (1) The student applies professional standards and employability skills as required by business and industry. The student is expected to:
 - (A) model ethical conduct in complex situations;
 - (B) model a respectful and professional attitude when interacting with diverse populations, colleagues, and professionals;
 - (C) apply self-management skills such as stress and change management;
 - (D) apply interpersonal skills, including negotiation skills, conflict resolution, customer service, and teamwork;
 - (E) practice problem-solving skills in respect to complex ethical decision making; and
 - (F) compare unethical and illegal conduct in the workplace.
 - (2) The student evaluates the roles and responsibilities of occupational safety and health professions. The student is expected to:
 - (A) explain the role of occupational safety and health professionals in various occupational settings;
 - (B) identify career development and entrepreneurship opportunities in occupational safety and health; and
 - (C) investigate and discuss opportunities to earn a credential and certification in the field of occupational safety and health.
 - (3) The student understands the foundations of occupational safety and health. The student is expected to:
 - (A) identify and discuss workers' rights to participate in activities that support a safe and healthy workplace such as having access to appropriate training and the ability to communicate safety concerns;
 - (B) explain and discuss the roles and responsibilities of workers and employers in creating a safe workplace;
 - (C) give examples of responsibilities of workers and employers that promote safety and health in the workplace;
 - (D) explain and discuss the importance of Occupational Safety and Health Act (OSHA) standards and OSHA requirements for organizations as well as national and state regulatory entities such as the National Institute of Occupational Safety and Health, Center for Disease Control, National Center for Construction Education and Research, Texas Workforce Commission, and Texas Department of Insurance;
 - (E) identify and discuss how workplace health and safety resources, including emergency plans and Safety Data Sheets (SDS), are used to make decisions in the workplace; and
 - (F) apply OSHA's General Duty Clause to various workplace situations and common citations.

- (4) The student understands industrial hygiene and how it applies to improving occupational safety. The student is expected to:
- (A) define industrial hygiene in the workplace;
 - (B) identify warning signs of exposure to types of occupational health hazards, including physical, chemical, biological, and ergonomic;
 - (C) evaluate types of occupational health hazards, including physical, chemical, biological, and ergonomic;
 - (D) differentiate between health issues caused by workplace factors and those caused from pre-existing conditions; and
 - (E) identify ways to reduce, remove, and control different types of health hazards at work.
- (5) The student analyzes and interprets workplace safety and health programs to identify elements, project costs, and propose solutions that benefit employers and employees. The student is expected to:
- (A) compare accident types such as those caused by human error like poor judgement or memory lapse;
 - (B) describe how injury, illness, and accidents can potentially impact an organization or workplace;
 - (C) describe the elements of a safety and health program, including management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement;
 - (D) identify some of the direct and indirect costs of work-related hazards; and
 - (E) discuss the benefits of implementing an effective safety and health program.
- (6) The student knows the importance of personal protective equipment (PPE). The student is expected to:
- (A) explain the purpose and benefits of protection of the body, including the eyes, face, head, feet, arms, hands, and torso;
 - (B) explain and discuss the role an employer plays in practicing proper maintenance and sanitation of protective devices and in training employees to properly use PPE;
 - (C) explain the employee's responsibility in choosing and using PPE; and
 - (D) identify and explain the appropriate use of types of PPE used in general industry.
- (7) The student describes the science of ergonomics, identifies ergonomic problems in a variety of workplace settings, and applies control methods to reduce work-related musculoskeletal disorders (WMSDs). The student is expected to:
- (A) summarize and discuss the science and history of ergonomics;
 - (B) describe the three organizational domains of ergonomics, including physical, cognitive, and organizational, and identify the primary body systems involved in the three domains;
 - (C) identify common WMSDs and evaluate risk factors associated with WMSDs;
 - (D) identify and discuss control methods for reducing WMSDs; and
 - (E) develop an ergonomic workplace design based on OSHA standards.
- (8) The student analyzes walking and working surfaces and fall hazards and applies prevention and protection strategies to create safer working environments. The student is expected to:
- (A) research and analyze hazards in the workplace associated with walking and working surfaces and falling;

- (B) identify and discuss best practices for preventing or reducing slips, trips, and falls in the workplace; and
 - (C) investigate and explain employer requirements to protect workers from walking and working surface hazards and fall hazards.
- (9) The student understands the properties of hazardous materials and the fundamental principles of hazardous material safety and management. The student is expected to:
 - (A) research and analyze hazardous materials commonly found in workplace settings and the materials' physical properties;
 - (B) describe ways in which hazardous materials can enter the body;
 - (C) identify physical and health hazards associated with exposure to hazardous materials and compare hazards based on level of exposure; and
 - (D) identify and discuss ways to reduce exposure to hazardous materials in the workplace.
- (10) The student knows how to locate and communicate pertinent information about hazardous materials using the Hazard Communication Standard (HCS) and Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The student is expected to:
 - (A) compare the HCS and GHS and analyze employer responsibilities under each system;
 - (B) locate and communicate pertinent information on chemical labels and SDS to ensure "right to understanding" provisions of the GHS requirements;
 - (C) explain the components of a hazard communication program, including requirements of hazard communication labels;
 - (D) explain the role of a workplace hazard control committee and its contributions to the success of hazard control in the workplace; and
 - (E) compare effective and ineffective hazard control methods.
- (11) The student understands the processes and precautions for handling hazardous materials. The student is expected to:
 - (A) analyze the hazards of handling, storing, using, and transporting hazardous materials;
 - (B) identify and discuss the proper use of different types of tools, supplies, and equipment used for material handling;
 - (C) research and analyze the regulations that govern handling, storing, using, disposing of, and transporting hazardous materials; and
 - (D) identify key elements of material handling, storage, use, and disposal safety plans and discuss how they relate to an employer's responsibilities to protect workers from material handling hazards.
- (12) The student knows and applies bloodborne pathogen safety and control methods. The student is expected to:
 - (A) investigate and describe bloodborne pathogens and risks of exposure and identify workers most at risk;
 - (B) describe methods for controlling exposure to bloodborne pathogens;
 - (C) evaluate key aspects of a bloodborne pathogen exposure control plan; and
 - (D) describe the steps to take when exposed to a bloodborne pathogen.
- (13) The student understands the risks associated with electrical hazards found on a jobsite and applies control methods to increase safety and health. The student is expected to:
 - (A) describe types of electrical hazards in the workplace and associated risks;

- (B) evaluate methods to prevent electrical hazards, including lockout and tagout procedures; and
 - (C) research and discuss OSHA standards regarding electrical hazards.
- (14) The student evaluates tool and machine guarding as part of a safety and health plan. The student is expected to:
- (A) identify the tools and machines commonly used by workers on a hazardous worksite and describe the machinery parts that expose workers to hazards;
 - (B) describe and analyze the main causes of machinery accidents and situations that require machine guarding;
 - (C) identify and describe steps to reduce tool and machine hazards; and
 - (D) research and discuss OSHA standards for tool and machine safeguards in the workplace and an employer's related responsibilities.
- (15) The student understands general powered industrial truck safety operations and applies the information to employer safety and health programs. The student is expected to:
- (A) compare characteristics of powered industrial trucks and the risks associated with these machines;
 - (B) describe general powered industrial truck operation safety using OSHA information and checklists; and
 - (C) research examples of employer safety and health programs to discuss steps to reduce hazards related to powered industrial trucks.
- (16) The student explains the relationship between fire behavior, fire extinguishing and protection systems, and fire protection plans. The student is expected to:
- (A) identify and describe heat energy sources such as chemical, electrical, mechanical, and nuclear and heat transfer methods;
 - (B) describe the classes and stages of fires;
 - (C) describe possible deficiencies in fire safety;
 - (D) evaluate methods for extinguishing fires; and
 - (E) identify and describe the elements of a fire protection plan based on OSHA standards.
- (17) The student applies industrial hygiene and safety and health management to welding, cutting, and brazing industries. The student is expected to:
- (A) analyze different types of hazards related to welding, cutting, and brazing and explain the concept of hot work;
 - (B) research and evaluate the OSHA standards for welding, cutting, and brazing;
 - (C) compare standards for welding, cutting, and brazing with fire prevention and protection standards; and
 - (D) describe how welding, cutting, and brazing standards are incorporated into employer safety programs to improve industrial hygiene.
- (18) The student examines the positive impact of emergency management in the workplace. The student is expected to:
- (A) identify and discuss types of emergencies that should be addressed in emergency plans, including fire, toxic chemical release, weather, and workplace violence;
 - (B) describe strategies to enhance workplace security and prevent workplace violence;

- (C) compare conditions under which evacuation and shelter-in-place actions may be necessary in an emergency situation;
 - (D) explain the importance of emergency exits and emergency lighting;
 - (E) describe the purpose and importance of a written emergency action plan in the workplace; and
 - (F) assess emergency plans using information gathered through mock emergency drills.
- (19) The student understands the importance of inspections and accident prevention and reporting. The student is expected to:
- (A) identify the components of an OSHA inspection;
 - (B) compare reasons and methods for conducting internal inspections and OSHA inspections;
 - (C) identify hazards, injuries, and accidents to be tracked and evaluate the importance of maintaining records of these incidents;
 - (D) describe the roles of an accident log, accident form, and accident report in accident investigation;
 - (E) complete an accident report form and discuss processes businesses use for submitting accident report forms;
 - (F) research and discuss examples of corrective actions taken for common OSHA violations;
 - (G) define organizational culture and its impact on accident prevention efforts;
 - (H) discuss the processes for reporting a hazard to appropriate parties such as supervisor, union, or advisory committee; and
 - (I) research and discuss whistleblower labor laws, what qualifies an employee for whistleblower protection, and what employee right's whistleblower laws provide reate a whistleblower process for filing a complaint in a simulated workplace.
- (20) The student understands how the purposeful engineering of the workplace can reduce work-related risks. The student is expected to:
- (A) discuss and explain the significance of safety engineering to the hierarchy of controls;
 - (B) evaluate common workplace design flaws that lead to reduced safety and health; and
 - (C) investigate and describe how engineering for safety has improved industrial hygiene and created a safer workplace over time.
- (21) The student researches best practices in occupational safety and health training within specific industries. The student is expected to:
- (A) explain safety and health training requirements specified by standard setting organizations;
 - (B) research and identify best practices in safety and health training; and
 - (C) describe strategies for communicating safety and health training in the workplace.

**Discussion of Proposed Amendment to 19 TAC Chapter 100, Charters,
Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process**

April 12, 2023

**COMMITTEE OF THE FULL BOARD: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: This item provides an opportunity for the committee to discuss a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process. The proposed amendment would modify the no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf.

STATUTORY AUTHORITY: Texas Education Code (TEC), §12.101.

TEC, §12.101, requires the commissioner to notify the State Board of Education (SBOE) of each charter the commissioner proposes to grant. It also establishes that unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant each charter takes effect.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: The proposed amendment to §100.1 will be presented for first reading and filing authorization at the June 2023 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 100.1 establishes the process for approval of an open-enrollment charter, including a no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf with the commissioner of education, the commissioner's designee, a member of the SBOE, or a member of an external application review panel.

A petition was received from the Texas Public Charter Schools Association requesting that the no-contact period established in §100.1(d) be eliminated. The SBOE considered the petition at its January-February 2023 meeting and directed Texas Education Agency staff to present an amendment to §100.1 that would end the no-contact period for charter school applicants on the date the applicant passes the external review with a passing score.

The proposed amendment to §100.1(d) would remove the no-contact period for open-enrollment charter applicants or any person or entity acting on their behalf with the commissioner, the commissioner's designee, or a member of an external application review panel. The no-contact period with a member of the SBOE would be modified to end on the date the applicant passes through an external review with a qualifying score.

Staff Members Responsible:

Kelvey Oeser, Deputy Commissioner, Educator and System Support
Marian Schutte, Executive Director, Authorizing

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 100. Charters

Subchapter A. Open-Enrollment Charter Schools

§100.1. Selection Process.

- (a) In accordance with ~~[the]~~ Texas Education Code (TEC), §12.101, a State Board of Education (SBOE) member shall be designated by the SBOE chair to work in coordination with the commissioner of education on the review of TEC, Chapter 12, Subchapter D, open-enrollment charter school applicants.
- (b) Following the commissioner's notification to the SBOE of the charters the commissioner proposes to grant, a majority of the SBOE members present and voting may vote to veto the commissioner's proposed charter(s) or may vote to take no action. The SBOE's consideration of the proposed charters will occur no later than 90 days following the commissioner's notification.
- (c) The SBOE may not vote or deliberate on any charter application that has not been proposed by the commissioner. For purposes of this section, deliberation is defined in Texas Government Code, §551.001.
- (d) An applicant for an open-enrollment charter, or any person or entity acting on behalf of an applicant for an open-enrollment charter, shall not communicate with ~~[the commissioner or the commissioner's designee,]~~ a member of the SBOE ~~[or a member of an external application review panel]~~ concerning a charter school application beginning on the date the application is submitted and ending on the date the applicant passes through an external review with a qualifying score ~~[90 days after the commissioner's proposal]~~ . The SBOE may veto a proposed application for violation of this subsection.

Update on the Review of *Proclamation 2024* Instructional Materials

April 12, 2023

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for staff to update the State Board of Education (SBOE) on the status of the review of *Proclamation 2024* instructional materials. The SBOE issued *Proclamation 2024* in April 2022, calling for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. All materials submitted in response to *Proclamation 2024* are scheduled to be reviewed for standards alignment in summer 2023. Additionally, materials submitted for science will be reviewed through the Texas Resource Review beginning in May 2023. Instructional materials are scheduled for adoption by the SBOE in November 2023.

STATUTORY AUTHORITY: Texas Education Code (TEC), [§31.022](#).

TEC, §31.022(a) requires the SBOE to adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum.

TEC, §31.022(b) requires the SBOE to adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: *Proclamation 2024* was issued by the SBOE in April 2022. Amendments to *Proclamation 2024* were approved at the September 2022 SBOE meeting. The board approved amendments to the schedule of adoption procedures.

Staff Member Responsible:

Amie Phillips, Director, Instructional Materials Review

Discussion of Pending Litigation

April 12, 2023

COMMITTEE OF THE FULL BOARD: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: The State Board of Education (SBOE) may enter into executive session in accordance with the Texas Government Code, §551.071(1)(A), to discuss pending and contemplated litigation with the general counsel, legal staff, and, if necessary, attorney(s) from the Attorney General's Office. The Committee of the Full Board will meet in Room 1-103 to discuss any litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

BOARD RESPONSE: Board may advise and comment.

BACKGROUND INFORMATION AND JUSTIFICATION: At every regularly scheduled meeting, the SBOE has the opportunity to be apprised of pending litigation as the need arises. The SBOE may also receive continued briefing on procedural developments.

Staff Member Responsible:

Von Byer, General Counsel, Legal Services

COMMITTEE ON INSTRUCTION

**Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript)
(Second Reading and Final Adoption)**

April 14, 2023

**COMMITTEE ON INSTRUCTION: ACTION
STATE BOARD OF EDUCATION: CONSENT**

SUMMARY: This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript). The proposed amendment would add a new requirement that a student who earns a diploma by satisfying the requirements of the Texas First Early High School Completion Program must have successful completion of the program indicated on the academic achievement record, or transcript. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(13).

TEC, §7.102(c)(13), requires the State Board of Education (SBOE) to adopt transcript forms and standards for differentiating high school performance for purposes of reporting academic achievement under TEC, §28.025.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed amendment is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final 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 allow districts to indicate successful completion of the Texas First Early High School Completion Program for students who meet the requirements during the current school year.

PREVIOUS BOARD ACTION: The SBOE adopted §74.5 effective June 18, 2014, to align with legislation passed by the 83rd Texas Legislature, Regular Session, 2013. In April 2016, the SBOE gave final approval to a proposed amendment to §74.5 to align with legislation passed by the 84th Texas Legislature, 2015. In April 2018, the SBOE gave final approval to a proposed amendment to §74.5 to align with legislation passed by the 83rd Texas Legislature, Regular Session, 2013, and 85th Texas Legislature, 2017. In April 2021, the SBOE gave final approval to a proposed amendment to §74.5 to align with legislation passed by the 86th Texas Legislature, Regular Session, 2019.

The board approved the proposed amendment to §74.5 for first reading and filing authorization at the January-February 2023 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The 87th Texas Legislature, Regular Session, 2021, passed Senate Bill (SB) 1888, adding new TEC, §28.0253, to establish the Texas First Early High School Completion Program. The Texas Education Agency, in coordination with the Texas Higher Education Coordinating Board, is required to establish the program to allow public high school students who demonstrate early readiness for college to graduate early from high school. A student is entitled to early high school graduation under the Texas First Early High School Completion Program if the student meets the criteria established by rule by the Texas Higher Education Coordinating Board. Additionally, students who graduate under the program are considered to have earned the distinguished

level of achievement and are eligible to receive a scholarship at participating institutions of higher education. The proposed amendment would require school districts and open-enrollment charter schools to indicate on a student's transcript completion of the Texas First Early High School Completion Program.

The attachment to this item presents the text of the proposed amendment to §74.5 for consideration by the SBOE for second reading and final adoption.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

TEA has determined that there are no additional costs to state government.

There may be costs to school districts and charter schools associated with required updates to local student information systems in order to implement the requirements of statute. These may include the need for professional development and amendments to district-developed databases. Since the design and format of and data collection for the academic achievement record (high school transcript) are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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 expand an existing regulation by requiring school districts and charter schools to report a student's early high school graduation via the Texas First Early High School Graduation Program on the academic achievement record.

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 limit or repeal 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: No changes have been made to this section since published as proposed.

The proposal would improve documentation of requirements on the academic achievement record and the ability to more effectively transmit that information between school districts and institutions of higher education. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no data or reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

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: Following the January-February 2023 SBOE meeting, notice of the proposed amendment to §74.5 was filed with the Texas Register, initiating the public comment period. The public comment period began on March 3, 2023, and ended at 5:00 p.m. on April 7, 2023. A summary of public comments received will be provided to the SBOE during the April 2023 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in April 2023 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript); and

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript), is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. *(Per TEC, §7.102(f), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)*

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript)

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 74. Curriculum Requirements

Subchapter A. Required Curriculum

§74.5. Academic Achievement Record (Transcript).

- (a) The commissioner of education shall develop and distribute to each school district and institution of higher education the state guidelines for a common academic achievement record and coding system for courses and instructions for recording information on the academic achievement record. Each school district must use the coding system provided by the commissioner.
- (b) Following guidelines developed by the commissioner, each school district must use an academic achievement record (transcript) form that includes the following:
 - (1) student demographics;
 - (2) school data;
 - (3) student data; and
 - (4) the record of courses and credits earned.
- (c) The academic achievement record shall serve as the academic record for each student and must be maintained permanently by the district. Each district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must respond promptly to each request for student records from a receiving school district.
- (d) Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.
- (e) A student who completes high school graduation requirements shall have attached to the academic achievement record a seal approved by the State Board of Education.
- (f) A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record.
- (g) A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record.
- (h) A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record.
- (i) A student who demonstrates proficiency in speech as specified in §74.11(a)(3) of this title (relating to High School Graduation Requirements) shall have completion of the speech requirement clearly indicated on the academic achievement record.
- (j) A student who completes the required instruction in cardiopulmonary resuscitation (CPR) as specified in §74.38 of this title (relating to Requirements for Instruction in Cardiopulmonary Resuscitation (CPR)) in Grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record.
- (k) A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record.
- (l) A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record.

- (m) A student who satisfies a languages other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with §74.12(b)(5)(F) of this title (relating to Foundation High School Program) shall have the credit clearly indicated on the academic achievement record.
- (n) A student who earns a high school diploma by satisfying the requirements of the Texas First Early High School Completion Program in accordance with Chapter 21, Subchapter D, of this title (relating to the Texas First Early High School Completion Program) shall have completion of the program and the distinguished level of achievement clearly indicated on the academic achievement record.
- (o) ~~(n)~~ A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record will include a notation of the date such a certificate was issued to the student.

**Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School
(Second Reading and Final Adoption)**

April 14, 2023

COMMITTEE ON INSTRUCTION: ACTION
STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item presents for second reading and final adoption proposed revisions to 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School. The proposed revisions would repeal two existing middle school courses, add a new middle school course, and repeal implementation language that will no longer be relevant. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4), 28.002(a) and (c), and 28.016.

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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.

TEC, §28.016, requires each school district to ensure that at least once in Grade 7 or 8 each student receives instruction in high school, college, and career preparation. TEC, §28.016(c)(2), permits school districts to provide the instruction as part of an existing career and technical education course designated by the SBOE as appropriate for that purpose.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed revisions is August 1, 2023. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final 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 allow all school districts including districts of innovation to implement the new course at the beginning of their school year.

PREVIOUS BOARD ACTION: The SBOE adopted §127.2, Investigating Careers, Adopted 2015, and §127.3, College and Career Readiness, Adopted 2015, effective August 28, 2017. At the August-September 2022 meeting, the SBOE discussed a proposed new Flight Plans course that would replace the two existing middle school college and career exploration courses. The board approved the proposed revisions for first reading and filing authorization at the November 2022 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: TEC, §28.016, requires each school district to ensure that at least once in Grade 7 or 8 each student receives instruction in high school, college, and career preparation. The instruction must include information regarding the creation of a high school personal graduation plan, the distinguished level of achievement, each endorsement, college

readiness standards, and potential career choices and the education needed to enter those careers. School districts are permitted to provide the instruction as part of an existing career and technical education course designated by the SBOE as appropriate for that purpose.

At the request of a board member, the board will consider replacing two existing courses with a single updated course in college and career investigation and preparation. Proposed new §127.2, Flight Plans, Adopted 2022, would be available for districts to use in meeting the requirements of TEC, §28.016.

The implementation section for the subchapter would be repealed and new implementation language added to proposed new §127.2 to align with the changes.

FISCAL IMPACT: No changes have been made to this section since published as proposed.

Texas Education Agency (TEA) has determined that there are no additional costs to the state. During the first five years the proposal is in effect, there may be fiscal implications for school districts and open-enrollment charter schools to implement the proposed new course, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

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: No changes have been made to this section since published as proposed.

TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking would create a new regulation and repeal existing regulations by adding Texas

Essential Knowledge and Skills for a new college and career exploration course and removing existing courses and related implementation language.

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 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: No changes have been made to this section since published as proposed.

The proposed revisions would update and streamline the standards for college and career exploration to ensure the standards remain current. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed.

The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed.

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: Following the November 2022 SBOE meeting, notice of the proposed revisions to Chapter 127, Subchapter A, were filed with the Texas Register, initiating the public comment period. The public comment period began December 23, 2022, and ended at 5:00 p.m. on January 27, 2023. A summary of public comments received will be provided to the SBOE during the January-February 2023 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January-February 2023 in accordance with the SBOE board operating policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve for second reading and final adoption proposed revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School; and

Make an affirmative finding that immediate adoption of proposed revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School, is necessary and shall have an effective date of August 1, 2023. *(Per TEC, §7.102(f), a vote of two-thirds of the members of the board is necessary for an earlier effective date.)*

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School

ATTACHMENT
Text of Proposed Revisions to 19 TAC

Chapter 127. Texas Essential Knowledge and Skills for Career Development and Career and Technical Education

Subchapter A. Middle School

§127.1. Implementation of Texas Essential Knowledge and Skills for Career Development, Middle School, Adopted 2015.

- ~~(a) The provisions of this subchapter shall be implemented by school districts beginning with the 2017-2018 school year.~~
- ~~(b) No later than August 31, 2016, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for career development as adopted in §127.2 and §127.3 of this subchapter.~~
- ~~(c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §127.2 and §127.3 of this subchapter shall be implemented beginning with the 2017-2018 school year and apply to the 2017-2018 and subsequent school years.~~
- ~~(d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than August 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §127.2 and §127.3 of this subchapter shall be implemented for the following school year.~~

§127.2. Investigating Careers, Adopted 2015.

- ~~(a) General requirements. This course is recommended for students in Grades 7 and 8.~~
- ~~(b) Introduction.
 - ~~(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.~~
 - ~~(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.~~
 - ~~(3) The goal of this course is to create a foundation for success in high school, future studies, and careers such as Science, Technology, Engineering, and Mathematics; Business and Industry; Public Service; Arts and Humanities; and Multidisciplinary Studies. The students research labor market information, learn job seeking skills, and create documents required for employment.~~
 - ~~(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.~~
 - ~~(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.~~~~
- ~~(c) Knowledge and skills.
 - ~~(1) The student investigates one or more careers within the 16 career clusters. The student is expected to:
 - ~~(A) identify the various career opportunities within one or more career clusters; and~~
 - ~~(B) identify the pathways within one or more career clusters.~~~~~~

- ~~(2) — The student investigates career pathways in one or more of the 16 career clusters. The student is expected to:~~
- ~~(A) — research the academic requirements for one or more of the careers in an identified cluster;~~
 - ~~(B) — research the certification or educational requirements for careers; and~~
 - ~~(C) — describe the technical skill requirements for careers.~~
- ~~(3) — The student investigates the professional skills needed for college and career success. The student is expected to:~~
- ~~(A) — apply core academic skills to meet personal, academic, and career goals;~~
 - ~~(B) — investigate the importance of co-curricular, extracurricular, career preparation, and extended learning experiences;~~
 - ~~(C) — investigate the steps required to participate in a variety of career and educational opportunities, including, but not limited to, entry level employment, military service, apprenticeships, community and technical colleges, and universities;~~
 - ~~(D) — identify professional associations affiliated with a career pathway;~~
 - ~~(E) — recognize the value of community service and volunteerism; and~~
 - ~~(F) — demonstrate characteristics required for personal and professional success such as work ethics, integrity, dedication, perseverance, and interacting with diverse populations.~~
- ~~(4) — The student investigates labor market information. The student is expected to:~~
- ~~(A) — analyze national, state, regional, and local labor market information;~~
 - ~~(B) — classify evidence of high skill, high wage, or high demand occupations based on analysis of labor market information; and~~
 - ~~(C) — analyze the effects of changing employment trends, societal needs, and economic conditions on career planning.~~
- ~~(5) — The student investigates job seeking skills. The student is expected to:~~
- ~~(A) — identify the steps for an effective job search;~~
 - ~~(B) — describe appropriate appearance for an interview; and~~
 - ~~(C) — participate in a mock interview.~~
- ~~(6) — The student creates professional documents required for employment. The student is expected to:~~
- ~~(A) — develop a resume;~~
 - ~~(B) — write appropriate business correspondence such as a letter of intent and a thank you letter;~~
 - ~~(C) — complete sample job applications; and~~
 - ~~(D) — explain protocol for selecting and using references.]~~

[§127.3. College and Career Readiness, Adopted 2015.]

- ~~(a) — General requirements. This course is recommended for students in Grades 7 and 8.~~
- ~~(b) — Introduction.~~

- ~~(1) — Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.~~

- ~~(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.~~
- ~~(3) The career development process is unique to every person and evolves throughout one's life. Students will use decision-making and problem-solving skills for college and career planning. Students will explore valid, reliable educational and career information to learn more about themselves and their interests and abilities. Students integrate skills from academic subjects, information technology, and interpersonal communication to make informed decisions. This course is designed to guide students through the process of investigation and in the development of a college and career readiness achievement plan. Students will use interest inventory software or other tools available to explore college and career areas of personal interest. Students will use this information to explore educational requirements for various colleges and a variety of chosen career paths.~~
- ~~(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.~~
- ~~(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.~~
- ~~(c) Knowledge and skills:~~
- ~~(1) The student explores career assessments as related to college and career planning. The student is expected to:~~
- ~~(A) analyze and discuss the initial results of career assessments;~~
 - ~~(B) explore the 16 career clusters;~~
 - ~~(C) research trending fields related to career interest areas;~~
 - ~~(D) determine academic requirements in related career fields; and~~
 - ~~(E) research educational options and requirements using available resources.~~
- ~~(2) The student analyzes college and career opportunities. The student is expected to:~~
- ~~(A) determine academic requirements for transitioning to high school;~~
 - ~~(B) explore opportunities for earning college credit in high school such as advanced placement courses, International Baccalaureate courses, dual credit, and local and statewide articulated credit;~~
 - ~~(C) develop an awareness of financial aid, scholarships, and other sources of income as well as college savings to support college and career advancement;~~
 - ~~(D) discuss the impact of effective college and career planning;~~
 - ~~(E) demonstrate decision-making skills related to school and community issues, programs of study, and college and career planning; and~~
 - ~~(F) identify how performance on assessments such as the PSAT/NMSQT®, SAT®, ACT®, ASVAB®, and Texas Success Initiative (TSI®) impact personal academic and career goals.~~
- ~~(3) The student evaluates skills for personal success. The student is expected to:~~
- ~~(A) use interpersonal skills to facilitate effective teamwork;~~
 - ~~(B) use problem-solving models and critical thinking skills to make informed decisions;~~
 - ~~(C) use effective time management and goal-setting strategies;~~
 - ~~(D) identify skills that can be transferable among a variety of careers;~~
 - ~~(E) create a personal career portfolio;~~

- ~~(F) — make oral presentations that fulfill specific purposes using appropriate technology; and~~
- ~~(G) — identify entrepreneurial opportunities within a field of personal interest.~~
- ~~(4) — The student recognizes the impact of college and career choices on personal lifestyle. The student is expected to:~~
 - ~~(A) — prepare a personal budget reflecting the student's desired lifestyle; and~~
 - ~~(B) — use resources to compare and contrast salaries of at least three careers in the student's interest area.~~
- ~~(5) — The student demonstrates an understanding of financial management. The student is expected to:~~
 - ~~(A) — compare the advantages and disadvantages of different types of money management services;~~
 - ~~(B) — simulate opening and maintaining different types of financial accounts;~~
 - ~~(C) — simulate different methods of withdrawals and deposits;~~
 - ~~(D) — reconcile financial statements, including fees and services;~~
 - ~~(E) — compare and contrast forms of credit, including credit cards and debit cards;~~
 - ~~(F) — discuss the importance of credit scores;~~
 - ~~(G) — discuss the impact of identity theft on credit; and~~
 - ~~(H) — examine the effects of poor credit scores as they relate to personal finance and career opportunities.~~
- ~~(6) — The student develops skills for professional success. The student is expected to:~~
 - ~~(A) — demonstrate effective verbal, nonverbal, written, and electronic communication skills;~~
 - ~~(B) — evaluate the impact of positive and negative personal choices, including use of electronic communications such as social networking sites;~~
 - ~~(C) — model characteristics of effective leadership, teamwork, and conflict management;~~
 - ~~(D) — recognize the importance of a healthy lifestyle, including the ability to manage stress; and~~
 - ~~(E) — explore characteristics necessary for professional success such as work ethics, integrity, dedication, perseverance, and interactions with diverse populations.]~~

§127.2. Flight Plans, Adopted 2022.

- ~~(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2023-2024 school year.~~
- ~~(b) General requirements. This course is recommended for students in Grades 7 and 8.~~
- ~~(c) Introduction.~~
 - ~~(1) Career and technical education (CTE) instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.~~
 - ~~(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? Will my desired career path provide a self-sufficient wage? What occupations are in the highest demand that align to my values and interests? It is vital that students have a clear sense of direction for their career choice. Education and career planning is a critical step and is essential to success.~~
 - ~~(3) The career development process is unique to every person and evolves throughout one's life. In Flight Plans, students use decision-making and problem-solving skills for individual career and~~

academic planning. Students explore valid, reliable educational and career information to learn more about themselves and their interests and abilities. Students integrate skills from academic subjects, information technology, and interpersonal communication to make informed decisions. This course is designed to guide students through the process of investigating and developing a college and career readiness flight plan. Students use aptitude and interest inventory assessments, software, or other tools available to explore college and career areas of personal interest. Students use this information to explore a variety of career paths, especially those in demand, and begin mapping their anticipated secondary coursework and potential postsecondary experiences that are in alignment with their goals.

- (4) The goal of this course is to help students build career awareness and engage in deep exploration and study of the Texas CTE career clusters to create a foundation for success in high school, possible postsecondary studies, and careers. Students research labor market information, learn job-seeking skills, and create documents required for employment.
 - (5) Students are encouraged to explore and participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.
 - (6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.
- (d) Knowledge and skills.
- (1) The student takes one or more career interest surveys, aptitude tests, or career assessments and explores various college and career options. The student is expected to:
 - (A) analyze and discuss the initial results of the assessments;
 - (B) explore and describe the CTE career clusters;
 - (C) identify various career opportunities within one or more career clusters; and
 - (D) research and evaluate emerging occupations related to career interest areas.
 - (2) The student investigates educational and training requirements for career and education pathways in one or more of the career clusters. The student is expected to:
 - (A) research and describe applicable academic, technical, certification, and training requirements for one or more of the careers in an identified career cluster; and
 - (B) use available resources to research and evaluate educational and training options for one or more of the careers in an identified career cluster.
 - (3) The student analyzes educational and career opportunities. The student is expected to:
 - (A) describe academic requirements for transitioning from middle school to high school and from high school to career or postsecondary education;
 - (B) explore and list opportunities for earning college credit in high school such as Advanced Placement examinations, International Baccalaureate examinations, dual credit courses, and local and statewide articulated credit courses;
 - (C) investigate and describe various methods available to pay for college and other postsecondary training, including financial aid, scholarships, college savings, employee benefits, and other sources of income;
 - (D) discuss the impact of effective college and career planning;
 - (E) identify how performance on assessments such as the PSAT/NMSQT®, SAT®, ACT®, ASVAB®, and Texas Success Initiative (TSI®) impact personal academic and career goals;
 - (F) investigate and describe the importance of co-curricular, extracurricular, career preparation, and extended learning experiences in developing college applications or resumes;

- (G) investigate and report on the steps required to participate or enroll in a variety of career and educational opportunities, including entry-level employment, military service, apprenticeships, community and technical colleges, and universities, as applicable to the career;
 - (H) identify professional associations affiliated with a particular career pathway; and
 - (I) define entrepreneurship and identify entrepreneurial opportunities within a field of personal interest.
- (4) The student develops skills for personal success. The student is expected to:
- (A) demonstrate effective time-management and goal-setting strategies;
 - (B) identify skills that can be transferable among a variety of careers;
 - (C) give oral professional presentations on a topic related to career and college exploration using appropriate technology;
 - (D) apply core academic skills to meet personal, academic, and career goals;
 - (E) explain the value of community service and volunteerism; and
 - (F) define and identify examples in the workplace of characteristics required for personal and professional success such as work ethic, integrity, dedication, and perseverance.
- (5) The student investigates labor market information and recognizes the impact of college and career choices on personal lifestyle. The student is expected to:
- (A) analyze labor market trends related to a career of interest;
 - (B) classify evidence of high-skill, high-wage, or high-demand occupations based on analysis of labor market information;
 - (C) analyze the effects of changing employment trends, societal needs, and economic conditions on career choices;
 - (D) prepare a personal budget reflecting the student's desired lifestyle; and
 - (E) use resources to compare salaries of at least three careers in the student's interest area.
- (6) The student investigates job-seeking skills. The student is expected to:
- (A) identify the steps of an effective job search;
 - (B) describe appropriate appearance for an interview; and
 - (C) participate in a mock interview.
- (7) The student creates professional documents required for employment. The student is expected to:
- (A) write a resume;
 - (B) write appropriate business correspondence such as a cover letter and a thank you letter;
 - (C) complete sample job applications; and
 - (D) explain protocol for selecting and using references.
- (8) The student creates an individual career and academic plan. The student is expected to:
- (A) select a career pathway in a desired field, such as military service, entrepreneurship, or industry;
 - (B) document high school courses and postsecondary educational requirements for that career pathway; and
 - (C) write a plan for starting one's career after the completion of high school and any post-secondary education.

**Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411; Subchapter M, Law and Public Service, §127.633; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.744, 127.756, 127.757, 127.761, 127.764, 127.765, 127.769, and 127.770
(First Reading and Filing Authorization)**

April 14, 2023

**COMMITTEE ON INSTRUCTION: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: This item presents for first reading and filing authorization the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411, Pharmacology (One Credit), Adopted 2015; Subchapter M, Law and Public Service, §127.633, Forensic Science (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.744, Principles of Biosciences (One Credit), Adopted 2015; §127.756, Biotechnology I (One Credit), Adopted 2015; §127.757, Biotechnology II (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); §127.764, Computer Science III (One Credit); §127.765, Digital Forensics (One Credit), Beginning with School Year 2019-2020; §127.769, Foundations of Cybersecurity (One Credit); and §127.770, Cybersecurity Capstone (One Credit). The proposed repeals would remove the Texas Essential Knowledge and Skills (TEKS) for ten career and technical education (CTE) courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.788, 127.791, 127.792, 127.793, and 127.794 beginning with the 2023-2024 school year.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(4) and §28.002(a) and (c).

TEC, §7.102(c)(4), requires the State Board of Education (SBOE) to establish curriculum and graduation requirements.

TEC, §28.002(a), identifies the subjects of the required curriculum.

TEC, §28.002(c), 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.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: The proposed effective date of the proposed repeals is August 1, 2023. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date would repeal sections to avoid confusion with new TEKS that are being implemented at the beginning of the 2023-2024 school year.

PREVIOUS BOARD ACTION: The SBOE adopted the TEKS for CTE, including career development, in 19 TAC Chapters 119-125 and 127 effective September 1, 1998. The SBOE approved revisions to the CTE TEKS in Chapter 127 and new Chapter 130, Subchapters A-P, August 23, 2010. In 2015, the CTE TEKS were amended effective August 28, 2017. In 2018, the SBOE adopted revisions to 19 TAC Chapter 130, Subchapters B, H, M, and O, effective March 27, 2018. In 2020, the SBOE

approved revisions to the CTE TEKS in 19 TAC Chapter 130, Subchapters A, C, K, O, and Q, effective August 1, 2020.

At the November 2021 meeting, the board approved new CTE TEKS in 19 TAC Chapter 127, Subchapters G, I, J, M, and O, effective April 26, 2022. At the January 2022 SBOE meeting, the board approved the repeal of CTE TEKS in 19 TAC Chapter 130, Subchapters E, G, H, I, L, and O, and new CTE TEKS in 19 TAC Chapter 127, Subchapters G, I, J, M, and O, effective April 7, 2022. The board approved new CTE TEKS in 19 TAC Chapter 127, Subchapters G and O, at the April 2022 meeting, effective June 14, 2022. At the June 2022 meeting, the board approved the repeal of CTE TEKS in 19 TAC Chapter 127, Subchapters G, I, and O, and Chapter 130, Subchapter J, effective August 1, 2022, and approved new CTE TEKS in 19 TAC Chapter 127, Subchapter O, effective August 7, 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: The TEKS for courses associated with 17 CTE career clusters are codified by subchapter in 19 TAC Chapters 127 and 130. In December 2020, the SBOE began initial steps to prepare for the review and revision of CTE courses in programs of study for the education and training, health science, and science, technology, engineering, and mathematics career clusters. Two additional courses eligible to satisfy a graduation requirement in science were also part of the review. The board approved for second reading and final adoption new TEKS for these courses in November 2021 and January, April, and June 2022.

Due to the current structure of Chapter 130, there were not enough sections to add the new CTE courses under consideration in their assigned subchapters. To accommodate the addition of proposed new courses, the CTE TEKS in Chapter 130 are being moved to existing 19 TAC Chapter 127, which was renamed "Texas Essential Knowledge and Skills for Career Development and Career and Technical Education."

The proposed repeal would remove the TEKS for ten CTE courses that will be superseded by new TEKS in 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.788, 127.791, 127.792, 127.793, and 127.794, beginning with the 2023-2024 school year.

Due to the volume of the text proposed to be repealed, the rule text is not included as an attachment in this agenda. However, the rules can be found on the Texas Education Agency (TEA) website at <https://tea.texas.gov/about-tea/laws-and-rules/texas-administrative-code/19-tac-chapter-127>.

The proposed repeal was not presented as a discussion item. The SBOE, however, may wish to consider this item for first reading and filing authorization as authorized under its operating procedures. It is recommended that the SBOE consider this item for first reading and filing authorization to ensure that the sections of Chapter 127 can be repealed beginning with the 2023-2024 school year. This will eliminate confusion by ensuring that the old TEKS are no longer in administrative rule.

FISCAL IMPACT: TEA has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, 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: 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 CTE 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: The proposed repeals would remove the TEKS for ten CTE courses that will be superseded by 19 TAC §§127.428, 127.652, 127.778, 127.779, 127.780, 127.788, 127.791, 127.792, 127.793, and 127.794 beginning with the 2023-2024 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 12, 2023, and ends at 5:00 p.m. on June 16, 2023. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in June 2023 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 12, 2023.

MOTION TO BE CONSIDERED: The State Board of Education:

Suspend the board operating procedures in accordance with §5.2(a) to allow consideration at first reading and filing authorization; and

Approve for first reading and filing authorization the proposed repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter I, Health Science, §127.411, Pharmacology (One Credit), Adopted 2015; Subchapter M, Law and Public Service, §127.633, Forensic Science (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.744, Principles of Biosciences (One Credit), Adopted 2015; §127.756, Biotechnology I (One Credit), Adopted 2015; §127.757, Biotechnology II (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); §127.764, Computer Science III (One Credit); §127.765, Digital

Forensics (One Credit), Beginning with School Year 2019-2020; §127.769, Foundations of Cybersecurity (One Credit); and §127.770, Cybersecurity Capstone (One Credit).

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Discussion of Innovative Courses

April 13, 2023

COMMITTEE ON INSTRUCTION: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to receive an overview of the innovative course process including key data related to historical implementation of innovative courses.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§28.002\(f\)](#).

TEC, §28.002(f), 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 (SBOE) to be flexible in approving a course for credit for high school graduation.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: After the board 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), districts now submit new requests for innovative course approval for courses that do not have TEKS.

The process outlined in 19 TAC §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.

Staff Members Responsible

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Attachment:

Text of 19 TAC §74.27, [Innovative Courses and Programs](#)

ATTACHMENT

Text of 19 TAC

Chapter 74. Curriculum Requirements

Subchapter C. Other Provisions

§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;
 - (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.

**COMMITTEE ON SCHOOL FINANCE/
PERMANENT SCHOOL FUND**

**Report by the State Auditor’s Office on the Audit of the Permanent School Fund’s
Financial Statements and Certification of the Bond Guarantee Program
for the Fiscal Year Ending August 31, 2022**

April 13, 2023

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: DISCUSSION
STATE BOARD OF EDUCATION: NO ACTION**

SUMMARY: This item provides an opportunity for representatives of the State Auditor’s Office (SAO) to make a presentation regarding the Audit of the Permanent School Fund’s Financial Statements and the certification of the Bond Guarantee Program for the Fiscal Year Ending August 31, 2022.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Texas Education Code (TEC) [§45.053\(b\)](#).

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage the permanent school fund.

TEC, §45.053(b) requires the SAO to analyze the status of guaranteed bonds and certify that the amount of such bonds is within limits prescribed by law.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Statute requires the state auditor to analyze annually, the status of guaranteed bonds under TEC, Chapter 45, Subchapter C as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed under Subchapter C is within the limit prescribed by TEC, §45.053.

Staff Member Responsible:

Holland Timmins, Chief Executive Officer, Texas PSF Corporation

Adoption of an Annual Report on the Status of the Bond Guarantee Program

April 14, 2023

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides an opportunity for the committee and board to adopt an annual report on the status of the Bond Guarantee Program.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Texas Education Code (TEC), [§45.053\(c\)](#).

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage the permanent school fund.

TEC, §45.053(c) requires the SBOE to adopt an annual report on the status of the guaranteed bond program.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: Pursuant to TEC §45.053(c), the commissioner shall prepare, and the board shall adopt an annual report on the status of the guaranteed bond program.

Staff Member Responsible:

Holland Timmins, Chief Executive Officer, Texas Permanent School Fund Corporation

Review the Processes for Consideration of Board Member Nominees for State Board Positions

April 14, 2023

**COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND: ACTION
STATE BOARD OF EDUCATION: CONSENT**

SUMMARY: This item provides an opportunity for the committee and board to review the processes for consideration of board member nominees for state board positions.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Natural Resources Code ([NRC](#)), [§32.012](#); and Texas Government Code ([TGC](#)), [§825.003](#).

The Texas Constitution, Article VII, §2 and §5 establish the permanent school fund, the assets that comprise the permanent school fund, the bond guarantee program, the available school fund, and authorize the State Board of Education (SBOE) to manage the permanent school fund.

NRC §32.012 provides that two of the citizens appointed to the School Land Board by the governor must be selected from the lists of nominees submitted by the SBOE.

TGC §825.003 provides that the governor shall appoint two members to the Teacher Retirement System Board of Trustees from the lists of nominees submitted by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

Staff Member Responsible:

Holland Timmins, Chief Executive Officer, Texas PSF Corporation

COMMITTEE ON SCHOOL INITIATIVES

Adoption of Rule Review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners

April 14, 2023

**COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: Texas Government Code (TGC), §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. This item presents the adoption of review of 19 Texas Administrative Code (TAC) Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners. Subchapter A establishes the procedures for appeals heard by the SBOE regarding administrative penalties for violations of textbook requirements. Subchapter D sets forth the certification criteria for independent hearing examiners who conduct due process termination, nonrenewal, and suspension without pay hearings at the school district level.

STATUTORY AUTHORITY: The statutory authority for the rule review is [TGC, §2001.039](#). The statutory authority for 19 TAC Chapter 157, Subchapter A, is Texas Education Code ([TEC, §31.151](#)) and [TGC, §2001.004](#). The statutory authority for 19 TAC Chapter 157, Subchapter D, is [TEC, §21.252](#).

TGC, §2001.039, requires all state agencies to review their rules at least once every four years.

TEC, §31.151, and TGC, §2001.004, authorize the adoption of procedural rules to govern SBOE administrative penalty hearings involving textbook publishers.

TEC, §21.252, requires the SBOE to establish certification criteria for independent hearing examiners.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: The review of 19 TAC Chapter 157, Subchapter A and Subchapter D, was presented to the Committee on School Initiatives for discussion at the January-February 2023 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 157, Subchapter A, establishes the procedures for appeals heard by the SBOE regarding administrative penalties for violations of textbook requirements. Subchapter D addresses criteria for the certification of hearing examiners eligible to conduct hearings.

Changes to the rules in 19 TAC Chapter 157 Subchapters A and D, will be presented at the next SBOE meeting in response to the rule review and SBOE members.

If authorized by the SBOE, the Texas Education Agency (TEA) will file the adopted review with the Texas Register stating that the SBOE finds the reasons for adopting 19 TAC Chapter 157, Subchapters A and D, continue to exist. The filing of the adopted review stating that the reasons for adoption continue to exist would not preclude any amendments that may be proposed at different dates through a separate rulemaking process.

PUBLIC COMMENTS: The TEA filed the notice of proposed review of 19 TAC Chapter 157, Subchapter A and Subchapter D, with the Texas Register following the January-February 2023 SBOE meeting. The public comment period on the proposed review began March 3, 2023, and ended at 5:00 p.m. on April 7, 2023. At the time this item was prepared, no comments had been received regarding this review. Any public comments received will be provided to the SBOE during the April 2023 meeting. The SBOE will take registered oral and written comments on the proposed review at the committee meeting in April 2023 in accordance with the SBOE board policies and procedures.

MOTION TO BE CONSIDERED: The State Board of Education:

Adopt the review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners

Staff Member Responsible:

Christopher Maska, Director, Hearing and Appeals, Legal Services

Attachment:

Text of 19 TAC Chapter 157, Hearings and Appeals, Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners

ATTACHMENT
Text of 19 TAC

Chapter 157. Hearings and Appeals

Subchapter A. General Provisions for Hearings Before the State Board of Education

Statutory Authority: The provisions of this Subchapter A issued under the Texas Education Code, §31.151, and Texas Government Code, §2001.004, unless otherwise noted.

§157.1. Scope and Purpose.

This subchapter shall govern the proceedings in all contested cases before the State Board of Education where:

- (1) notice and opportunity for hearing is expressly required by other law; and
- (2) the hearing is not exempted from the provisions of the Administrative Procedure Act (APA) (Texas Government Code, Chapter 2001).

Source: The provisions of this §157.1 adopted to be effective March 31, 2004, 29 TexReg 3175.

§157.2. Request for Hearing; Transfer to State Office of Administrative Hearings.

- (a) All proceedings under §157.1 of this title (relating to Scope and Purpose) shall be heard by the State Office of Administrative Hearings, pursuant to the procedures set forth in 1 TAC Chapter 155 (relating to Rules of Procedures).
- (b) In cases in which the Texas Education Agency is not the petitioner, petitions for review or requests for hearing shall be filed with the State Board of Education (SBOE) within 30 calendar days after the decision, order, or ruling complained of is first communicated to the petitioner, except as otherwise provided by law or SBOE rule.
- (c) At the time the petitioner files a request for hearing with the SBOE regarding administrative penalties pursuant to the Texas Education Code, §31.151, all parties to the hearing are prohibited from contacting members of the SBOE concerning the factual or legal issues presented in the hearing until a final decision is rendered.

Source: The provisions of this §157.2 adopted to be effective March 31, 2004, 29 TexReg 3175; amended to be effective March 7, 2012, 37 TexReg 1513.

§157.3. Board Consideration and Adoption of Proposal for Decision.

- (a) After the time for filing exceptions and replies to exceptions expires and the proposal for decision is forwarded to the Texas Education Agency, the State Board of Education (SBOE) shall consider the proposal for decision and any exceptions and replies in public session and shall enter a written decision adopting or modifying and adopting the proposed decision or remanding the matter to the State Office of Administrative Hearings for further proceedings.
- (b) No public testimony shall be heard on the question of adopting, modifying, or remanding the proposal for decision. No information other than the record of the proceedings conducted by the administrative law judge, the proposal for decision, and the exceptions and replies of the parties shall be heard, considered, or discussed by the SBOE concerning the contested case.
- (c) All final decisions or orders of the SBOE shall be in writing and signed by the chair, if voting in favor of the decision, or by a member selected by those voting in favor of the decision. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- (d) The decision of the SBOE may incorporate by reference the proposal for decision in whole or in part, and such incorporation by reference may constitute compliance with subsection (c) of this section. If the

decision of the SBOE modifies the proposal for decision in any respect, the SBOE shall specify the portions modified and shall set out in full the affected language as modified by the decision of the SBOE.

- (e) Party representatives shall be simultaneously notified either personally, by facsimile transmission, or overnight courier of each decision or order. For purposes of §157.4 of this title (relating to Motions for Rehearing), a party present at a meeting of the SBOE at which a public vote is taken shall be deemed notified of the decision or order on the date of the vote.

Source: The provisions of this §157.3 adopted to be effective March 31, 2004, 29 TexReg 3175; amended to be effective March 7, 2012, 37 TexReg 1513.

§157.4. Motions for Rehearing.

- (a) In the absence of a finding of imminent peril, a motion for rehearing is a prerequisite to a judicial appeal.
- (b) Motions for rehearing will be in conformance with the Texas Government Code, §2001.146.

Source: The provisions of this §157.4 adopted to be effective March 31, 2004, 29 TexReg 3175.

Subchapter D. Independent Hearing Examiners

§157.41. Certification Criteria for Independent Hearing Examiners.

- (a) License required. An individual who is certified as an independent hearing examiner must be licensed to practice law in the State of Texas.
- (b) Representations prohibited. An independent hearing examiner, and the law firm with which the independent hearing examiner is associated, must not serve as an agent or representative of:
 - (1) a school district;
 - (2) a teacher in any dispute with a school district; or
 - (3) an organization of school employees, school administrators, or school boards.
- (c) Moral character and criminal history. An independent hearing examiner must:
 - (1) possess good moral character; and
 - (2) as demonstrated by a criminal history report process required by the commissioner of education, not have been convicted, given probation (whether through deferred adjudication or otherwise), or fined for:
 - (A) a felony;
 - (B) a crime of moral turpitude; or
 - (C) a crime that directly relates to the duties of an independent hearing examiner in a public school setting.
- (d) Status as a licensed attorney. An independent hearing examiner must:
 - (1) currently be a member in good standing of the State Bar of Texas;
 - (2) within the last five years, not have had the independent hearing examiner's bar license:
 - (A) reprimanded, either privately or publicly;
 - (B) suspended, either probated or otherwise; or
 - (C) revoked;
 - (3) have been licensed to practice law in the State of Texas or any other state for at least five years prior to application; and
 - (4) have engaged in the actual practice of law on a full-time basis, as defined by the Texas Board of Legal Specialization, for at least five years.

- (e) Experience. During the three years immediately preceding certification, an independent hearing examiner must have devoted a minimum of 50% of the examiner's time practicing law in some combination of the following areas, with a total of at least one-tenth or 10% of the independent hearing examiner's practice involving substantial responsibility for taking part in a contested evidentiary proceeding convened pursuant to law in which the independent hearing examiner personally propounded and/or defended against questions put to a witness under oath while serving as an advocate, a hearing officer, or a presiding judicial officer:
 - (1) civil litigation;
 - (2) administrative law;
 - (3) school law; or
 - (4) labor law.
- (f) Continuing education. During each year of certification, an independent hearing examiner must receive credit for ten hours of continuing legal education, with three hours in the area of school law and seven hours in the area of civil trial advocacy and legal writing skills, which must include any combination of course work in evidence, civil procedure, and legal writing skills, during the period January 1 to December 31 of each year of certification.
- (g) Sworn application. In order to be certified as an independent hearing examiner, an applicant must submit a sworn application to the commissioner of education. The application shall contain the following acknowledgments, waivers, and releases.
 - (1) The applicant agrees to authorize appropriate institutions to furnish relevant documents and information necessary in the investigation of the application, including information regarding grievances maintained by the State Bar of Texas.
 - (2) If selected as an independent hearing examiner, the applicant has the continuing duty to disclose grievance matters under subsection (d)(2) of this section at any time during the certification period. Failure to report these matters constitutes grounds for rejecting an application or removal as an independent hearing examiner.
 - (3) If selected as an independent hearing examiner, the applicant has the continuing duty to disclose criminal matters under subsection (d)(2) of this section at any time during the certification period. Failure to report these matters constitutes grounds for rejecting an application or removal as an independent hearing examiner.
- (h) Assurances as to position requirements. In the sworn application, the applicant must:
 - (1) demonstrate that the applicant currently maintains an office or offices within the State of Texas;
 - (2) designate the office locations from which the applicant will accept appointments;
 - (3) demonstrate that the applicant provides telephone messaging and facsimile services during regular business hours;
 - (4) agree to attend meetings of independent hearing examiners in Austin, Texas, at the examiner's expense; and
 - (5) agree to comply with all reporting and procedural requirements established by the commissioner.
- (i) Voluntary evaluations. The commissioner may solicit voluntary evaluations from parties to a case regarding their observations of the independent hearings process.
- (j) Insufficient examiners in a region. In the event that insufficient numbers of independent hearing examiners are certified for any geographic region of the state, the commissioner may assign an independent hearing examiner whose office is within reasonable proximity to the school district.
- (k) Annual recertification.
 - (1) Certification expires on December 31 of each calendar year. All independent hearing examiners seeking recertification shall reapply on a date specified by the commissioner. Certification as a

hearing examiner is effective on a yearly basis only and does not confer any expectation of recertification in subsequent years.

- (2) The commissioner, in his discretion, after providing notice and an opportunity to respond, may decline to recertify an independent hearing examiner, if the commissioner determines that the independent hearing examiner has failed to perform the duties of an independent hearing examiner in a competent manner. The commissioner may consider, but is not limited to, the following factors:
 - (A) timeliness;
 - (B) accuracy and appropriateness of procedural and evidentiary rulings;
 - (C) decorum or control; or
 - (D) application of appropriate legal standards.
- (3) The commissioner's decision in regard to recertification is final and not appealable.
- (1) Action against certification. The commissioner, after providing notice and an opportunity to respond, may take action against the certificate of an independent hearing examiner if it is determined that the independent hearing examiner or the law firm with which the independent hearing examiner is associated, during the time the independent hearing examiner has been certified, has:
 - (1) served as an agent or representative of a school district;
 - (2) served as an agent or representative of a teacher in any dispute with a school district;
 - (3) served as an agent or representative of an organization of school employees, school administrators, or school boards; or
 - (4) failed to timely issue a recommendation.

Statutory Authority: The provisions of this §157.41 issued under the Texas Education Code, §21.252(a).

Source: The provisions of this §157.41 adopted to be effective December 15, 1995, 20 TexReg 9695; amended to be effective September 1, 1997, 22 TexReg 7035; amended to be effective September 1, 1998, 24 TexReg 7783; amended to be effective April 27, 2008, 33 TexReg 3264; amended to be effective March 7, 2012, 37 TexReg 1513; amended to be effective August 27, 2018, 43 TexReg 1854; amended to be effective October 21, 2019, 44 TexReg 6030.

Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment

April 14, 2023

**COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose an amendment to 19 Texas Administrative Code (TAC) Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment. The proposed amendment would create a carve-out for the Science of Teaching Reading (STR) examination, removing the requirement that a candidate be unable to process only written linguistic information to allow an exemption; would remove the requirement that to qualify for an exemption, a person who is already certified in another state and seeking a one-year certificate in Texas must have a recommendation from an SBEC-approved Texas educator preparation program (EPP); and would eliminate the limitation that persons who qualify for an exemption to one certification examination cannot ever take another certification examination unless they have regained their ability to process written linguistic information.

STATUTORY AUTHORITY: The statutory authority for 19 TAC §230.25 is the Texas Education Code (TEC), §§21.031; 21.041(a) and (b)(1)-(4); 21.045(a)(1); and 21.048(a), (a-2), (b), (c), and (d).

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public-school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

TEC, §21.041(a), allows SBEC to adopt rules as necessary for its own procedures.

TEC, §21.041(b)(1)-(4), require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate.

TEC, §21.045(a)(1), authorizes the SBEC to propose rules necessary to establish standards to govern the continuing accountability of all EPPs based on the following information that is disaggregated with respect to race, sex, and ethnicity: results of the certification examinations prescribed under the TEC, §21.048(a).

TEC, §21.048(a) and (a-2), state that the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC and that all candidates teaching prekindergarten through grade six must demonstrate proficiency in the science of teaching reading on a certification examination.

TEC, §21.048(b), (c), and (d), state that the SBEC may not administer a written examination to an educator who has a hearing impairment unless the examination has been field tested to determine its appropriateness, reliability and validity for persons with hearing impairments. It defines "hearing impairment" as "so severe that the person cannot process linguistic information with or without amplification;" that an educator who has a hearing impairment is exempt from taking a written examination for a period ending on the first anniversary of the date on which the SBEC determines, on the basis of appropriate field tests, that the examination complies with the standards specified in subsection (b) of this section; and that the definitions for hearing impairment, reliability, and validity when used in the TEC, §21.048.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: None.

BACKGROUND INFORMATION AND JUSTIFICATION: TEC, §21.048(b) and (d), require the SBEC to give exemptions from required written examinations for persons with hearing impairments. TEC, §21.048(d), defines *hearing impairment* as "so severe that the person cannot process linguistic information with or without amplification." The SBEC has tailored this to the context of written exams in 19 TAC §230.25(b)(1) to require proof "that the person cannot process written linguistic information."

Since 19 TAC §230.25(b)(1) was last revised, the Texas Legislature has created TEC, §21.048(a-2), which requires that in order to teach Prekindergarten-Grade 6, a person must have passed the STR examination. The STR examination is different from the other written certification examinations the SBEC requires, in that it requires the test-taker to listen to recorded speech and phonetic sounds and answer written questions about them. Since this examination requires that test-takers be able to hear and process the linguistic information on the recording without any subtitles or other written translation indicating the errors in the speech, the exemption for individuals who are unable to process only written linguistic information is insufficient to address the difficulty that candidates who are deaf or hard of hearing face when attempting the STR examination. To address this issue, the proposed amendment to §230.25(b)(1) and proposed new §230.25(b)(1)(A) and (B) would create a carve-out for the STR examination, to allow an exemption for any person who is unable to process *any* linguistic information with or without amplification—not only written linguistic information. The proposed amendment would maintain the requirement that a candidate be unable to process written linguistic information to qualify for an exemption for the other SBEC-required written certification examinations, which do not include a listening component that requires interpretation of phonetic sounds.

The proposed amendment to §230.25(b)(2) and (d) removes the requirement that to qualify for an exemption, a person who is already certified in another state and seeking a one-year certificate in Texas in accordance with 19 TAC Chapter 230, Subchapter H, Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States, must have a recommendation from an SBEC-approved Texas EPP. This amendment would allow candidates who are deaf or hard of hearing who have already been vetted and certified in other states to get certified and begin teaching in Texas without incurring the additional time and expense required to get approval from a Texas EPP, which is not required of out-of-state candidates who are not deaf or hard of hearing.

The proposed amendment to §230.25(c) creates a relettering of subsections (c) and (d) and eliminates the limitation that persons who qualify for an exemption to one certification examination cannot ever take another certification examination unless they have regained their ability to process written linguistic information. The SBEC initially enacted this prohibition to prevent persons who are deaf or hard of hearing from attaining certification in areas for which they were not qualified. In practice, however, it

prevents qualified educators who are deaf or hard of hearing from attaining more than one certification and from advancing their careers with administrator certifications. The number of individuals who request an exemption based on hearing impairment averages fewer than 20 annually. Given that Texas certifies approximately 20,000–30,000 educators every year, this small minority of educators who are deaf or hard of hearing will not significantly harm the Texas education system, even if a few attain certificates through waived examinations for which they are not qualified.

At adoption and in response to public comment, the SBEC changed the amended language of 19 TAC §230.25(b)(1)(A) to add "auditory" to create a contrast with "written" in proposed 19 TAC §230.25(b)(1)(B) to clarify the difference between the types of linguistic information presented by the STR examination as compared with the other written educator certification examinations.

SBOE Review of Proposed SBEC Rules

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

FISCAL IMPACT: No changes have been made to this section since published as proposed. The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed. The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed. 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 TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed. The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed. The 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 limit regulations in proposed §230.25(b)(1) by allowing individuals with hearing impairment that prevents any type of processing of linguistic information to have an exemption from the STR examination and by allowing out-of-state educators to get one-year certificates in proposed §230.25(b)(2) and (c) without getting a recommendation from a Texas EPP. The proposed rulemaking would also repeal a regulation by removing the provision in current §230.25(c) that forbids educators who are deaf or hard of hearing from getting an exemption from more than one certification examination.

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 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: No changes have been made to this section since published as proposed. The public benefit anticipated as a result of the proposal would be increased opportunities for educators who are deaf or hard of hearing and more certified teachers for the Texas students they serve. The TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed. The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. The TEA staff 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: In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

MOTION TO BE CONSIDERED: The State Board of Education:

Take no action on proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment.

Staff Members Responsible:

Emily Garcia, Associate Commissioner, Educator Preparation, Certification, and Enforcement
Jessica McLoughlin, Senior Director, Educator Quality

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.25, Test Exemptions for Persons with a Hearing Impairment

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 230. Professional Educator Preparation and Certification

Subchapter C. Assessment of Educators

§230.25. Test Exemptions for Persons with a Hearing Impairment.

- (a) A candidate who has a hearing impairment may request exemption from educator certification and competence examinations that have not been field-tested for appropriateness, reliability, and validity as applied to persons with hearing impairments.
 - (b) A request for such an exemption shall include:
 - (1) a report by a licensed audiologist dated no more than one year from the date of the request for the exemption, addressing the relationship between the candidate's age at the onset or diagnosis of hearing loss and the candidate's ability to process linguistic information, and documenting that the candidate has a hearing impairment so severe that : ~~the person cannot process written linguistic information. The report may not be dated more than one year from the date of the request for the exemption and should address the relationship between the candidate's age at the onset or diagnosis of hearing loss and the candidate's ability to process written linguistic information; and~~
 - (A) for a person requesting an exemption from the Science of Teaching Reading (STR) examination, the person cannot process auditory linguistic information with or without amplification; or
 - (B) for a person requesting an exemption to an examination other than the STR examination, the person cannot process written linguistic information; and
 - (2) for candidates who are not seeking certification under Chapter 230, Subchapter H, of this title (relating to Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States), a recommendation for exemption and certification of the candidate by an approved Texas educator preparation program (EPP). The recommendation shall be based on the EPP's determination of the candidate's qualification for the exemption and competency in each certification class and category in which certification is sought. The EPP shall make and document its determination of educator standards competency, as follows:
 - (A) by reviewing and approving transcripts from an accredited institution of higher education that demonstrate that the candidate has completed 24 semester credit hours in the educator standards, including 12 semester credit hours of upper division coursework, and documenting that the coursework is aligned to the Texas educator standards;
 - (B) if an EPP uses an alternative assessment to measure competency in any certification class and category in which a certification is being sought, by documenting the method and validity of the means of assessment, the results of the assessment, and the alignment of the assessment to the applicable Texas educator standards; and
 - (C) for the Texas pedagogy and professional responsibilities examination, by documenting successful completion of EPP coursework and training covering educator standards for the grade level for which certification is sought.
- ~~[(c) The TEC, §21.048, provides that the SBEC may not administer a certification examination that has not been field tested for appropriateness, reliability, and validity to a person who is unable to process linguistic information. An educator who has been granted such an exemption may not subsequently take any other such certification examination without submitting a new audiologist's report that addresses the prior audiologist's report and documents that the educator is now able to process written linguistic information.]~~
- (c) ~~(d)~~ This section does not affect the procedures for one-year certificates, extensions, and permits based on out-of-state credentials pursuant to §230.113 of this title (relating to Requirements for Texas Certificates Based on Certification from Other States or Territories of the United States) ~~[but, to be issued a standard~~

~~certificate, a person must either satisfy the applicable examination requirements or be recommended for certification by an EPP] .~~

- (d) ~~(e)~~ As with other EPP completion and admission documentation under §228.40 of this title (relating to Assessment and Evaluation of Candidates for Certification and Program Improvement), all documentation required under this section shall be retained by an EPP for five years and is subject to audit by Texas Education Agency staff.

Review of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates

April 14, 2023

COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION

SUMMARY: This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose amendments to 19 Texas Administrative Code (TAC) Chapter 233, Categories of Classroom Teaching Certificates. The proposed amendments would remove certificates no longer issued by the SBEC; would strike, where applicable, language referencing deadlines for use of test scores for certificate issuance; would add three new special education certificates into rule; would update language specific to licensure requirements for cosmetology certification; and would propose the addition of a new foreign language certificate to the list of credentials issued by the SBEC. Technical changes would also provide clarification and consistent information related to the classroom teacher certificates issued by the SBEC.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 233 is the Texas Education Code (TEC), §§21.003(a); 21.031; 21.041(b)(1)-(4) and (6); 21.044(e) and (f); 21.0442; 21.048(a) and (a-2); 21.0487; 21.0489; 21.0491; and 22.0831(f)(1) and (2).

TEC, §21.003(a), states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B.

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

TEC, §21.041(b)(1), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

TEC, §21.041(b)(2), requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

TEC, §21.041(b)(3), requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid.

TEC, §21.041(b)(4), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(b)(6), requires the SBEC to propose rules that provide for special or restricted certification of educators, including certification of instructors of American Sign Language.

TEC, §21.044(e), provides the requirements that SBEC rules must specify for a person to obtain a certificate to teach a health science technology education course.

TEC, §21.044(f), provides that SBEC rules for obtaining a certificate to teach a health science technology education course shall not specify that a person must have a bachelor's degree or establish any other credential or teaching experience requirements that exceed the requirements under TEC, §21.044(e).

TEC, §21.0442, requires the SBEC to create an abbreviated educator preparation program (EPP) for trade and industrial workforce training.

TEC, §21.048(a), requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC. TEC, §21.048(a), also specifies that the commissioner of education shall determine the satisfactory level of performance required for each certification examination and require a satisfactory level of examination performance in each core subject covered by the generalist certification examination.

TEC, §21.048(a-2), requires the SBEC to adopt rules to require individuals teaching any grade level from Prekindergarten–Grade 6 to demonstrate proficiency in the science of teaching reading.

TEC, §21.0487, requires the SBEC to establish a standard Junior Reserve Officer Training Corps teaching certificate.

TEC, §21.0489, requires the SBEC to create a Prekindergarten–Grade 3 certificate.

TEC, §21.0491, requires the SBEC to create a probationary and standard trade and industrial workforce training certificate.

TEC, §22.0831(f)(1) and (2), state the SBEC may propose rules regarding the deadline for the national criminal history check and implement sanctions for persons failing to comply with the requirements.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: None.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, establish separate certificate categories within the certificate class for the classroom teacher. These categories identify the content area or special population the holder may teach, the grade levels the holder may teach, and the earliest date the certificate may be issued.

Following is a description of the proposed amendments included in the attachment.

§233.1. General Authority.

The proposed amendment in 19 TAC §233.1(e) would delete references to use of test scores for certificate issuance and applicability of catastrophic illness and military service since these provisions are addressed in other SBEC rules. The proposed amendment would also ensure that there is clarity around required tests for certification and deadlines for certificate issuance as reflected in Figure §230.21(e) of 19 TAC Chapter 230, Subchapter C, Assessment of Educators.

§233.2. Early Childhood; Core Subjects.

The proposed amendment in §233.2(b) Core Subjects: Early Childhood–Grade 6 and §233.2(c) Core Subjects: Grades 4–8 certificates would delete these certificate references since they are no longer credentials issued by the SBEC. Proposed amendment in §233.2(d) Core Subjects with Science of Teaching Reading: Early Childhood–Grade 6 certificate would delete references to use of passing scores on Core Subjects examinations and related deadlines for purposes of certificate issuance. The remaining rules in this section will be re-lettered to subsections (b) and (c).

§233.3. English Language Arts and Reading; Social Studies.

The proposed amendment to §233.3(a) English Language Arts and Reading: Grades 4–8 and §233.3(d) English Language Arts and Reading/Social Studies: Grades 4–8 certificates would delete these certificate references since they are no longer issued by the SBEC. The proposed amendment to §233.3(b) would also delete references to use of passing scores on the 117 ELAR 4–8 TExES examination and related deadlines for purposes of certificate issuance. The remaining rules in this section would be re-lettered to subsections (a)–(h).

§233.5. Technology Applications and Computer Science.

The proposed amendment to §233.5(a) would delete the reference to the Technology Applications: Grades 8–12 certificate that is no longer issued by the SBEC. The remaining rules in this section will be re-lettered to subsections (a) and (b).

§233.8. Special Education.

The proposed amendment would add the following three new special education certificates into rule: §233.8(a), Core Subjects with Science of Teaching Reading/Special Education: Early Childhood-Grade 6; §233.8(b), Deafblind Supplemental: Early Childhood-Grade 12; and §233.8(d), Special Education Specialist: Early Childhood–Grade 12. The proposed addition of these new certificates reflects years of work completed by Texas Education Agency (TEA) staff and stakeholders in developing new special education standards approved by the SBEC and honors the continuing test development work completed by stakeholders and advisory committees. The proposed amendment would also specify that the new special education certificates would be issued by the SBEC no earlier than September 1, 2025, and September 1, 2026, accordingly. The remaining rules in this section would be re-lettered to subsections (c)–(g).

§233.10. Fine Arts.

The proposed amendment to §233.10(d) would delete the Dance: Grades 8–12 certificate that is no longer issued by the SBEC. The remaining rule in this section would be re-lettered to subsection (d).

§233.14. Career and Technical Education (Certificates requiring experience and preparation in a skill area).

The proposed amendment to §233.14(d)(2), Trade and Industrial Education: Grades 6-12 certificate, would provide a technical edit by clarifying the acronym, NOCTI, refers to the National Occupational Competency Testing Institute. NOCTI's teacher assessments are designed to measure an individual's knowledge of high-level concepts, theories, and applications in specific technical areas and to evaluate individuals with a combination of education, training, and work experiences. The proposed amendment

would also update references to the credentials that must be held by a cosmetology teacher (i.e., a valid Cosmetology Operator license or Class A Barber Operator license) and would align with legislation to eliminate the outdated reference to a current cosmetology instructor license issued by the Texas Department of Licensing and Regulation.

The proposed amendment to §233.14(d)(3) would clarify that individuals seeking initial certification in Trade and Industrial Education: Grades 6-12 certificate, would satisfy the required years of classroom teaching experience on an intern or probationary certificate, and not on an emergency permit. The emergency permit reference would be removed because SBEC rules do not allow the experience serving on that credential to count toward completion of EPP preparation and certification requirements for licensure. This amendment aligns with other SBEC rules and does not reflect a change in procedures.

§233.15. Languages Other Than English.

Proposed new §233.15(a)(14), Tamil: Early Childhood–Grade 12, would add a new foreign language certificate area to the list of certificates to be issued by the SBEC no earlier than September 1, 2025. The addition of the Tamil certificate would address a petition for a new certificate area from 2018 and would align with the certification examination and corresponding implementation date being added as a proposed amendment to Figure: 19 TAC §230.21(e), in a separate discussion item, Chapter 230, Professional Educator Preparation and Certification, Subchapter A, General Provisions, and Subchapter C, Assessment of Educators. The proposed deletion of §233.15(15), Urdu: Early Childhood–Grade 12, would remove this credential from the list of certificates issued by the SBEC as standards or test development activities were never initiated for this certificate area. The remaining rules would be re-numbered to paragraphs (15) and (16).

SBOE Review of Proposed SBEC Rules

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

FISCAL IMPACT: No changes have been made to this section since published as proposed. The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed. The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed. 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 TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed. The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed. The 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 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, limit, or repeal 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: No changes have been made to this section since published as proposed. The public benefit anticipated as a result of the proposal would be the continued issuance of classroom teaching certificates to eligible individuals. The TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed. The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. The TEA staff 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: In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

MOTION TO BE CONSIDERED: The State Board of Education:

Take no action on proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates.

Staff Members Responsible:

Emily Garcia, Associate Commissioner, Educator Preparation, Certification, and Enforcement
Marilyn Cook, Senior Director, Educator Preparation and Certification

Attachment:

Text of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates

ATTACHMENT
Text of Proposed Amendments to 19 TAC

Chapter 233. Categories of Classroom Teaching Certificates

§233.1. General Authority.

- (a) In this chapter, the State Board for Educator Certification establishes separate certificate categories within the certificate class for the classroom teacher established under §230.33 of this title (relating to Classes of Certificates).
- (b) For purposes of authorizing a person to be employed by a school district under the Texas Education Code, §21.003(a), a certificate category identifies:
 - (1) the content area or the special student population the holder may teach;
 - (2) the grade levels the holder may teach; and
 - (3) the earliest date the certificate may be issued.
- (c) Unless provided otherwise in this title, the content area and grade level of a certificate category as well as the standards underlying the certification examination for each category are aligned with the Texas Essential Knowledge and Skills curriculum adopted by the State Board of Education.
- (d) A category includes both a standard certificate and the related emergency or temporary credential. A category may comprise a standard base certificate or a supplemental certificate. A supplemental certificate may be issued only to a person who already holds the appropriate standard base certificate.
- (e) A person must satisfy all applicable requirements and conditions under this title and other law to be issued a certificate in a category. A person seeking an initial standard certification must pass the appropriate examination(s) as prescribed in §230.21 of this title (relating to Educator Assessment). ~~[A person completing requirements for an initial standard certificate using a score on an examination that has been eliminated must apply and pay for the certification and be recommended by an educator preparation program by the deadline specified in this chapter to be eligible for issuance of the certificate. Exceptions may be granted for a period of two years after the elimination of the examination for catastrophic illness of the educator or an immediate family member or military service of the applicant.]~~
- (f) If the governor declares a state of disaster consistent with the Texas Government Code, §418.014, Texas Education Agency staff may extend deadlines in this chapter for up to 90 days as necessary to accommodate persons in the affected disaster areas.
- (g) The general assignment descriptions in this chapter, where applicable, are subject to the specific provisions for the assignment of a holder of a certificate in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments), and in the event of any conflict with this chapter, Chapter 231 of this title shall prevail.

§233.2. Early Childhood; Core Subjects.

- (a) Early Childhood: Prekindergarten-Grade 3. The Early Childhood: Prekindergarten-Grade 3 certificate may be issued no earlier than January 1, 2020.
- ~~[(b) Core Subjects: Early Childhood-Grade 6. The Core Subjects: Early Childhood-Grade 6 certificate may be issued no earlier than January 1, 2015, and no later than December 31, 2020.]~~
- ~~[(c) Core Subjects: Grades 4-8. The Core Subjects: Grades 4-8 certificate may be issued no earlier than January 1, 2015, and no later than December 31, 2020.]~~
- (b) ~~[(d)]~~ Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6. The Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6 certificate may be issued no earlier than January 1, 2021. ~~[The certificate may be issued on the basis of a passing score on the 291 Core Subjects EC-6 TExES examination no later than December 30, 2022. The certificate may be issued on the basis of a passing score on the 391 Core Subjects EC-6 TExES examination no earlier than January 1, 2021.]~~

- (c) ~~(e)~~ Core Subjects with Science of Teaching Reading: Grades 4-8. The Core Subjects with Science of Teaching Reading certificate: Grades 4-8 may be issued no earlier than January 1, 2021.

§233.3. English Language Arts and Reading; Social Studies.

- ~~(a) English Language Arts and Reading: Grades 4-8. The English Language Arts and Reading: Grades 4-8 certificate may be issued no earlier than September 1, 2002, and no later than December 31, 2020.~~
- (a) ~~(b)~~ English Language Arts and Reading with Science of Teaching Reading: Grades 4-8. The English Language Arts and Reading: Grades 4-8 certificate may be issued no earlier than January 1, 2021. ~~[The certificate may be issued on the basis of a passing score on the 117 ELAR 4-8 TExES examination no later than October 30, 2022.]~~
- (b) ~~(e)~~ Social Studies: Grades 4-8. The Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002.
- ~~(d) English Language Arts and Reading/Social Studies: Grades 4-8. The English Language Arts and Reading/Social Studies: Grades 4-8 certificate may be issued no earlier than September 1, 2002, and no later than December 31, 2020.~~
- (c) ~~(e)~~ English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8. The English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 certificate may be issued no earlier than January 1, 2021.
- (d) ~~(f)~~ English Language Arts and Reading: Grades 7-12. The English Language Arts and Reading: Grades 7-12 certificate may be issued no earlier than September 1, 2013.
- (e) ~~(g)~~ Social Studies: Grades 7-12. The Social Studies: Grades 7-12 certificate may be issued no earlier than September 1, 2013.
- (f) ~~(h)~~ History: Grades 7-12. The History: Grades 7-12 certificate may be issued no earlier than September 1, 2013.
- (g) ~~(i)~~ Journalism: Grades 7-12. The Journalism: Grades 7-12 certificate may be issued no earlier than September 1, 2013.
- (h) ~~(j)~~ Speech: Grades 7-12. The Speech: Grades 7-12 certificate may be issued no earlier than November 1, 2010.

§233.5. Technology Applications and Computer Science.

- ~~(a) Technology Applications: Grades 8-12. The Technology Applications: Grades 8-12 certificate may be issued no earlier than June 1, 2001. A candidate must meet the requirements for a Technology Applications: Grades 8-12 certificate by August 31, 2018. All applications must be complete and received by the Texas Education Agency by October 30, 2018.~~
- (a) ~~(b)~~ Technology Applications: Early Childhood-Grade 12. The Technology Applications: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2002.
- (b) ~~(e)~~ Computer Science: Grades 8-12. The Computer Science: Grades 8-12 certificate may be issued no earlier than June 1, 2001.

§233.8. Special Education.

- (a) ~~Core Subjects with Science of Teaching Reading/Special Education: Early Childhood-Grade 6. The Core Subjects with Science of Teaching Reading/ Special Education: Early Childhood-Grade 6 certificate may be issued no earlier than September 1, 2026.~~
- (b) ~~Deafblind Supplemental: Early Childhood-Grade 12. The Deafblind: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2025.~~
- (c) ~~(a)~~ Special Education: Early Childhood-Grade 12. The Special Education: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2003.

- ~~(d)~~ Special Education Specialist: Early Childhood-Grade 12. The Special Education Specialist: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2025.
- (e) ~~(b)~~ Special Education Supplemental. The Special Education Supplemental certificate may be issued no earlier than September 1, 2003.
- (f) ~~(e)~~ Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12. The Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005.
- (g) ~~(d)~~ Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12. The Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005.

§233.10. Fine Arts.

- (a) Music: Early Childhood-Grade 12. The Music: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2004.
- (b) Art: Early Childhood-Grade 12. The Art: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005.
- (c) Theatre: Early Childhood-Grade 12. The Theatre: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005.
- ~~(d) Dance: Grades 8-12. The Dance: Grades 8-12 certificate may be issued no earlier than September 1, 2005. The holder of the Dance: Grades 8-12 certificate is eligible to teach all dance courses in Grades 8-12. A candidate must meet the requirements for a Dance: Grades 8-12 certificate by August 31, 2018. All applications must be complete and received by the Texas Education Agency by October 30, 2018.~~
- (d) ~~(e)~~ Dance: Grades 6-12. The Dance: Grades 6-12 certificate may be issued no earlier than March 1, 2017.

§233.14. Career and Technical Education (Certificates requiring experience and preparation in a skill area).

- (a) All individuals seeking a career and technical education certificate specified in this section must have the required number of years of qualified work experience and preparation in a skill area approved in accordance with the provisions of subsection (f) of this section prior to issuance of the certificate and assignment in a Texas school.
- (b) Marketing: Grades 6-12. The Marketing: Grades 6-12 certificate may be issued no earlier than September 1, 2014. A candidate for the Marketing: Grades 6-12 certificate must:
 - (1) hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board (THECB) ~~[THECB]~~ ; and
 - (2) have two years of full-time wage-earning experience in a marketing occupation as specified in subsection (f) of this section.
- (c) Health Science: Grades 6-12 certificate. The standard Health Science: Grades 6-12 certificate may be issued no earlier than September 1, 2014. A standard Health Science: Grades 6-12 certificate shall be based on experience and academic preparation in the skill area and require the following:
 - (1) an associate or more advanced degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB;
 - (2) current licensure, certification, or registration by a nationally recognized accrediting agency as a health professions practitioner; and
 - (3) approval, by the certification officer of an approved educator preparation program (EPP) ~~[EPP]~~ , of two years of full-time wage-earning experience using the licensure requirement described in paragraph (2) of this subsection.

- (d) Trade and Industrial Education: Grades 6-12 certificate. The certificate may be issued no earlier than September 1, 2014. A standard Trade and Industrial Education: Grades 6-12 certificate shall be based on academic preparation and experience in the skill areas to be taught and completion of specified pedagogy and professional responsibilities training.
- (1) The standard Trade and Industrial Education: Grades 6-12 certificate shall require the following academic preparation and wage-earning experience.
 - (A) Option I. An individual must:
 - (i) hold a bachelor's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and
 - (ii) have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate. Up to 18 months of the wage-earning experience can be met through a formal documented internship.
 - (B) Option II. An individual must:
 - (i) hold an associate degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the THECB; and
 - (ii) have two years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate.
 - (C) Option III. An individual must:
 - (i) hold a high school diploma or the equivalent; and
 - (ii) have five years of full-time wage-earning experience within the past ten years in one or more approved occupations for which instruction is offered. The experience must be approved by the certification officer of an EPP approved to prepare teachers for the Trade and Industrial Education: Grades 6-12 certificate.
 - (2) The standard Trade and Industrial Education: Grades 6-12 certificate shall require current licensure, certification, or registration by a nationally recognized accrediting agency based on a recognized test or measurement. If the licensure, certification, or registration is not based on a recognized test or measurement, then passing the appropriate National Occupational Competency Testing Institute (NOCTI) [NOCTI] assessment is required. A cosmetology teacher must hold a valid Cosmetology Operator license or Class A Barber Operator license. [A cosmetology teacher must hold a current cosmetology instructor license issued by the Texas Department of Licensing and Regulation.]
 - (3) An individual seeking initial certification as a teacher and completing requirements through an EPP must complete one year of creditable classroom teaching experience, as defined in Chapter 153, Subchapter CC, of Part 2 of this title (relating to Commissioner's Rules on Creditable Years of Service), on an intern [emergency permit] or probationary certificate in the specific area of trade and industrial education.
 - (4) The holder of a standard or provisional Trade and Industrial Education: Grades 6-12 certificate or Vocational Trades and Industry certificate may be approved for additional trade and industrial education assignments provided he or she meets the required number of years of wage-earning experience as indicated in this subsection. Work experience must be approved according to the provisions of this subsection. The EPP must submit a statement of qualifications to the Texas Education Agency [TEA] within 60 calendar days of approval.

- (e) Trade and Industrial Workforce Training: Grades 6-12 certificate. The certificate may be issued no earlier than September 1, 2018. A standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall be based on academic preparation and experience in the skill areas to be taught and completion of specified pedagogy and professional responsibilities training.
 - (1) The standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall require all of the following academic preparation and wage-earning experience.
 - (A) An individual must have been issued a high school diploma or its equivalent or a postsecondary credential, certificate or degree.
 - (B) An individual must have seven years of full-time wage-earning experience within the preceding 10 years in an approved occupation for which instruction is offered, and have not been the subject of a complaint filed with a licensing entity or other agency that regulates the occupation of the person, other than a complaint that was determined baseless or unfounded by that entity or agency.
 - (C) An individual must hold with respect to that occupation a current license, certificate, or registration, as applicable, issued by a nationally recognized accrediting agency based on a recognized test or measurement.
 - (2) The standard Trade and Industrial Workforce Training: Grades 6-12 certificate shall require current licensure, certification, or registration by a nationally recognized accrediting agency based on a recognized test or measurement.
- (f) Career and technical education certificates. Approval of career and technical education certificates in this section shall be based on prior experience and preparation in a skill area.
 - (1) Prospective career and technical education teachers shall submit a statement of qualifications detailing prior experience and skill area preparation to the EPP approved to prepare teachers for the career and technical education certificate sought. The certification officer of the EPP shall review the applicant's statement of qualifications to determine whether the applicant meets the appropriate approval criteria specified in this subsection. In the case of an educator who otherwise qualifies for certification by examination in Marketing: Grades 6-12, Health Science: Grades 6-12, or Trade and Industrial Education: Grades 6-12, the review and approval of required work experience may be performed by a certified school administrator.
 - (2) Under this subsection, 12 months of wage-earning experience consisting of at least 40 hours per week shall equal one year of full-time experience. Wage-earning experience consisting of less than 40 hours, but at least 20 hours per week, shall be calculated at a 50% rate in determining years of full-time experience. Wage-earning experience consisting of less than 20 hours per week shall not be considered acceptable in determining full-time experience.
 - (3) Postsecondary and proprietary school teaching experience in the specific occupational area for which the candidate is seeking certification may be counted on a year-for-year basis in lieu of on-the-job experience. Proprietary schools must be accredited or otherwise approved by the Texas Workforce Commission. Recency of experience requirements must be met, as well as current licensure, certification, or registration by a state or nationally recognized accrediting agency.

§233.15. Languages Other Than English.

- (a) The State Board for Educator Certification (SBEC) shall issue languages other than English (LOTE) certificates in the following areas:
 - (1) American Sign Language: Early Childhood-Grade 12. The American Sign Language: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2005.
 - (2) Arabic: Early Childhood-Grade 12. The Arabic: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007.
 - (3) Chinese: Early Childhood-Grade 12. The Chinese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007.

- (4) French: Early Childhood-Grade 12. The French: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009.
 - (5) German: Early Childhood-Grade 12. The German: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009.
 - (6) Hindi: Early Childhood-Grade 12. The Hindi: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010.
 - (7) Italian: Early Childhood-Grade 12. The Italian: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010.
 - (8) Japanese: Early Childhood-Grade 12. The Japanese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007.
 - (9) Korean: Early Childhood-Grade 12. The Korean: Early Childhood-Grade 12 certificate may be issued no earlier than June 1, 2016.
 - (10) Latin: Early Childhood-Grade 12. The Latin: Early Childhood-Grade 12 certificate may be issued no earlier than January 1, 2010.
 - (11) Portuguese: Early Childhood-Grade 12. The Portuguese: Early Childhood-Grade 12 certificate may be issued no earlier than June 1, 2016.
 - (12) Russian: Early Childhood-Grade 12. The Russian: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007.
 - (13) Spanish: Early Childhood-Grade 12. The Spanish: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2009.
 - (14) Tamil: Early Childhood-Grade 12. The Tamil: Early Childhood-Grade 12 certificate may be issued no earlier than September 1, 2025.
 - (15) ~~(14)~~ Turkish: Early Childhood-Grade 12. The Turkish: Early Childhood-Grade 12 certificate may be issued no earlier than November 1, 2010.
 - ~~(15) Urdu: Early Childhood Grade 12. The Urdu: Early Childhood Grade 12 certificate may be issued no earlier than November 1, 2010.]~~
 - (16) Vietnamese: Early Childhood-Grade 12. The Vietnamese: Early Childhood-Grade 12 certificate may be issued no earlier than October 15, 2007.
- (b) An interested party may request an additional LOTE certificate using the petition process described in §250.20 of this title (relating to Petition for Adoption of Rules or Rule Changes) for SBEC consideration. The petitioner must provide:
- (1) the desired LOTE certificate and confirmation of the number of students likely to receive instruction in the requested language;
 - (2) the number of individuals interested in adding a certification in the new language; and
 - (3) the rationale for the request and anticipated benefit to students.

Review of Proposed Revisions to 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate

April 14, 2023

**COMMITTEE ON SCHOOL INITIATIVES: ACTION
STATE BOARD OF EDUCATION: ACTION**

SUMMARY: This item provides the State Board of Education (SBOE) an opportunity to review the State Board for Educator Certification (SBEC) rule actions that would propose revisions to 19 Texas Administrative Code (TAC) Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate. The proposed revisions would update the standards for the School Librarian and Reading Specialist certificates, would provide timelines for transitions for both certificates to the new standards for preparation purposes, and would provide technical edits as necessary. The proposed revisions reflect feedback provided by the SBEC-appointed advisory committees for the School Librarian and Reading Specialist certificates.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 239, Subchapters B and D, is the Texas Education Code (TEC), §21.031(a); 21.040(2); 21.041(a); 21.041(b)(1)-(4); 21.044; 21.048(a); and 21.054.

TEC, §21.031(a), charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators.

TEC, §21.040(2), requires the SBEC to appoint an advisory committee composed of members of each class of certificate to recommend standards for that class to the SBEC.

TEC, §21.041(a), authorizes the SBEC to adopt rules as necessary to implement its procedures.

TEC, §21.041(b)(1)-(4), require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate.

TEC, §21.044, requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program.

TEC, §21.048(a), requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC and requires the commissioner of education to determine the satisfactory level of performance required for each certification examination and each core subject covered by the generalist certification examination.

TEC, §21.054, requires the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.

The full text of statutory citations can be found in the statutory authority section of this agenda.

PREVIOUS BOARD ACTION: None.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 239, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate, establish the requirements and standards for the School Librarian and Reading Specialist certificates.

At the April 2021 SBEC meeting, the SBEC appointed educator standards advisory committees to review and make recommendations for updated educator standards for the School Librarian and Reading Specialist certificates. The SBEC-appointed advisory committees were convened to provide feedback on the current rules and processes related to the standards for both certificate areas. Texas Education Agency (TEA) staff updated the SBEC on the activities completed by both advisory committees and provided a high-level overview of key issues relevant to each certificate as part of the discussion item at the July 22, 2022 SBEC meeting. Further, TEA staff presented proposed changes to 19 TAC Chapter 239, Subchapters B and D, as part of the discussion item. The attached reflects the updated standards based on the feedback from the SBEC-appointed school librarian and reading specialist advisory committees, along with transition dates for the new certificates and technical updates.

Following is a description of the proposed revisions that are reflected in the attached that reflects the feedback from the SBEC-appointed school librarian and reading specialist advisory committees.

Subchapter B. School Librarian Certificate.

§239.55. Standards Required for the School Librarian Certificate.

The proposed amendment to §239.55(b) would clarify that the required educator standards for the School Librarian certificate outlined in subsection (b) apply to an applicant who is admitted to an educator preparation program (EPP) before September 1, 2026, and would renumber the current educator standards. These changes would provide a transition period for the current educator standards for the Reading Specialist certificate.

The proposed new §239.55(c) would clarify that the required educator standards for the School Librarian certificate outlined in subsection (c) apply to an applicant who is admitted to an EPP on or after September 1, 2026. These changes would provide a transition period for the current educator standards. The proposed subsection would reflect the recommendations of the educator standards advisory committee, would reinforce best practices captured in the Texas State Library and Archives Commission standards; would align to recent updates made to the English Language Arts and Reading (ELAR) Texas Essential Knowledge and Skills (TEKS); would capture the critical role that technology plays in the school librarian's responsibilities; and would reflect the range of roles, responsibilities, and experiences of the school librarian influenced by the growing and changing needs of schools across the state.

The proposed new §239.55(c)(1) would create a new Standard I to specify the standards needed to demonstrate knowledge, skills, and dispositions related to information literacy. Standard I would outline the school librarian's ability to apply knowledge of providing information literacy instruction that enables educators, learners, and other school stakeholders to efficiently locate, accurately evaluate, ethically use, and clearly communicate information in various formats across all grade levels.

The proposed new §239.55(c)(2) would create new Standard II to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to inquiry and inquiry-based instruction. Standard II would outline the school librarian's ability to apply knowledge of creating a culture of inquiry, which includes the pursuit, creation, and sharing of knowledge, as well as support for both student and professional learning.

The proposed new §239.55(c)(3) would create new Standard III to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to promoting a culture of reading across all grade levels. Standard III would outline the school librarian's ability to apply knowledge of promoting reading for learning, personal growth, and enjoyment, which are essential skills for college, career, and community.

The proposed new §239.55(c)(4) would create new Standard IV to specify the standards needed to demonstrate knowledge, skills, and dispositions related to digital learning. Standard IV would outline the school librarian's ability to apply knowledge of supporting and advocating for equitable access to current and emerging technologies, providing curated and open access to a variety of resources, and modeling best instructional practices informed by International Society for Technology in Education (ISTE) Standards for Educators and curriculum standards.

The proposed new §239.55(c)(5) would create new Standard V to specify the standards needed to demonstrate knowledge, skills, and dispositions related to cultivating a safe and nurturing learning environment. Standard V would outline the school librarian's ability to apply knowledge of developing and maintaining the library as an essential, safe, and flexible environment that is an inviting, shared space for teaching, learning, and personal exploration.

The proposed new §239.55(c)(6) would create new Standard VI to specify the standards needed to demonstrate knowledge, skills, and dispositions related to leadership. Standard VI would outline the school librarian's ability to apply knowledge of proactively collaborating, planning, and engaging in leadership activities for various purposes (in collaboration with teachers, principals, school counselors, reading specialists, instructional coaches, instructional technologists, and/or curriculum specialists) to model and lead research-based best practices across campus, district, and professional communities, as well as seek professional growth opportunities.

§239.65. Requirements to Renew the Standard School Librarian Certificate.

The proposed amendment to §239.65 would reflect current requirements for the renewal of a School Librarian certificate regarding compliance with the provisions in 19 TAC Chapter 232, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements. The proposed amendment would also strike outdated language and provide a technical edit to the certificate naming convention.

§239.70. Transition and Implementation Dates.

The proposed repeal of §239.70 would remove outdated language concerning transition and implementation dates. The proposed amendment to §239.55(b) and (c) would prescribe the transition dates necessary to provide clarity of when each set of standards would be utilized for candidates depending on admission date.

The proposed amendments would provide a technical edit to the certificate naming convention in §§239.40, 239.45, and 239.60 and a technical edit to a commissioner rule reference.

Subchapter D. Reading Specialist Certificate.

§239.92. Preparation Program Requirements.

The proposed amendment to §239.92 would add a cross-reference to the proposed amendment to §239.93, Standards Required for Reading Specialist Certificate, to clarify that the EPP requirements must be aligned to the Reading Specialist certificate standards.

§239.93. Requirements for the Issuance of the Reading Specialist Certificate.

The current §239.93, Requirements for the Issuance of the Reading Specialist Certificate, is proposed to be repealed and replaced with proposed new §239.93, Standards Required for Reading Specialist Certificate. Current §239.93 is proposed to be recodified with changes as §239.94, Requirements for the Issuance of the Reading Specialist Certificate.

Proposed new §239.93(a) would require that EPPs use the knowledge and skills in proposed new §239.93(b) and (c) as the basis for curriculum and course work and that the SBEC use them as the basis for the Reading Specialist certification examination and for continuing education for Reading Specialists.

Proposed new §239.93(b) would clarify that the required educator standards for the Reading Specialist certificate outlined in subsection (b) apply to an applicant who is admitted to an EPP before September 1, 2026, and would reflect the current educator standards. These changes would provide a transition period for the current educator standards for the Reading Specialist certificate.

Proposed new §239.93 would clarify that the required educator standards for the Reading Specialist certificate outlined in subsection (c) apply to an applicant who is admitted to an EPP on or after September 1, 2026. These changes would provide a transition period for the current educator standards. The proposed new standards would reflect the recommendations of the educator standards advisory committee and would ensure alignment with and representation of current realities within Texas classrooms and schools, as well as statewide priorities regarding literacy, literacy instruction, and literacy support. Specifically, the proposed new educator standards for the Reading Specialist certificate emphasize the interconnected nature of reading and writing; highlight the need for literacy support throughout all levels of schooling; reflect the need for Reading Specialists to be seen as campus and district leaders; align to Reading Academies, the Science of Teaching Reading standards, and updates made to the ELAR TEKS and content, respectively; reflect a wide range of experiences and responsibilities regarding the Reading Specialist role across the state; and capture a wide variety of diverse literacy support needs throughout Texas campuses and districts at large.

Proposed new §239.93(c)(1) would create new Standard I to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to reading foundations, curriculum, and instruction. Standard I would outline the reading specialist's ability to apply advanced knowledge of literacy foundations and development, which include the interrelatedness of oral and written language (reading, writing, listening, speaking, thinking) to collaborate, develop, lead, and advocate for learning experiences in response to the diverse needs (cultural, linguistic, educational) of students and other stakeholders (Early Childhood-Grade 12 (EC-12) teachers, district administrators, parents) regarding the topics of oral foundations of reading development, phonological and phonemic awareness, print concepts and alphabetic knowledge, orthography: phonics, morphology, and etymology, reading fluency, comprehension, vocabulary, and writing to model and support evidence- and research-based best practices.

Proposed new §239.93(c)(2) would create new Standard II to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to assessment. Standard II would outline the reading specialist's ability to apply advanced knowledge of foundational concepts, principles, and evidence-based practices related to literacy assessment; a variety of literacy assessments and uses in order to identify, administer, and analyze assessments; using assessment data to produce both written and oral reports to inform instruction, intervention, and curriculum decisions; how to effectively communicate both written and orally in order to disseminate assessment results for all stakeholders; how to interpret assessment results identifying strengths and needs for instructional decision making (campus, grade level, teacher,

and individual student); delays or differences in language and literacy development and when it warrants referral for additional evaluation or intervention; and the importance of selecting and using texts and tests that reflect a diversity of cultures and linguistic backgrounds, including the diversity of the classroom, school community, and society.

Proposed new §239.93(c)(3) would create new Standard III to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to learner needs and support. Standard III would outline the reading specialist's ability to apply advanced knowledge of emergent bilingualism and the transfer from heritage language to additional language(s); advocacy and pedagogy for diverse and exceptional learners; differentiation, management, routines, and accessibility for literate and inclusive learning environments; the importance of including mental health wellness within the context of literacy instruction; state and federal laws, regulations, and guidelines regarding assessment and provision of services for learners with learning differences/exceptionalities (i.e., marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.).

Proposed new §239.93(c)(4) would create new Standard IV to specify the standards needed to demonstrate the knowledge, skills, and dispositions related to professional leadership and development. Standard IV would outline the reading specialist's ability to apply advanced knowledge of theories of shared leadership and coaching with educational stakeholders, ethical responsibilities and the reading specialist's role in a campus/district and impact on all stakeholders, and adult learning theories and professional development models.

§239.94. Requirements to Renew the Standard Reading Specialist Certificate.

The current §239.94, Requirements to Renew the Standard Reading Specialist Certificate, is proposed to be repealed and replaced with proposed new §239.94, Requirements for the Issuance of the Reading Specialist Certificate. Current §239.94 is proposed to be recodified with changes as proposed new §239.95, Requirements to Renew the Standard Reading Specialist Certificate.

Proposed new §239.94 codifies and amends provisions currently in §239.93, Requirements for the Issuance of the Reading Specialist Certificate. The proposed new rule would set out the current requirements that an individual complete a program that aligns with the educator standards for that certificate, successfully complete the exam, hold a master's degree, and have two creditable years of teaching experience as a classroom teacher. The proposed new rule would also add a reference to proposed new §239.93, Standards Required for Reading Specialist Certificate, to clarify the standards that EPPs are expected to implement.

§239.95. Requirements to Renew the Standard Reading Specialist Certificate.

Proposed new §239.95 recodifies and amends provisions currently in §239.94, Requirements to Renew the Standard Reading Specialist Certificate. The proposed new section would reflect current requirements for the renewal of a Reading Specialist certificate regarding compliance with the provisions in 19 TAC Chapter 232, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements. The proposed new subsection would also strike outdated language.

§239.95. Transition and Implementation Dates.

The proposed repeal of §239.95 would remove outdated language. The proposed amendment to §239.93(b) and (c) would prescribe the transition dates necessary to provide clarity of when each set of standards would be utilized for candidates depending on admission date.

The proposed amendment would provide a technical edit to the certificate naming convention in §239.90 and §239.91.

SBOE Review of Proposed SBEC Rules

Under the TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposed rule by a vote of at least two-thirds of the members of the SBOE present and voting but may not modify a rule.

FISCAL IMPACT: No changes have been made to this section since published as proposed. The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed. The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed. 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 TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed. The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed. The 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 create new regulations and repeal regulations. The proposal would repeal §239.65(a) and (c) and §239.70 because they are out of date and no longer relevant, §239.93 because it would be recodified as proposed new §239.94, §239.94 because it is in part out of date and in part to be recodified as proposed new §239.95, and §239.95 because it is out of date and no longer relevant. The proposal would create new regulations in proposed new §239.93, which consolidates and clarifies the standards for a Reading Specialist Certificate; §239.94, which would recodify existing §239.93, and §239.95, which would recodify the continuing provisions of existing §239.94.

The proposal 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 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: No changes have been made to this section since published as proposed. The public benefit anticipated as a result of the proposal would be more rigorous requirements for the preparation, certification, testing, and renewal of school librarians and reading

specialists that result in highly effective certified school librarians and reading specialists upon entry into the profession and retention of these qualified professionals. The TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed. The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. The TEA staff 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: In accordance with the SBEC rulemaking process, a summary of comments received by the SBEC on its proposed rules is shared with the SBOE under separate cover prior to this SBOE meeting.

MOTION TO BE CONSIDERED: The State Board of Education:

Take no action on proposed revisions to 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate.

Staff Members Responsible:

Emily Garcia, Associate Commissioner, Educator Preparation, Certification, and Enforcement
DeMarco Pitre, Director, Educator Standards and Test Development

Attachment:

Text of Proposed Revisions to 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, and Subchapter D, Reading Specialist Certificate

ATTACHMENT
Text of Proposed Revisions to 19 TAC

Chapter 239. Student Services Certificates

Subchapter B. School Librarian Certificate

§239.40. General Provisions.

- (a) Because the school librarian plays a critical role in campus effectiveness and student achievement, the rules adopted by the State Board for Educator Certification in this subchapter ensure that each candidate for the School Librarian certificate [~~Certificate~~] is of the highest caliber and possesses the knowledge and skills necessary to improve the performance of the diverse student population of this state.
- (b) An individual serving as a school librarian is expected to actively participate in professional development activities to continually update his or her knowledge and skills. Currency in best practices and research as related to both campus leadership and student learning is essential.
- (c) The holder of the School Librarian certificate [~~Certificate~~] issued under the provisions of this subchapter may serve as a librarian in Prekindergarten-Grade 12.

§239.45. Minimum Requirements for Admission to a School Librarian Preparation Program.

- (a) Prior to admission to an educator preparation program leading to the School Librarian certificate [~~Certificate~~], an individual must:
 - (1) hold a baccalaureate degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
 - (2) meet the requirements for admission to an educator preparation program under Chapter 227 of this title (relating to Provisions for Educator Preparation Candidates).
- (b) An educator preparation program may adopt requirements for admission in addition to those required under subsection (a) of this section.

§239.55. Standards Required for the School Librarian Certificate.

- (a) School Librarian Certificate Standards. The knowledge and skills identified in this section must be used by an educator preparation program in the development of curricula and coursework and by the State Board for Educator Certification as the basis for developing the examination required to obtain the School Librarian Certificate. The standards also serve as the foundation for the professional growth plan and continuing professional education activities required by §239.65 of this title (relating to Requirements to Renew the Standard School Librarian Certificate).
- (b) Required standards for an applicant who is admitted to an educator preparation program for the School Librarian certificate before September 1, 2026:
 - (1) Standard I. Learner-Centered Teaching and Learning: The certified school librarian is an educational leader who promotes the integration of curriculum, resources, and teaching strategies to ensure the success of all students as the effective creators and users of ideas and information, enabling them to become lifelong learners. Accordingly, the certified school librarian must be able to do the following activities with understanding and valuation of their importance:
 - (A) [~~(1)~~] participate as an educational leader, an equal partner, and a change agent in the curriculum development process at both the school campus and school district levels;
 - (B) [~~(2)~~] participate in curriculum design and integrated planning of a shared school campus vision that focuses on reading, teaching, and learning;

- (C) [~~3~~] model and promote collaborative planning, cooperative teaching, and direct instruction as determined by learners' needs and state curriculum standards;
 - (D) [~~4~~] direct and encourage students in the ethical use of resources to locate, gather, select, synthesize, and evaluate relevant information;
 - (E) [~~5~~] work collaboratively with faculty to provide students with opportunities to assume responsibility for planning and engaging in independent learning;
 - (F) [~~6~~] adapt teaching strategies to accommodate the diverse learning needs of the student population;
 - (G) [~~7~~] provide and promote ongoing staff development for the learning community, particularly in the areas of integration of information technology, information literacy, and literature appreciation;
 - (H) [~~8~~] provide and promote ongoing learning opportunities for students, particularly in the areas of integration of information technology and information literacy;
 - (I) [~~9~~] direct and encourage students to read a variety of fiction and nonfiction resources for personal and informational needs;
 - (J) [~~10~~] understand and evaluate national, state, and local reading initiatives;
 - (K) [~~11~~] create a learning environment in which the diversity of groups and the uniqueness of individuals are recognized and appreciated; and
 - (L) [~~12~~] provide instructional access to library resources and facilities through open, flexible scheduling for classes, small groups, and individuals.
- (2) [~~e~~] Standard II. Learner-Centered Library Program Leadership and Management: The certified school librarian is an educational leader who promotes the success of all students by acquiring, organizing, and managing information for use in a creative and exemplary library program. Accordingly, the certified school librarian is a leader and manager who must be able to do the following activities with understanding and valuation of their importance:
- (A) [~~1~~] advocate for the development of an exemplary library media program that encourages a vision of excellence for all learners;
 - (B) [~~2~~] synthesize information from a variety of sources for effective decision making to develop and maintain an exemplary library program;
 - (C) [~~3~~] design policies and procedures that comply with local, state, and federal laws and policies while supporting sound decisions relating to school and library instruction and programs;
 - (D) [~~4~~] establish partnerships within the learning community to support school district and school campus goals through exemplary library programs;
 - (E) [~~5~~] demonstrate effective leadership strategies while working within school campus and school district administrative structures to promote achievement of library program goals;
 - (F) [~~6~~] employ effective interpersonal communication skills;
 - (G) [~~7~~] implement effective strategies and techniques to systematically perform library management operations such as budgeting; purchasing; scheduling; managing and maintaining facilities and resources; supervising adults and children; reporting; grant writing; and overseeing circulation and inventory;
 - (H) [~~8~~] collaborate with faculty to ensure that the process of evaluating and selecting library resources provides curriculum-related and leisure reading materials;
 - (I) [~~9~~] design and implement acceptable use policies for current and emerging technologies;
 - (J) [~~10~~] use effective planning, time management, and organization of work to maximize attainment of district and campus goals through exemplary library programs; and

- (K) ~~(4)~~ monitor, assess, and employ existing and emerging technologies for management applications.
- (3) ~~(4)~~ Standard III. Learner-Centered Technology and Information Access: The certified school librarian is an educational leader who promotes the success of all students by facilitating the use and integration of technology, telecommunications, and information systems to enrich the curriculum and enhance learning. Accordingly, the certified school librarian must be able to do the following activities with understanding and valuation of their importance:
- (A) ~~(4)~~ provide a balanced, carefully selected, and systematically organized collection of library resources that are sufficient to meet students' needs and are continuously monitored to be current and relevant in each subject area;
 - (B) ~~(2)~~ model and promote the highest standard of conduct, ethics, and integrity in the use of the Internet and other print and electronic resources;
 - (C) ~~(3)~~ employ existing and emerging technologies to access, evaluate, and disseminate information for possible application to instructional programs;
 - (D) ~~(4)~~ promote interlibrary loan policy to facilitate information access beyond the campus;
 - (E) ~~(5)~~ model information problem-solving processes in providing instruction about reference and research techniques; and
 - (F) ~~(6)~~ participate in state and national technology initiatives.
- (4) ~~(4)~~ Standard IV. Learner-Centered Library Environment: The school librarian is an educational leader who promotes the success of all students by establishing a climate in the library that enables and encourages all members of the learning community to explore and meet their information needs. Accordingly, the certified school librarian must be able to do the following activities with understanding and valuation of their importance:
- (A) ~~(4)~~ understand the principles of exemplary library design as defined by state and federal guidelines for a simultaneous-use facility for individuals, small groups, and classes;
 - (B) ~~(2)~~ develop and maintain a flexible, functional, and barrier-free library facility that conforms to national and state library standards;
 - (C) ~~(3)~~ provide a safe, secure environment that is age appropriate;
 - (D) ~~(4)~~ maximize available space to permit displays of student-, faculty- and community-produced materials and collections; and
 - (E) ~~(5)~~ promote access to resources and information during and beyond the instructional day and school year.
- (5) ~~(4)~~ Standard V. Learner-Centered Connections to the Community: The school librarian is an educational leader who promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and fostering the use of community resources. Accordingly, the certified school librarian must be able to do the following activities with understanding and valuation of their importance:
- (A) ~~(4)~~ promote awareness of and responsiveness to learning differences and other types of diversity in the learning community;
 - (B) ~~(2)~~ exhibit effective communication through oral, written, electronic, and nonverbal expression;
 - (C) ~~(3)~~ implement strategies for effective internal and external communications;
 - (D) ~~(4)~~ establish partnerships with businesses, learning institutions, global communities, and other libraries and entities to strengthen programs and support school campus goals;
 - (E) ~~(5)~~ develop library programs that offer families opportunities to participate in school activities and in their children's education;

(F) ~~[(6)]~~ advocate access to resources and information during and beyond the instructional day and school year; and

(G) ~~[(7)]~~ develop and implement a comprehensive program of community relations that uses strategies to effectively involve and inform multiple constituencies, including the news media.

~~(6) [(6)]~~ Standard VI. Learner-Centered Information Science and Librarianship: As an educational leader, the certified school librarian uses his or her unique knowledge base, drawing from both education and library science, to promote the success of all students and to provide experiences that help learners locate, evaluate, and use information to solve problems while becoming lifelong readers and learners. Accordingly, the certified school librarian must be able to do the following activities with understanding and valuation of their importance:

(A) ~~[(1)]~~ understand the role of all types of libraries and information agencies in an integrated learning environment;

(B) ~~[(2)]~~ understand the role of the school library media program as a central element in the intellectual life of the school;

(C) ~~[(3)]~~ know theories, principles, and skills related to the selection, acquisition, organization, storage, retrieval, use, and evaluation of information;

(D) ~~[(4)]~~ implement standard library procedures for classifying, cataloging, and processing various resources that facilitate computerization and resource sharing;

(E) ~~[(5)]~~ evaluate and select existing and emergent technologies in support of the library program;

(F) ~~[(6)]~~ communicate effectively to patrons to determine their information needs;

(G) ~~[(7)]~~ demonstrate an understanding of bibliographic and retrieval techniques needed to organize and use information sources;

(H) ~~[(8)]~~ use knowledge of literature and information resources to help students select materials;

(I) ~~[(9)]~~ understand and model principles of intellectual freedom, information access, privacy, and proprietary rights;

(J) ~~[(10)]~~ design and use statistical reports to support an exemplary library program;

(K) ~~[(11)]~~ use varied reading materials, programs, and motivational strategies to guide the development of independent readers;

(L) ~~[(12)]~~ engage in continual self-evaluation and self-directed learning for professional growth;

(M) ~~[(13)]~~ maintain an active interest in and contribute to appropriate local, state, regional, and national professional associations and publications;

(N) ~~[(14)]~~ demonstrate ethical behavior in all professional contexts; and

(O) ~~[(15)]~~ work collaboratively with other information professionals in support of the library program and the profession.

(c) Required standards for an applicant who is admitted to an educator preparation program for the School Librarian certificate on or after September 1, 2026:

(1) Standard I. Information Literacy: As an information specialist, teacher, and instructional partner, the school librarian provides information literacy instruction that enables educators, learners, and other school stakeholders to efficiently locate, accurately evaluate, ethically use, and clearly communicate information in various formats. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:

(A) curate resources in a variety of formats to support inquiry, academic, and/or personal educator and learner needs;

- (B) model and guide learners and educators to use information effectively to accomplish a specific purpose;
 - (C) provide instruction and coaching to students and educators to accurately evaluate information, including the characteristics of misinformation and disinformation, in order to determine the validity of a variety of resources;
 - (D) practice the ethical and legal use of information, including transformative fair use, intellectual freedom, information access, privacy, proprietary rights, and validation of information as approved in local policy Educational Foundation of America (EFA), federal law (1st Amendment), and best library practices;
 - (E) collaborate with and coach educators to integrate information literacy skills across the curriculum at point of need, including co-planning, co-teaching, co-assessing, and co-evaluating as appropriate; and
 - (F) support and lead professional development opportunities that promote best practices in information literacy in teaching and learning.
- (2) Standard II. Inquiry: As a campus leader, instructional partner, and information specialist, the school librarian creates a culture of inquiry which includes the pursuit, creation, and sharing of knowledge, as well as support for both student and professional learning. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:
- (A) curate a collection of current materials in a variety of formats, including open educational resources (OER), that support student inquiry and/or interests, and which are developmentally appropriate, culturally inclusive, and aligned with state and district learning standards;
 - (B) implement a research-based inquiry approach to learning, focusing on developmentally appropriate information literacy skills that students use to pursue, create, and share knowledge;
 - (C) offer opportunities for learners to explore real-world problems by interacting with relevant information in a variety of formats that consider diverse points of views, using critical-thinking skills to make informed judgments;
 - (D) collaborate with and coach educators to co-plan, co-teach, co-assess, and co-evaluate inquiry-based learning; and
 - (E) support and lead professional development opportunities that promote best practices in inquiry-based teaching and learning.
- (3) Standard III. Culture of Reading: As a campus leader and instructional partner, the school librarian promotes reading for learning, personal growth, and enjoyment that are essential skills for college, career, and community. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:
- (A) encourage students to read a variety of literature for information and pleasure;
 - (B) provide access to physical and virtual collections of high quality, current resources in a variety of formats and platforms (accessible on most devices) that may reflect input from stakeholder interest;
 - (C) develop a collection of informational texts that addresses the needs of learners that includes materials that are academically aligned to curriculum, connect to real-world events, reflect students' experiences and interests, and address social and environmental issues;
 - (D) develop a collection of texts that appeal to learner sensibilities, values and interests, offer diverse points of view, and meet personal reading needs;

- (E) lead opportunities for students to respond to literature using one or more methods, such as social media, booktalks/trailers, podcasts, blog posts, reading promotions, programs, and/or book clubs;
 - (F) provide and support literacy instruction through research-based strategies and appropriate technology applications;
 - (G) support, supplement, and elevate a culture of reading through participation in national, state, and local reading initiatives, as well as literacy events;
 - (H) partner with other types of libraries (e.g., public, academic, governmental, special), information institutions (e.g., museums, institutes, and virtual field trips), and community partners;
 - (I) collaborate with and coach educators to promote a culture of reading, student choice, and integrate reading skills in the inquiry process and other areas across the curriculum; and
 - (J) support and lead professional development opportunities that promote the culture of reading and best practices for self-selected reading choices.
- (4) Standard IV. Digital Learning: As an information specialist and instructional partner, the school librarian supports and advocates for equitable access to current and emerging technologies that provide curated and open access to a variety of resources and model best instructional practices informed by International Society for Technology in Education (ISTE) Standards for Educators and curriculum standards. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:
- (A) effectively integrate and model current and emerging technologies (e.g., applications and tools) aligned to ISTE standards for educators and students across all content areas;
 - (B) provide open access to an equitable and diverse digital library collection of resources available at point of need;
 - (C) instruct students in the access and use of a variety of digital library resources at point of need virtually or in person;
 - (D) provide instruction and coaching for students and educators on creative, innovative, and ethical use of current and emerging technologies in the construction and presentation of knowledge;
 - (E) model and encourage the responsible selection and use of effective digital tools as required by federal, state, and local policies and procedures;
 - (F) provide instruction and coaching to students and educators to responsibly use digital intellectual property, understand current copyright rules, make responsible online decisions, understand the significance of a digital identity, and use positive digital citizenship practices as part of a global community;
 - (G) provide instruction and coaching to students and educators on the evaluation of characteristics of misinformation and disinformation in digital resources, including various forms of media (e.g., social media, websites, video, podcasts, multimodal text, blogs);
 - (H) collaborate with and coach educators to meaningfully integrate digital tools and best practices across content areas and other areas across the curriculum; and
 - (I) support and lead professional development opportunities that promote best practices in digital learning.
- (5) Standard V. Safe and Nurturing Environment: As a program administrator and campus leader, the school librarian develops and maintains the library as an essential, safe, and flexible environment that is an inviting, shared space for teaching, learning, and personal exploration. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:

- (A) create a stimulating learning environment that cultivates and nurtures a climate of dignity and belonging;
 - (B) develop policies, procedures, and programs that are created with input from the entire learning community;
 - (C) develop a library space that features an aesthetically appealing environment offering simultaneous access that meets the needs of individual students, small groups, and classes within a facility, as required by the Texas Administrative Code (TAC) regarding library facilities;
 - (D) lead library-based learning opportunities and activities for families and the community during and/or beyond the school day;
 - (E) develop the library as a central element in supporting student achievement, connecting students with information and each other, and promoting a positive and inclusive school culture; and
 - (F) empower student agency and independent use of the library through clear and consistent signage that allows users of all ability levels to quickly and easily navigate, locate and access resources as well as inform safety protocols.
- (6) Standard VI. Leadership: As a campus leader and instructional partner, school librarians proactively collaborate, plan, and engage in leadership activities for various purposes (e.g., professional development, coaching, instruction, program planning) in collaboration with teachers, principals, school counselors, reading specialists, instructional coaches, instructional technologists, and/or curriculum specialists to model and lead research-based best practices across campus, district, and professional communities, as well as seek professional growth opportunities. The school librarian must demonstrate the knowledge, skills, and dispositions necessary to:
- (A) apply research-based best practices and stay current in instructional pedagogy, including the use of formative and summative assessment to inform lesson planning, teaching, assessment, and evaluation;
 - (B) ensure library program and resources are aligned with school, district, and state educational standards;
 - (C) lead purposeful professional development that is aligned to the needs of the learning community and provide ongoing support through research-based instructional coaching;
 - (D) engage in professional growth opportunities to increase knowledge and skills that inform practice as a librarian, leader, and instructional partner through school and district continuing education, state and national professional organizations, professional learning networks, virtual learning, and more;
 - (E) participate in campus and district planning;
 - (F) develop a yearly plan for events and activities that engage the learning community in transformative and enriching experiences;
 - (G) continually collect and analyze qualitative and quantitative data to advocate for and evaluate the library program in order to improve student outcomes and make informed decisions;
 - (H) ensure that all students have equal access to appropriate resources necessary for academic success in compliance with Americans with Disabilities Act (ADA) guidelines;
 - (I) advocate for the value of a flexible space and schedule to meet the needs of all learners, which allows for use at point of need, curriculum support, and personalized learning;
 - (J) articulate the library's mission, vision, goals, objectives, and a strategic plan that is in alignment with campus, district, and statewide plans and incorporates sound policies and procedures;

- (K) regularly evaluate, update, and publish library policies and procedures to meet the needs of learners and the broader educational community;
- (L) train library staff and volunteers on various aspects of the library program (e.g., positive customer services, student privacy, digital resources, library organization, scheduling to maximize student access) in order to meet the needs of the learning community;
- (M) regularly collaborate with stakeholders to advocate for the library program;
- (N) advocate for and protect each user's right to privacy, confidentiality, and age-appropriate principles of intellectual freedom, as indicated by best library practices (American Library Association (ALA) Privacy) and federal Family Educational Rights and Privacy Act (FERPA) law;
- (O) demonstrate professional behavior in accordance with the educator code of ethics as stated by the ALA and Texas Education Agency;
- (P) apply best practices in library program administration to systematically perform library management operations such as budgeting; purchasing; creating reports; grant writing; and overseeing circulation and inventory; and
- (Q) apply best practices and standard library procedures for organizing and processing various materials, and articulate the purpose of quality cataloging to facilitate resource sharing.

§239.60. Requirements for the Issuance of the Standard School Librarian Certificate.

To be eligible to receive the standard School Librarian certificate [~~Certificate~~], a candidate must:

- (1) successfully complete a school librarian preparation program that meets the requirements of §239.50 of this title (relating to Preparation Program Requirements) and §239.55 of this title (relating to Standards Required for the School Librarian Certificate);
- (2) successfully complete the examination based on the standards identified in §239.55 of this title;
- (3) hold, at a minimum, a master's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
- (4) have two creditable years of teaching experience as a classroom teacher, as defined in Chapter 153, Subchapter CC, of Part 2 of this title (relating to Commissioner's Rules on Creditable Years of Service) and the Texas Education Code, §5.001(2).

§239.65. Requirements to Renew the Standard School Librarian Certificate.

- ~~[(a) An individual issued a standard librarian certificate from September 1, 1999, to August 31, 2000, is subject to Chapter 232, Subchapter B, of this title (relating to Certificate Renewal and Continuing Professional Education Requirements), except that only 150 clock hours of continuing professional education must be completed during the first five-year renewal period. During subsequent renewal periods, the holder of such an active standard librarian certificate must satisfy the most current requirements for renewal.]~~
- ~~[(b) An individual issued the standard School Librarian certificate [~~Certificate on or after September 1, 2000,~~] is subject to the renewal requirements of Chapter 232, Subchapter A [~~B~~], of this title (relating to Certificate Renewal and Continuing Professional Education Requirements).~~
- ~~[(c) An individual who holds a valid Texas school librarian certificate or endorsement issued prior to September 1, 1999, may voluntarily comply with the requirements of this section under procedures implemented by the Texas Education Agency staff under §232.810 of this title (relating to Voluntary Renewal of Current Texas Educators).]~~

§239.70. Transition and Implementation Dates.

- (a) ~~Section 239.60 of this title (relating to Requirements for the Issuance of the Standard School Librarian Certificate) shall be implemented on September 1, 2002, and shall supersede all conflicting provisions in this title on September 1, 2003. All other sections of this subchapter shall take effect pursuant to the Texas Government Code, §2001.036.~~
- (b) ~~Not later than September 1, 2003, the following provisions shall no longer apply to the School Librarian Certificate:~~
 - (1) ~~Section 245.5(a)(2) of this title (relating to Requirements for Issuance of a Texas Certificate Based on Certification from Another Country), as it existed on May 5, 2000; and~~
 - (2) ~~the "teaching practicum" requirement in §245.10(a)(2)(B) of this title (relating to Application Procedures) as it existed on May 5, 2000.]~~

Subchapter D. Reading Specialist Certificate

§239.90. General Provisions.

- (a) Because the reading specialist plays a critical role in campus effectiveness and student achievement, the rules adopted by the State Board for Educator Certification in this subchapter ensure that each candidate for the Reading Specialist certificate [~~Certificate~~] is of the highest caliber and possesses the knowledge and skills necessary to improve the performance of the diverse student population of this state.
- (b) An individual serving as a reading specialist is expected to actively participate in professional development activities to continually update his or her knowledge and skills. Currency in best practices and research as related to both campus leadership and student learning is essential.
- (c) The holder of the Reading Specialist certificate [~~Certificate~~] issued under the provisions of this subchapter may teach reading to students in Prekindergarten-Grade 12.

§239.91. Minimum Requirements for Admission to a Reading Specialist Preparation Program.

- (a) Prior to admission to an educator preparation program leading to the standard Reading Specialist certificate [~~Certificate~~], an individual must:
 - (1) hold a baccalaureate degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
 - (2) meet the requirements for admission to an educator preparation program under Chapter 227 of this title (relating to Provisions for Educator Preparation Candidates).
- (b) An educator preparation program may adopt requirements for admission in addition to those required in subsection (a) of this section.

§239.92. Preparation Program Requirements.

- (a) Structured, field-based training must be focused on actual experiences with each of the standards identified in §239.93 of this title (relating to Standards Required for Reading Specialist Certificate) [~~the State Board for Educator Certification approved reading specialist standards~~] to include experiences with diverse types of students, grade levels, and campuses.
- (b) An educator preparation program must develop and implement specific criteria and procedures that allow a candidate to substitute related professional reading specialist training and/or experience directly related to the standards identified in §239.93 of this title [~~subsection (a) of this section~~] for part of the preparation coursework or other program requirements.

§239.93. Standards Required for Reading Specialist Certificate.

- (a) Reading Specialist Certificate Standards. The knowledge and skills identified in this section must be used by an educator preparation program in the development of curricula and coursework and by the State Board for Educator Certification as the basis for developing the examination required to obtain the Reading Specialist certificate. The standards also serve as the foundation for the professional growth plan and continuing professional education activities required by §239.96 of this title (relating to Requirements to Renew the Standard Reading Specialist Certificate).
- (b) Required standards for an applicant who is admitted to an educator preparation program for the Reading Specialist certificate before September 1, 2026:
 - (1) Standard I. Components of Reading: The Reading Specialist applies knowledge of the interrelated components of reading across all developmental stages of oral and written language and has expertise in reading instruction at the levels of Early Childhood (EC)-Grade 12.
 - (A) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding oral language:
 - (i) the basic linguistic patterns and structures of oral language, such as continuant and stop sounds and coarticulation of sounds;
 - (ii) relationships between oral language development and the development of reading skills, such as the expected stages and milestones in acquiring oral language; implications of individual variations in oral language development for reading; and ways to use the cultural, linguistic, and home backgrounds of students to develop and enhance students' oral language;
 - (iii) delays or differences in students' oral language development and when such delays/differences warrant further assessment and additional intervention;
 - (iv) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' oral language development;
 - (v) select and use instructional materials and strategies that reflect both cultural diversity and an awareness of instructional progressions that are based on a convergence of research evidence and that promote students' oral language development;
 - (vi) provide systematic oral language instruction using language structures and pronunciations commonly associated with standard English;
 - (vii) use a variety of instructional methods to teach and reinforce oral language development; and
 - (viii) build on and support students' oral language skills and increase their oral language proficiency through reinforcing activities that are based on a convergence of research evidence (e.g., reading aloud, dramatic play, classroom conversations, songs, rhymes, stories, games, language play, discussions, questioning, sharing information).
 - (B) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding phonological and phonemic awareness:
 - (i) expected stages and patterns in the development of phonological and phonemic awareness, implications of individual variations in the development of phonological and phonemic awareness, and instructional sequences that develop and accelerate students' phonological and phonemic awareness and are based on a convergence of research evidence;

- (ii) delays or differences in students' phonological and phonemic awareness and when such delays/differences warrant further assessment and additional intervention;
 - (iii) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' phonological and phonemic awareness;
 - (iv) select and use instructional materials and strategies that reflect both cultural diversity and an awareness of instructional progressions that are based on a convergence of research evidence and that promote students' phonological and phonemic awareness;
 - (v) provide systematic instruction and reinforcing activities in phonological and phonemic awareness; and
 - (vi) use a variety of instructional methods to teach and reinforce the development of phonological and phonemic awareness.
- (C) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding concepts of print and alphabetic principle:
- (i) the development of concepts of print (e.g., left-right progression, spaces between words, use of glossaries and indexes);
 - (ii) the relationship between concepts of print and other reading-related skills;
 - (iii) the elements of the alphabetic principle, including letter names, graphophonemic knowledge, and the relationship of the letters in printed words to spoken language;
 - (iv) expected stages and patterns in students' developing understanding of the alphabetic principle and implications of individual variations in the development of this understanding;
 - (v) instructional strategies that develop and accelerate students' application of the alphabetic principle to beginning decoding and that are based on a convergence of research evidence;
 - (vi) delays or differences in students' understanding of and ability to apply the alphabetic principle and when such delays/differences warrant further assessment and additional intervention;
 - (vii) model and teach concepts of print;
 - (viii) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing formal and informal assessment of individual students' understanding and application of the alphabetic principle;
 - (ix) select and use instructional strategies and materials (e.g., decodable, predictable, or rhyming text; alphabetic books; environmental print) that reflect cultural diversity, are based on a convergence of research evidence, and promote students' understanding and application of the alphabetic principle;
 - (x) provide systematic instruction and reinforcing activities to promote students' understanding and application of the alphabetic principle; and
 - (xi) use a variety of instructional methods to teach and reinforce students' understanding and application of the alphabetic principle.
- (D) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding word identification:

- (i) word identification strategies (e.g., application of the alphabetic principle, structural analysis, syllabication, identification of high-frequency sight words, use of context clues) when reading words in context;
 - (ii) strategies for confirming word pronunciation and/or meaning when reading words in context (e.g., use of context clues and resource materials);
 - (iii) expected patterns of development in the use of word identification strategies, implications of individual variations in development in this area, and instructional strategies that develop and accelerate students' skills in word identification and are based on a convergence of research evidence;
 - (iv) delays or differences in students' development of word identification skills and when such delays/differences warrant further assessment and additional intervention;
 - (v) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' word identification skills;
 - (vi) select and use instructional materials and strategies that reflect cultural diversity, are based on a convergence of research evidence, and promote students' understanding and application of word identification skills;
 - (vii) provide systematic instruction and reinforcing activities to promote students' word identification skills, including the use of increasingly complex, connected text; and;
 - (viii) use a variety of instructional methods to teach and reinforce word identification skills.
- (E) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding fluency:
- (i) the relationship between reading fluency and comprehension;
 - (ii) expected patterns of development in reading fluency (including developmental benchmarks), implications of individual variations in the development of fluency, and instructional strategies that develop students' fluency and are based on a convergence of research evidence;
 - (iii) delays or differences in students' fluency and when such delays/differences warrant further assessment and additional intervention;
 - (iv) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' reading fluency;
 - (v) evaluate different factors and purposes of texts to promote fluency based on text selection and use instructional materials and strategies that reflect cultural diversity, are based on a convergence of research evidence, and promote students' reading fluency;
 - (vi) provide systematic instruction and reinforcing activities to promote students' reading fluency; and
 - (vii) use a variety of instructional methods to teach and reinforce students' reading fluency.
- (F) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding comprehension:

- (i) a variety of comprehension theories/models (e.g., transactional, interactive, metacognitive, socio-psycho linguistic, constructivist) and their impact on instructional strategies;
 - (ii) student factors that affect reading comprehension (e.g., schema, past reading instruction, oral language, interests, attitudes, word recognition skills, vocabulary, fluency, ability to monitor understanding);
 - (iii) textual factors that affect reading comprehension (e.g., readability, vocabulary, illustrations, format, author's schema, genre, syntactical and conceptual density);
 - (iv) contextual factors that affect reading comprehension (e.g., curriculum materials, time allotted for reading, grouping practices, environment, modes of text presentation);
 - (v) literal, inferential, critical, and evaluative comprehension skills;
 - (vi) characteristics of specific texts (e.g., children's literature, young adult literature, magazines, reference materials, electronic media) and strategies for reading a variety of texts (e.g., expository and narrative texts);
 - (vii) delays or differences in the development of students' comprehension skills/strategies and when such delays/differences warrant further assessment and additional intervention;
 - (viii) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' reading comprehension strategies;
 - (ix) select and use appropriate materials and strategies that reflect cultural diversity, are based on a convergence of research evidence, and promote students' reading comprehension skills;
 - (x) facilitate comprehension through the use of storytelling, creative dramatics, and artistic presentations to encourage multiple creative and personal responses to literary and nonliterary texts;
 - (xi) provide instruction to promote students' literal, inferential, critical, and evaluative comprehension;
 - (xii) use a variety of instructional methods to teach and reinforce comprehension skills;
 - (xiii) promote students' comprehension skills by providing them with multiple opportunities to listen, read, and respond to various types of fiction and nonfiction literature for children and to learn about types of narrative and expository texts; and
 - (xiv) promote students' ability to apply strategies that facilitate comprehension before, during, and after reading, including metacognitive strategies.
- (G) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding vocabulary:
- (i) the definition and application of a wide range of general, technical, and specialized vocabulary and associated concepts;
 - (ii) effective instructional strategies for developing and expanding vocabulary;
 - (iii) delays or differences in students' vocabulary development and when such delays/differences warrant further assessment and additional intervention;

- (iv) plan, implement, and monitor instruction that is responsive to individual students' strengths, needs, and interests and is based on ongoing informal and formal assessment of individual students' vocabulary knowledge;
 - (v) select and use appropriate materials and strategies that reflect cultural diversity, are based on a convergence of research evidence, and promote students' vocabulary knowledge;
 - (vi) provide systematic instruction and reinforcing activities to promote and accelerate students' vocabulary knowledge; and
 - (vii) use a variety of instructional methods to teach and reinforce vocabulary development.
- (H) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding written language:
- (i) predictable stages in the development of written language and writing conventions, including the physical and/or cognitive processes involved in letter formation, word writing, sentence construction, spelling, punctuation, and grammatical expression, while recognizing that individual variations occur;
 - (ii) writing processes, including the use of self-assessment in writing;
 - (iii) the appropriate use of writing conventions and appropriate grammar and usage for communicating clearly and effectively in writing;
 - (iv) the importance of spelling and graphophonemic knowledge for success in reading and writing;
 - (v) that spelling is developmental and is based on students' knowledge of the phonological system and of the letter names, their judgments of phonetic similarities and differences, and their ability to abstract phonetic information from letter names;
 - (vi) the stages of spelling development (i.e., prephonetic, phonetic, transitional, and conventional) and how and when to support students' development from one stage to the next;
 - (vii) the development of writing in relation to listening, speaking, and reading;
 - (viii) the similarities and differences between language (e.g., syntax, vocabulary) used in spoken and written English;
 - (ix) writing for a variety of audiences, purposes, and settings;
 - (x) the benefits of technology for teaching writing (e.g., word processing, desktop publishing software);
 - (xi) informal and formal procedures for ongoing monitoring and assessment of writing development and writing conventions;
 - (xii) formally and informally assess students' writing development, including their use of writing conventions, and provide focused instruction to address students' strengths, needs, and interests;
 - (xiii) use assessment results to help plan writing instruction for individuals and groups;
 - (xiv) use appropriate instructional strategies and sequences for developing students' writing skills;
 - (xv) promote effective use of written English conventions by helping students recognize the similarities and differences between language (e.g., syntax, vocabulary) used in spoken and written English;

- (xvi) create an environment in which students are motivated to express their ideas in writing;
- (xvii) provide instruction in various stages of writing, including prewriting, drafting, editing, and revising;
- (xviii) use appropriate instructional strategies to teach purposeful, meaningful writing in connection with listening, speaking, and reading;
- (xix) use strategies to promote students' recognition of the practical uses of writing;
- (xx) provide opportunities for students to write in a variety of forms and modes for various purposes, audiences, and settings;
- (xxi) provide opportunities for students to self-assess their writings (e.g., for clarity, comprehensiveness, interest to audience) and their development as writers;
- (xxii) provide opportunities for students to elicit critiques of their writing from others;
- (xxiii) provide hands-on activities to help students develop and refine the fine-motor skills necessary for writing, including teaching pencil grip, paper position, and beginning stroke;
- (xxiv) provide direct instruction and guided practice in the accurate use of English writing conventions (e.g., grammar, spelling, capitalization, punctuation);
- (xxv) provide systematic spelling instruction in common spelling patterns based on phonics skills already taught, and provide opportunities for students to use and develop their spelling skills in the context of meaningful written expression;
- (xxvi) model writing as an enjoyable activity and as a tool for lifelong learning;
- (xxvii) provide instruction in the use of technology that facilitates written communication;
- (xxviii) communicate with parents/guardians about students' writing development, and collaborate with them to promote their children's writing development; and
- (xxix) collaborate with other professionals and continually seek implications for practice from convergent research about students' development of written communication skills and writing conventions.

(2) Standard II. Assessment and Instruction: The Reading Specialist uses expertise in implementing, modeling, and providing integrated literacy assessment and instruction by utilizing appropriate methods and resources to address the varied learning needs of all students.

(A) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding assessment:

- (i) the reciprocal nature of assessment, instruction, and instructional planning;
- (ii) types, characteristics, and appropriate uses of reading assessments, including screening, in-depth assessment, continuous progress monitoring, and formative and summative evaluation, for each of the components of reading (e.g., oral language, phonological and phonemic awareness, concepts of print, alphabetic principle, word identification, fluency, comprehension, vocabulary, written language);
- (iii) the advantages and limitations of various types of reading assessments (e.g., informal, formal, technology based);
- (iv) how characteristics of assessment instruments, materials, and procedures interact with other factors that may impact student performance (e.g., text characteristics; testing environment; and student characteristics such as language, culture, prior knowledge, disabilities); assessment-related issues, such

as bias, reliability, validity, and confidentiality; common standardized testing terminology (e.g., raw score, scaled score, percentile, grade equivalency, stanine, normal curve equivalency (NCE), growth scale); state and federal requirements related to reading assessment and diagnosis; when delays or differences in language and literacy development warrant referral for additional evaluation or intervention (e.g., auditory, visual, cognitive, emotional, social, physical);

- (v) grade-level expectations and procedures for assessing students' literacy skills; various means for assessing students' reading, study, and inquiry skills across content areas;
- (vi) how students' use of self-assessment can enhance their literacy development;
- (vii) select and administer appropriate assessment tools to inform instruction and learning, including norm-referenced tests, criterion-referenced tests, formal and informal inventories, constructed response measures, portfolio-based assessments, student self-evaluations, work-performance samples, running records, miscue analyses, observations, anecdotal records, journals, technology-based assessments, and other indicators of student progress;
- (viii) use multiple and varied assessments before, during, and after instruction to guide instruction, monitor progress, and address specific concerns;
- (ix) evaluate results from assessments that target specific literacy components (i.e., oral language, phonological and phonemic awareness, concepts of print, alphabetic principle, word identification, fluency, comprehension, vocabulary, written language);
- (x) use assessment results to plan instruction for individuals and groups and to develop a targeted program that will address identified literacy needs;
- (xi) identify each student's independent, instructional, and frustrational reading levels and adjust his/her program to accelerate student learning;
- (xii) communicate the results of formal and informal assessments and their instructional implications to all stakeholders, either orally or in written form; and
- (xiii) teach and model for other educators how to use formal and informal assessments to monitor the literacy development of their students.

(B) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding instruction:

- (i) strategies to integrate listening and speaking, reading and writing, and viewing and representing across all levels and content areas;
- (ii) state and national content and performance standards that relate to reading;
- (iii) the components of effective instructional design (e.g., eliciting and using prior knowledge; integrating prior and new knowledge; integrating knowledge, skills, and strategies; providing scaffolded instruction; planning reviews);
- (iv) specific short-term and long-term interventions to address students' needs in each identified component of reading;
- (v) characteristics of various learning preferences and modalities (e.g., global, analytic, auditory, visual) and their implications for instruction;
- (vi) how differences in dialect or vocabulary development may affect a student's acquisition of reading skills;

- (vii) the strengths and limitations of current educational theories that underlie instructional practices and programs;
 - (viii) strategies for creating an environment that integrates the language arts; promotes respect for cultural, linguistic, and ethnic diversity; and fosters the literacy growth of all students;
 - (ix) strategies for evaluating and selecting appropriate children's and young adult literature and other instructional materials;
 - (x) develop systematic, sequential literacy instruction that reflects state and national content and performance standards, the components of a comprehensive literacy program, students' strengths and needs, and a convergence of research evidence;
 - (xi) implement instructional strategies that focus on specific literacy components (e.g., oral language, phonological and phonemic awareness, concepts of print, alphabetic principle, word identification, fluency, comprehension, vocabulary, written language);
 - (xii) work with other professionals to evaluate, select, and use appropriate instructional materials, technologies, and strategies relating to writing, including concepts of print, spelling, written vocabulary, and organization of written text, to reinforce reading instruction;
 - (xiii) assist other educators in implementing flexible grouping to promote literacy growth for all students;
 - (xiv) identify, evaluate, and recommend a variety of appropriate reading materials for a range of reading levels, purposes, and interests;
 - (xv) promote students' understanding of various literary genres and skills in literary response and analysis;
 - (xvi) apply appropriate strategies for addressing the literacy needs and accelerating the achievement of any student who is reading below grade level;
 - (xvii) support learning in all content areas by teaching students to apply a variety of strategies for comprehending expository and narrative texts;
 - (xviii) provide instruction to promote students' acquisition and use of study and inquiry skills (e.g., note taking, outlining, skimming and scanning, using graphic organizers, setting purposes for reading, self-assessing, locating and evaluating multiple sources of information); and
 - (xix) provide students with opportunities to interpret, analyze, and evaluate events and ideas based on information from maps, charts, graphics, video segments, and technology presentations and to use media to produce visual images, messages, and meanings that compare ideas and points of view.
- (3) Standard III. Strengths and Needs of Individual Students: The Reading Specialist recognizes how the differing strengths and needs of individual students influence their literacy development, applies knowledge of primary and second language acquisition to promote literacy, and applies knowledge of reading difficulties, dyslexia, and reading disabilities to promote literacy.
- (A) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding addressing individual needs:
 - (i) that students' progress in gaining the knowledge and skills necessary to learn to read varies and requires varied instruction and levels of instructional intensity; and
 - (ii) develop systematic, sequential reading instruction that is based on a convergence of research evidence and that is responsive to individual students'

strengths and needs, including children whose first language is other than English, and students with reading difficulties, dyslexia, and reading disabilities.

(B) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding English language learners:

- (i) issues and concepts related to the transfer of literacy competency from one language to another;
- (ii) expected stages and patterns of first- and second-language learning;
- (iii) sound practices for literacy instruction for English Language Learners that are based on a convergence of research;
- (iv) issues and procedures in assessing English Language Learners' reading strengths and needs, and when to collaborate with other specialists to aid in assessment;
- (v) how to distinguish between language differences and reading disabilities and when additional assessment or intervention is needed;
- (vi) work with other professionals in selecting and using appropriate formal and informal assessments of English Language Learners to plan instruction that is responsive to individual students' strengths, needs, and interests;
- (vii) work with other professionals to plan, implement, and monitor instruction that builds on students' cultural, linguistic, and home backgrounds to enhance their oral language skills in English, and promote the transfer of skills from oral language to written language while maintaining literacy in the primary language;
- (viii) work with other professionals to select and use a variety of instructional materials and strategies that reflect both cultural diversity and an awareness of instructional progressions to facilitate students' transfer of literacy from the first language to English while respecting and promoting maintenance of the primary language; and
- (ix) collaborate with teachers, specialists, parents/guardians, students, and administrators to promote and maintain literacy in both languages.

(C) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding students with reading difficulties, dyslexia, and reading disabilities:

- (i) characteristics and instructional implications of reading difficulties, dyslexia, and reading disabilities in relation to the development of reading competence;
- (ii) state and federal laws, regulations, and guidelines regarding assessment and provision of services for students with reading difficulties, dyslexia, and reading disabilities;
- (iii) means for gathering and analyzing assessment data for students with reading difficulties, dyslexia, and reading disabilities, and when to seek assistance from a specialist;
- (iv) convergent research about sound practices for providing instruction to students experiencing reading difficulties, dyslexia, and reading disabilities, and convergent research about prevention and intervention strategies for students;
- (v) procedures for monitoring and evaluating the effectiveness of an intervention and determining when additional or alternative interventions are appropriate;
- (vi) work with other professionals in selecting and using appropriate informal and formal assessments of students with reading difficulties, dyslexia, and reading disabilities to plan instruction that is responsive to individual students' strengths, needs, and interests;

- (vii) interpret and use results of screening devices and formal and informal reading assessments to know when in-depth evaluation and additional intervention are warranted;
 - (viii) use assessment results to help design instruction that promotes reading skills by building on strengths and addressing needs for students with reading difficulties, dyslexia, and reading disabilities;
 - (ix) collaborate with teachers, specialists, parents/guardians, students, and administrators to promote literacy in students with reading difficulties, dyslexia, and reading disabilities, while respecting their individuality; and
 - (x) facilitate appropriate placement of students, matching individual needs to available services.
- (D) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding students with reading theoretical foundations of literacy:
- (i) the major theories of language acquisition, reading, cognition, and learning (e.g., behaviorism, cognitivism, constructivism, transactionalism);
 - (ii) the impact of physical, perceptual, emotional, social, cultural, environmental, and intellectual factors on learning, language development, and reading acquisition;
 - (iii) the importance of the interactions among the reader, the text, and the context of the reading situation;
 - (iv) the role of societal trends and technological innovations in shaping literacy needs (e.g., Internet, reading electronic texts);
 - (v) the importance of understanding and respecting cultural, linguistic, ethnic, and individual diversity; and
 - (vi) communicate the theoretical rationale for instructional decisions and practices.
- (4) Standard IV. Professional Knowledge and Leadership: The Reading Specialist understands the theoretical foundations of literacy; plans and implements a developmentally appropriate, research-based reading/literacy curriculum for all students; collaborates and communicates with educational stakeholders; and participates and takes a leadership role in designing, implementing, and evaluating professional development programs.
- (A) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding research-based reading/literacy curriculum:
- (i) sources for locating information about convergent research on reading;
 - (ii) foundations of basic research design, methodology, and application;
 - (iii) methods and criteria for critically reviewing research on reading and selecting research for educational applications;
 - (iv) apply knowledge of convergent research for improved literacy instruction for all students;
 - (v) facilitate teacher-based and classroom-based research that uses a range of methodologies for the purpose of improving reading instruction;
 - (vi) prepare written documentation of assessment data, analysis of instructional needs, and accommodations for instruction;
 - (vii) consult on individual educational plans for students with learning problems related to literacy;
 - (viii) participate in ongoing curriculum development and evaluation; and

- (ix) participate in the coordination of services associated with literacy programs (e.g., needs assessment, program development and evaluation, resource allocation, grant and proposal writing).
- (B) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding collaboration and communication with education stakeholders:
- (i) how leadership, communication, and facilitation skills and strategies can effect positive change in the school reading program and reading instruction;
 - (ii) principles, guidelines, and professional ethical standards regarding collegial and professional collaborations related to reading instruction;
 - (iii) facilitate effective interactions among groups and individuals in order to improve literacy instruction for all students;
 - (iv) communicate research findings and make recommendations based on a convergence of research evidence to colleagues and the wider community;
 - (v) communicate information and local data about literacy and, when appropriate, make recommendations to district staff and community stakeholders;
 - (vi) model ethical professional behavior; and
 - (vii) work with other educators to involve parents/guardians in cooperative efforts to support students' reading and writing development.
- (C) The beginning Reading Specialist knows, understands, and is able to perform each of the following functions regarding professional development:
- (i) strategies for facilitating positive change in instructional practices through professional development;
 - (ii) effective professional development that promotes sustained application in classroom practice;
 - (iii) work with other educators to initiate, implement, and evaluate professional development;
 - (iv) use local data to identify and prioritize professional development needs;
 - (v) provide sound professional development experiences that address the needs of participants, are sensitive to school constraints (e.g., class size, limited resources), and use multiple indicators to monitor and evaluate the effectiveness of the professional development;
 - (vi) effectively mentor and coach educators for the successful implementation of instructional practices addressed in professional development;
 - (vii) pursue knowledge of literacy by reading professional journals and publications and by participating in conferences and professional organizations and other professional activities; and
 - (viii) recognize the value of participating in local, state, national, and international professional organizations whose mission is the improvement of literacy.
- (c) Required standards for an applicant who is admitted to an educator preparation program for the Reading Specialist certificate on or after September 1, 2026:
- (1) Standard I. Reading Foundations, Curriculum, and Instruction: Reading Specialists use advanced knowledge of literacy foundations and development that include the interrelatedness of oral and written language (reading, writing, listening, speaking, thinking) to collaborate, develop, lead, and advocate for learning experiences in response to the diverse needs (cultural, linguistic,

educational) of students and other stakeholders (Prekindergarten (PK)-Grade 12 teachers, district administrators, parents).

(A) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of oral language foundations of reading development in order to:

- (i) explain the importance of the five domains of language (phonology, morphology, syntax, semantics, and pragmatics) to reading proficiency;
- (ii) explain how oral language acquisition differs from reading acquisition and how oral language systems differ from writing systems in structure and development;
- (iii) model, implement, and explain research-based and evidence-based instructional routines/activities in all five domains of language (phonology, morphology, syntax, semantics and pragmatics) that support building the neural connections which are necessary for skilled reading;
- (iv) identify, explain, and build upon the ways language and literacy experiences, heritage language, cultural values, and dialectal variations contribute to literacy development;
- (v) apply knowledge of the language structure (e.g., sounds, inflectional endings, and syntax) of a learner's heritage language or dialect (or access resources for information) to implement appropriate instruction in all areas of literacy;
- (vi) customize, implement, and monitor instruction that builds on learners' cultural, linguistic, and home backgrounds to enhance their oral language skills in order to promote the transfer of skills from oral language to written language (while maintaining literacy in the heritage language) using characteristic features of the stages of oral language development;
- (vii) recognize that literacy differences across the grade levels (PK-Grade 12) may be due to speech and/or oral language delays, which may warrant additional evaluation and/or collaboration with other professionals (speech-language pathologist, educational diagnosticians, bilingual teachers); and
- (viii) collaborate with all stakeholders to develop appropriate Multi-Tiered System of Support (MTSS) (Tier I-III) instruction using knowledge of the intrinsic differences (linguistic, cognitive, and neurobiological) between competent and striving readers.

(B) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of phonological and phonemic awareness in order to:

- (i) recognize and explain the developmental continuum and implications of individual variations in their learning of phonological and phonemic awareness skills which affect all components of literacy in order to customize, implement, and monitor appropriate phonological and phonemic awareness instruction for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
- (ii) customize, implement, and monitor differentiated, explicit, systematic, and cumulative instruction using evidence-based strategies in phonological and phonemic awareness skills in order to address the assessed needs of all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
- (iii) collaborate with teachers and model instruction to emphasize the importance of routine inclusion of phonological/phonemic awareness activities into reading, spelling, and vocabulary instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;

- (iv) recognize and explain the distinguishing characteristics of phonemes, common allophonic variations, and instances where spelling is not transparent in relation to phonemes and how these impact learners' reading and spelling in order to customize, implement, and monitor appropriate instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (v) collaborate with teachers to identify sounds in standard English that are not in the student's heritage language or dialect that may be difficult for the student to perceive and produce in phonological and phonemic awareness activities in order to differentiate instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies; and
 - (vi) recognize that literacy differences across grade levels (PK-Grade 12) may be due to speech and/or language delays in students' phonological or phonemic awareness, which may warrant additional evaluation and/or collaboration with other professionals (speech-language pathologist, educational diagnosticians, bilingual teachers).
- (C) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of print concepts and alphabetic knowledge in order to:
- (i) recognize and explain the differences and the interrelatedness of print concept, alphabet knowledge, and alphabetic principle in order to customize, implement, and monitor appropriate instruction for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (ii) collaborate with teachers to recognize the stages in the developmental continuum and implications of individual variations related to print concepts, alphabet knowledge, and alphabetic principle to customize, implement, and monitor instructional practices that accelerate the development of knowledge and skills;
 - (iii) recognize delays or differences in learners' development of print concepts, alphabet knowledge, and alphabetic principle and collaborate with stakeholders in order to differentiate and implement appropriate interventions; and
 - (iv) collaborate with teachers to identify students whose heritage language may not be alphabetic or may be phonetically different from English in order to differentiate instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies.
- (D) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of orthography: phonics, morphology, and etymology in order to:
- (i) recognize and explain the importance and use of an appropriate developmental phonics continuum within orthography in order to customize, implement, and monitor appropriate instruction for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (ii) model, explain, and utilize the stages of spelling development in order to construct and implement explicit, systematic, and cumulative word study instruction for an authentic learning outcome for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (iii) model, implement, and collaborate with stakeholders regarding best practices for developing orthographic mapping in the brain (e.g., phoneme-grapheme mapping, phoneme segmenting and blending), which is necessary for automaticity in reading and spelling and authentic learning outcomes;

- (iv) model, explain, and utilize the role of morphology and etymology in the literacy process in order to construct and implement explicit, systematic, and cumulative word study instruction for an authentic learning outcome for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (v) model, explain, and utilize the developmental continuum of morphological skills in order to construct and implement explicit, systematic, and cumulative word study instruction for an authentic learning outcome for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (vi) model, explain, and utilize the role of English word origins (etymology) in explaining spelling and word meaning and be knowledgeable of related instructional/reference resources in order to construct and implement explicit, systematic, and cumulative word study instruction for an authentic learning outcome for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (vii) model, implement, and collaborate with stakeholders regarding best practices for teaching sound blending (continuous versus discrete) and segmenting to promote accurate and quick word decoding and encoding in order to differentiate and achieve authentic learning outcomes for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (viii) model and explain evidence-based instructional routines/activities that are differentiated to promote all learners' development of accurate and automatic decoding and encoding skills with an explicit, systematic, and cumulative focus in order to customize, implement, and monitor appropriate instruction to achieve authentic learning outcomes for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (ix) model and explain best practices for teaching the decoding and encoding of high-frequency regular and irregular words in order to differentiate instruction and achieve authentic learning outcomes for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (x) model, implement, and collaborate with stakeholders regarding best practices for teaching the decoding of one-syllable and multisyllabic words and for responding to learners' misreads in order to achieve authentic learning outcomes for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (xi) collaborate with teachers to identify sounds and sound/letter sequences that are not in students' heritage language or dialect and that may require additional instruction in order for the student to perceive, produce, read, and spell certain phonics elements and in order to differentiate instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies; and
 - (xii) collaborate with teachers to recommend appropriate texts to support all readers that correspond to content and purpose of phonics skill lessons in order to differentiate instruction across all grade levels (PK-Grade 12), content areas, and disciplinary literacies.
- (E) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of reading fluency in order to:
- (i) recognize and model key concepts related to the importance of reading fluency, including the key indicators of fluency (i.e., accuracy, rate, and prosody), and its relationship to comprehension in order to customize, implement, and monitor instruction;

- (ii) differentiate and create instruction based on the expected patterns of development in reading fluency (e.g., accurate, automatic letter naming to word reading, reading connected text, and reading increasingly complex connected text) across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (iii) differentiate and create instruction related to common factors that disrupt reading fluency (e.g., limited phonics knowledge; lack of automaticity in key decoding skills; limited recognition of high-frequency words; unfamiliarity with a text's content, vocabulary, grammatical structures, and/or limited practice with reading connected text);
 - (iv) create, implement, and evaluate evidence-based instructional materials and strategies in order to develop and accelerate students' fluency based on identified needs, including those that reflect cultural relevance and linguistic diversity;
 - (v) evaluate different factors and purposes of texts to promote fluency based on text complexity (i.e., decodability, content, length, format, illustrations, multiple genres, and other relevant factors) and collaborate with teachers to customize, implement, and monitor instruction in order to meet the needs of all learners; and
 - (vi) collaborate with stakeholders to locate, access, and recommend appropriate assistive technology in order to support reading fluency.
- (F) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of comprehension in order to:
- (i) recognize, utilize, and explain a variety of theoretical perspectives relevant to comprehension and collaborate with teachers in order to customize, implement, and monitor comprehension instruction for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (ii) recognize, utilize, and explain the relationship between comprehension and other aspects of literacy learning (i.e., reading, writing, speaking, listening, thinking, and viewing) and collaborate with teachers in order to customize, implement, and monitor comprehension instruction;
 - (iii) describe, select, and employ evidence-based comprehension strategies (i.e., summarization, question generation and answering, visualization, guided highlighting, graphic representation) across the content areas as appropriate to identified student needs, text, and the purpose for reading;
 - (iv) collaborate with teachers and model explicit, systematic, and cumulative instruction to emphasize the importance of the interconnected relationship between reading and writing (e.g., summaries, note-taking, graphic organizers) in response to reading, content area, and disciplinary literacies to enhance comprehension;
 - (v) recognize and utilize factors that impact learners' reading comprehension instruction (i.e., oral and academic language development, background knowledge, motivation, interests, prior literacy experiences, diverse cultural and linguistic experiences) in order to customize, implement, and monitor comprehension instruction across all grade levels, content areas, and disciplinary literacies;
 - (vi) recognize and utilize textual factors that impact reading comprehension instruction (i.e., word-level factors, sentence-level factors, vocabulary, conceptual density, textual organization) in order to customize, implement, and monitor comprehension instruction across all grade levels, content areas, and disciplinary literacies;

- (vii) recognize and utilize literacy rich environments that provide a variety of genres, text types, print, and digital materials to engage and motivate all learners; and
 - (viii) recognize and utilize a variety of genres, text types, print, and digital materials in order to customize, implement, and monitor comprehension instruction across all grade levels, content areas, and disciplinary literacies.
- (G) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of vocabulary in order to:
- (i) recognize the underlying purpose and connection between the theoretical, conceptual, historical, and evidence-based components of language as related to vocabulary acquisition in order to customize, implement, and monitor vocabulary instruction across all grade levels, content areas, and disciplinary literacies;
 - (ii) apply evidence-based strategies, tools, techniques, and concepts of diversity and equity to vocabulary instruction in order to support students' oral language development, reading comprehension, and ability to engage in self-sustained, authentic, and meaningful literacy learning;
 - (iii) recognize and utilize factors that affect vocabulary development (e.g., vocabulary knowledge, familial, cultural, educational, socioeconomic, linguistic, and developmental characteristics) and collaborate with teachers in order to customize, implement, and monitor vocabulary instruction across all grade levels, content areas, and disciplinary literacies;
 - (iv) recognize the importance of the role of daily and wide reading in vocabulary development and collaborate with teachers in order to customize, and implement instruction in order to monitor growth of vocabulary development;
 - (v) recognize and utilize the three tiers of vocabulary and collaborate with teachers in order to customize, implement, and monitor evidence-based vocabulary instruction used before, during, and after reading a connected text; and
 - (vi) collaborate with teachers to locate, customize, and recommend vocabulary materials and strategies that include multimodalities.
- (H) The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of writing in order to:
- (i) recognize, utilize, and explain a variety of theoretical perspectives related to all areas of writing development (i.e., mechanics and conventions of composition, revision and editing processes, and syntax) in order to customize, implement, and monitor writing instruction for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (ii) recognize, utilize, and explain the importance of the interconnected relationship between reading and writing processes in order to customize, implement, and monitor writing instruction that occurs daily for all learners across all grade levels (PK-Grade 12), content areas, and disciplinary literacies;
 - (iii) model and explain the importance of both foundational writing skills and writing process to collaborate with stakeholders in order to implement developmentally appropriate instruction for each;
 - (iv) recognize and utilize a variety of genres, text types, print, and digital materials in order to customize, implement, and monitor writing instruction across all grade levels, content areas, and disciplinary literacies; and
 - (v) collaborate with stakeholders to locate, access, and provide specific assistive technology (i.e., keyboarding, word-processing, speech-to-text) appropriate for

students with written expression needs (e.g., spelling, organization, composition, handwriting).

- (2) Standard II. Assessment: Reading Specialists understand foundational concepts, principles, and evidence-based practices related to literacy assessment and use expertise in selecting, modeling, prescribing, administering, and interpreting assessments to drive literacy practices for EC-Grade 12 learners and to support literacy program improvement of all stakeholders. The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of:
- (A) foundational concepts, principles, and evidence-based practices related to literacy assessment;
 - (B) employ variety of literacy assessments and uses in order to identify, administer, and analyze assessments;
 - (C) use assessment data to produce both written and oral reports to inform instruction, intervention, and curriculum decisions;
 - (D) effectively communicate both written and orally in order to disseminate assessment results for all stakeholders;
 - (E) interpret assessment results identifying strengths and needs for instructional decision making (campus, grade level, teacher, and individual student);
 - (F) identify delays or differences in language and literacy development and when it warrants referral for additional evaluation or intervention (e.g., speech-language, auditory, visual, cognitive, emotional, social, physical); and
 - (G) understand the importance of selecting and using texts and tests that reflect a diversity of cultures and linguistic backgrounds, including the diversity of the classroom, school community, and society in order to:
 - (i) identify, administer, and interpret both elementary and secondary level formal and informal assessments, diagnostic surveys and inventories for the purpose of identifying a learner's strengths, progress, and instructional needs in all areas of literacy development, including oral language, phonological and phonemic awareness, print awareness, alphabet knowledge and alphabetic principle, orthography, vocabulary, comprehension, and writing;
 - (ii) select, model, prescribe, administer, and interpret assessments in response to learner and campus literacy needs for both elementary and secondary learners that may include content area literacy needs;
 - (iii) collaborate with colleagues on the implementation of assessments and analysis of assessment data for designing instruction that addresses the strengths and needs for all learners (including learning differences/exceptionalities such as marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.);
 - (iv) interpret and utilize results of screening devices and formal and informal reading assessments to know when in-depth evaluation and additional intervention are warranted;
 - (v) lead, facilitate, and/or participate in advocacy discussions with stakeholders in order to secure curricular and/or instructional interventions or extensions based on assessment data and make referrals as necessary;
 - (vi) collaborate with stakeholders regarding the impact of advocacy efforts; and
 - (vii) collaborate with all stakeholders to develop appropriate MTSS (Tier I-III) instruction using knowledge of the intrinsic differences (linguistic, cognitive, and neurobiological) between competent and striving readers.

- (3) Standard III. Learner Needs and Support: Reading Specialists recognize how the differing strengths and needs of individual learners influence their literacy development, apply knowledge of primary and second language acquisition to promote literacy, create a literate environment that encompasses the cultural and linguistic diversity of the individual learner, and apply knowledge of learning differences/exceptionalities (i.e., marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.) to promote literacy. The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of:
- (A) emergent bilingualism and the transfer from heritage language to additional language(s);
 - (B) advocacy and pedagogy for diverse and exceptional learners; differentiation; management, routines, and accessibility for literate and inclusive learning environments;
 - (C) the importance of including mental health wellness within the context of literacy instruction; and
 - (D) state and federal laws, regulations, and guidelines regarding assessment and provision of services for learners with learning differences/exceptionalities (i.e., marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.) in order to:
 - (i) develop explicit, systematic reading instruction that is based on a convergence of research evidence and that is responsive to individual learner strengths and needs as well as cultural diversity, including learners whose first language is other than English, and learners with learning differences (i.e., dyslexia, dysgraphia, twice-exceptional, etc.);
 - (ii) guide the progress of gaining knowledge and skills necessary for literacy acquisition and require varied instruction and levels of instructional intensity as appropriate for grade level Texas Essential Knowledge and Skills, English Language Proficiency Standards, and Science of Teaching Reading competencies;
 - (iii) address issues and concepts related to the expected stages, patterns, and transfer of literacy competency from heritage language to second language;
 - (iv) apply evidenced-based practices for literacy instruction of Emergent Bilinguals that are based on a convergence of research for linguistically and culturally diverse learners;
 - (v) collaborate with other specialists to aid in assessing issues and procedures concerning Emergent Bilinguals' reading strengths and needs;
 - (vi) distinguish between language and learning differences of linguistically and culturally diverse learners and determine when additional assessment or intervention is necessary;
 - (vii) collaborate with other professionals to plan, implement, and monitor instruction that builds on learners' cultural, linguistic, and home backgrounds to enhance their oral language skills in English, and promote the transfer of skills from oral language to written language while maintaining literacy in the heritage language;
 - (viii) collaborate with all stakeholders to promote and maintain literacy in all languages respecting their individuality;
 - (ix) identify characteristics and instructional implications of learning differences/exceptionalities (i.e., marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.) in relation to the development of literacy competence;

- (x) gather information and analyze assessment data for learners with learning differences/exceptionalities (i.e., marginalized learners, dyslexia, dysgraphia, literacy difficulties/disabilities, twice-exceptional, etc.) and know when to seek assistance from a specialist;
 - (xi) implement and ensure procedures for monitoring and evaluating individualized education plans to facilitate placement of learners, matching individual needs to appropriate, aligned, and attainable services;
 - (xii) collaborate with all stakeholders in order to design and foster an inviting and inclusive learning environment sensitive to mental health wellness of students;
 - (xiii) curate current research and evidence-based materials and resources that offer multimodal/multidimensional methods of providing literacy instruction through reading and writing across all content areas (i.e., print rich environment, audio/visual, tactile/kinesthetic, etc.) and grade levels;
 - (xiv) integrate age appropriate (DAP), inclusive, and accessible digital and multimodal technologies in appropriate, safe, and effective ways;
 - (xv) collaborate with the campus/district media specialist, as needed, to locate and implement age appropriate (DAP), inclusive, and accessible digital learning opportunities in appropriate, safe, and effective ways; and
 - (xvi) collaborate with all stakeholders to develop appropriate MTSS (Tier I-III) instruction using knowledge of the intrinsic differences (linguistic, cognitive, and neurobiological) between competent and striving readers.
- (4) Standard IV. Professional Leadership and Development: Reading Specialists serve as literacy content experts in multiple roles of professional leadership who are critical consumers of research, policy, and data to facilitate informed decision-making with groups/individuals regarding literacy practices; cultivate an environment for growth through modeling literacy leadership; coach and mentor all stakeholders in order to make informed literacy learning decisions; communicate with a variety of stakeholders for multiple purposes. The Reading Specialist demonstrates the knowledge, skills, and dispositions necessary to understand and apply advanced knowledge of:
- (A) theories of shared leadership and coaching with educational stakeholders;
 - (B) ethical responsibilities and their role in a campus/district and impact on all stakeholders; and
 - (C) adult learning theories and professional development models in order to:
 - (i) communicate and model evidence-based practices based on current research for improved literacy instruction for all students;
 - (ii) make recommendations and advocate for literacy practices and policies based on a convergence of research evidence for school, district, and community;
 - (iii) communicate changes and impact of state/federal policies to all stakeholders;
 - (iv) prepare written documentation of school/district assessment data, analysis of students' strengths/needs, and instructional recommendations;
 - (v) facilitate and customize ongoing school and district- wide curriculum development, resource evaluation through a variety of theoretical and methodological lenses, and services associated with literacy programs (e.g., needs assessment, program development and evaluation, resource allocation, grant and proposal writing);
 - (vi) facilitate and customize interactions for all stakeholders in order to improve literacy instruction for students;

- (vii) actively participate in literacy networks (e.g., local/state/national/international organizations, book studies, literacy social media pages, professional journals and publications, and conferences) and ongoing professional learning in order to continue to develop a knowledge of literacy and evidenced-based literacy practices;
- (viii) apply evidence-based professional development, coaching/mentoring, and adult learning theories to support instructional practice;
- (ix) model ethical professional behavior;
- (x) work with educators, schools and districts to involve parents/guardians in cooperative efforts to support students' literacy development;
- (xi) identify and prioritize professional development needs using the needs assessment;
- (xii) plan and facilitate professional learning experiences in response to the needs assessment;
- (xiii) collaborate with other educators to initiate, implement, and evaluate professional development;
- (xiv) address the needs of professional development participants keeping in mind school constraints (e.g., class size, limited resources);
- (xv) mentor and coach educators for the successful implementation of instructional practices addressed in professional development;
- (xvi) monitor the outcomes of the professional learning for impact on instruction and/or achievement; and
- (xvii) collaborate with all stakeholders in order to develop appropriate MTSS (Tier I-III) instruction using knowledge of the intrinsic differences (linguistic, cognitive, and neurobiological) between competent and striving readers.

§239.93. Requirements for the Issuance of the Reading Specialist Certificate.

To be eligible to receive the standard Reading Specialist Certificate, a candidate must:

- (1) successfully complete a reading specialist preparation program that meets the requirements of §239.92 of this title (relating to Preparation Program Requirements);
- (2) successfully complete the examination based on the standards identified in §239.92 of this title;
- (3) hold, at a minimum, a master's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
- (4) have two creditable years teaching experience as a classroom teacher, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on Creditable Years of Service) and the Texas Education Code, §5.001(2).]

§239.94. Requirements for the Issuance of the Reading Specialist Certificate.

To be eligible to receive the standard Reading Specialist certificate, a candidate must:

- (1) successfully complete a reading specialist preparation program that meets the requirements of §239.92 of this title (relating to Preparation Program Requirements) and §239.93 of this title (relating to Standards Required for Reading Specialist Certificate);
- (2) successfully complete the examination based on the standards identified in §239.93 of this title;

- (3) hold, at a minimum, a master's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and
- (4) have two creditable years teaching experience as a classroom teacher, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on Creditable Years of Service) and the Texas Education Code, §5.001(2).

§239.94. Requirements to Renew the Standard Reading Specialist Certificate.

- (a) An individual issued the standard Reading Specialist Certificate under this title is subject to Chapter 232, Subchapter B, of this title (relating to Certificate Renewal and Continuing Professional Education Requirements).
- (b) An individual who holds a valid Texas reading specialist certificate issued prior to September 1, 1999, may voluntarily comply with the requirements of this section under procedures implemented by the Texas Education Agency staff under §232.810 of this title (relating to Voluntary Renewal of Current Texas Educators).]

§239.95. Requirements to Renew the Standard Reading Specialist Certificate.

An individual issued the standard Reading Specialist certificate under this title is subject to Chapter 232, Subchapter B, of this title (relating to Certificate Renewal and Continuing Professional Education Requirements).

§239.95. Transition and Implementation Dates.

Section 239.93 of this title (relating to Requirements for the Issuance of the Reading Specialist Certificate) shall be implemented on September 1, 2003, and shall supersede all conflicting provisions in this title on September 1, 2004. All other sections of this subchapter shall take effect pursuant to the Texas Government Code, §2001.036.]

Discussion of Ongoing State Board for Educator Certification Activities

April 13, 2023

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to receive updates on current and upcoming State Board for Educator Certification (SBEC) activities and proposed SBEC rules and amendments.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§21.031, 21.035, 21.041, and 21.042.

TEC, §21.031, charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct of public school educators and ensuring that all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of the state.

TEC, §21.035, requires Texas Education Agency (TEA) staff to provide administrative functions and services to the SBEC.

TEC, §21.041(a), authorizes the SBEC to adopt rules necessary to implement its own procedures.

TEC, §21.041(b)(1)–(4), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(c) and (d), authorizes the SBEC to adopt fees for the issuance and maintenance of an educator certificate and for the approval or renewal of an educator preparation program.

TEC, §21.042, requires the SBEC to submit a written copy of each rule it proposes to adopt to the State Board of Education (SBOE) for review.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: On May 30, 1995, the 74th Texas Legislature enacted Senate Bill 1, a revision of the TEC. TEC, §21.031 and §21.041, establish and authorize the SBEC to adopt rules to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators. In addition, the 79th Texas Legislature enacted House Bill 1116, continuing the SBEC following sunset review. This legislation amended TEC, §21.035 to require the TEA to provide all administrative services and functions required by the SBEC. Most of these functions have been assigned to TEA's Department of Educator Preparation, Certification, and Enforcement.

Under TEC, §21.042, the SBEC must submit a written copy of each rule it proposes to adopt to the SBOE for review. The SBOE may reject the proposal by a vote of at least two-thirds of the members of the SBOE present and voting. If the SBOE fails to reject the rules contained in the proposal before the 90th

day after the date on which it receives the rules, the rules take effect as rules of the SBEC as provided by Chapter 2001, Government Code. The SBOE may not modify a rule proposed by the SBEC. Since 1996, the SBEC has submitted a number of rules it proposed to the SBOE for review.

Staff Member Responsible:

Emily Garcia, Associate Commissioner, Educator Preparation, Certification, and Enforcement

Open-Enrollment Charter School Generation 28 Application Updates

April 13, 2023

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to receive updates regarding the Generation 28 Open-Enrollment Charter Application cycle.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§12.101](#).

TEC, §12.101 requires the commissioner to notify the State Board of Education (SBOE) of each charter the commissioner proposes to grant. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting, vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect.

The full text of statutory citations can be found in the statutory authority section of this agenda.

FUTURE ACTION EXPECTED: Following the conclusion of the application cycle, the board will have an opportunity to review and take action or no action on the commissioner's list of proposed Generation 28 Subchapter D Open-Enrollment Charter Schools.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is engaged in an ongoing effort to remain abreast of the evolving state-educational landscape and prepare to address areas that are within its jurisdiction. To that end, this item is for discussion of updates pertaining to the Generation 28 application.

Public information concerning open-enrollment charter schools is available at the division of Charter Schools – Subchapter D Charters page found on the Texas Education Agency's website (<https://tea.texas.gov/charterapp.aspx>). When complete, the Generation 28 application and required attachments will be accessible on that page.

Staff Members Responsible:

Kelvey Oeser, Deputy Commissioner, Educator Support
Marian Schutte, Director, Charter School Authorizing

School Safety and Security Progress Report

April 13, 2023

COMMITTEE ON SCHOOL INITIATIVES: DISCUSSION STATE BOARD OF EDUCATION: NO ACTION

SUMMARY: This item provides an opportunity for the committee to receive an update from the Texas School Safety Center (TxSSC) related to the center's biennial report.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§37.216](#).

TEC, §37.216 requires the board of the TxSSC to provide a report to the governor, the legislature, the State Board of Education, and the agency not later than January 1 of each odd-numbered year.

The biennial report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

The full text of statutory citations can be found in the statutory authority section of this agenda.

BACKGROUND INFORMATION AND JUSTIFICATION: The board of the TxSSC is required to provide a report to the SBOE that addresses any findings made by TxSSC regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center. This item provides an opportunity for the committee to hear an update related to this report.

Staff Member Responsible:

John Scott, Chief of School Safety and Security

INFORMATION MATERIALS

STATE BOARD OF EDUCATION OPERATING RULES
(amended February 2, 2023)

CHAPTER 1. BOARD ORGANIZATION

The statutory citation for this chapter is the Texas Education Code, §7.107.

§1.1. Officers of the Board.

(a) Selection.

- (1) The vice chair and secretary of the board shall be elected by a majority vote in accordance with Texas Education Code, §7.107, to serve for a term of two years and until their successors are elected.
- (2) Either of these officers may be removed from office by a vote of not less than two-thirds of the membership of the board.
- (3) In case of death or resignation of the vice chair or the secretary of the board, the board shall elect by a majority vote a board member to fill the vacancy for the unexpired term of that officer at the next board meeting.

(b) Duties.

- (1) Chair. The chair shall preside at meetings and perform all other duties prescribed by law, by board rule, or by board direction.
- (2) Vice chair. The vice chair shall perform the duties of the chair in case of absence or disability of the chair and other duties as the chair may request. Should the office of the chair become vacant, the vice chair shall serve as chair until a successor has been appointed by the governor.
- (3) Secretary. The secretary shall perform all duties as required by law and such other duties as the chair may request.

§1.2. Committees of the Board.

- (a) The standing committees of the board and their areas of oversight are:

Committee of the Full Board

1. Establishment of essential knowledge and skills (TEKS)
2. Instructional materials proclamations and adoption of instructional materials
3. Consideration of the Commissioner of Education's open-enrollment charter school proposals

Committee on Instruction

1. Establishment of curriculum and graduation requirements
2. Curriculum implementation (including credit by examination, Texas Advanced Placement Incentive Program, and procedures concerning dyslexia and related disorders)
3. Student assessment program implementation
4. General education
5. Education of individuals with disabilities
6. Gifted and talented education
7. Adult education
8. Library standards
9. Texas School for the Blind and Visually Impaired/Texas School for the Deaf

Committee on School Finance/Permanent School Fund

1. State and federal funding issues
2. Financial budgeting, reporting, and regulation
3. Contract and grant approval
4. Instructional materials financing and operations
5. Community education funding
6. Oversight of the Bond Guarantee Program including coordination with the TEA and the Texas Permanent School Fund Corporation (Texas PSF)
7. Oversight of the Texas PSF, including receipt of required reports
8. Review of nominations for gubernatorial appointments: Teacher Retirement System, School Land Board

Committee on School Initiatives

1. Long-range plans required by statute
2. Educational technology and telecommunications
3. Updates regarding open-enrollment application cycles and processes
4. School safety and items pertaining to the Texas school safety center and recommendations from the chief of school safety and security
5. State Board for Educator Certification rules review
6. School board member training policy
7. Hearing examiners
8. Military reservation and special purpose school districts
9. Extracurricular activities
10. Home-rule school district probation and revocation

- (b) Amendments to the areas of committee oversight reflecting new or changing board responsibilities may be made during the board's periodic operating rules review or by means of resolution addressing the change in responsibilities should such change occur between the operating rules review.
- (c) Committees may receive information, investigate, study and report to the board. The board may from time to time define by resolution the areas of oversight of each committee as may be necessary. Each committee shall review and make recommendations on the board agenda items falling under its areas of oversight; except that the chair of the board, in consultation with the respective committee chair, may designate any board agenda item for review and recommendation by the Committee of the Full Board.
- (d) The Committee of the Full Board shall be composed of all members of the board, and the chair of the board shall be the chair of the Committee of the Full Board.
- (e) The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments in the public view for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board shall consider relevant qualifications specific to a committee assignment in making committee assignments.
- (f) Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as the chair of a standing committee. Should the committee chair be unable or unwilling to continue to serve as chair, the chairman of the board shall declare a vacancy and a new election shall be held by the committee.
- (g) Ad hoc committees (i.e., task forces) may be constituted from time to time as directed by a vote of the board or by the chair to perform such duties as the board or chair may assign. The personnel and length of service of ad hoc committees shall be designated by the chair unless otherwise directed by a vote of the board. No action taken by any ad hoc committee shall be final or binding upon the board unless otherwise directed by a vote of the board.
- (h) Occasionally, committees may find it necessary to request legal opinions, comprehensive studies, or reports to be prepared by the staff to aid the committees in their deliberations. To ensure clarity and coordination, all such requests shall be directed to State Board of Education Support staff and shall be reflected in the minutes of the committee meeting. The Chair or the Commissioner may request that the Attorney General issue an opinion under Texas Government Code §402.042.
- (i) The members appointed to the Committee on School Finance/Permanent School Fund will serve as the members of the board of directors of the Texas PSF that are appointed by the SBOE as provided under Texas Education Code §43.053(a)(1) and will cease to serve as a director upon the expiration of his or her term of service or other separation from such committee in accordance with these rules as provided under 19 TAC Chapter 33, Texas Permanent School Fund Corporation, §33.21.

§1.3. Board Member Seating Selection.

With the exception of the chair, vice chair, and secretary, the seating of board members will be by State Board of Education districts. The seating for the remaining 12 members will be rotated annually at the first board meeting of the calendar year. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

CHAPTER 2. MEETINGS

The statutory citations for this chapter are the Texas Education Code, §§7.055, 7.106, 7.107, 7.110, and 39.030, and the Texas Government Code, Title 5, Open Government; Ethics, Subtitle A, Open Government, Chapter 551, Open Meetings.

§2.1. Regular Meetings of the Board.

In accordance with Texas Education Code, §7.106, at least four regular meetings of the board a year shall be held in Austin, Texas. If a quorum is not present for a meeting, the meeting shall be recessed or adjourned and all items on the agenda shall be heard at a subsequent meeting.

§2.2. Special Meetings of the Board.

Special meetings of the board may be held at times and places as ordered by the chair during a regular meeting, or special meetings may be called by the chair of the board to be held at a time and place the chair shall designate.

§2.3. Open Meetings.

Regular, special, and committee meetings of the board shall be open to the public; however, the board or board committees may meet in executive session in accordance with law and these rules. Open meetings of the board and standing committees shall be broadcast live over the Internet. The chair may limit in-person attendance at a meeting to ensure health and safety of board members and members of the public. In such instances, governor's orders shall be followed, and members of the public shall be given access to view all portions of the meetings virtually.

§2.4. Executive Sessions.

Executive sessions of the board or of board committees are meetings with only board members and persons authorized by law. Executive sessions shall be held in accordance with Texas Government Code, Chapter 551, Open Meetings.

§2.5. Agendas.

- (a) The chair has the primary responsibility for creating the SBOE meeting agendas. This includes the SBOE agenda, the Committee of the Full Board agenda, and all committee agendas. Other than as provided in this subsection and subsections (b) and (c) of this section, all agenda items are subject to the approval of the chair. If a member wishes an item to be placed on the agenda of the Committee of the Full Board, the member should request in writing that the chair place the item on the agenda. The chair will respond in writing whether or not the item will be placed on the agenda. If the chair declines in writing to place the item on the agenda, the member may make a motion during a board meeting to include the item on the agenda. If the board approves the request, it is placed on the agenda of the Committee of the Full Board for the next meeting.
- (b) The chairs of the Committee on Instruction, Committee on School Finance/Permanent School Fund, Committee on School Initiatives, and ad hoc committees shall collaborate with the board chair regarding items to be placed on their respective committee agendas. Committee agendas shall include statutorily mandated motions, items assigned to the

committee by the board chair, items posted at the discretion of the committee chair and items voted on as set out in subsection (c) below. Committee chairs may post discussion items per their discretion, but action items must be approved by the board chair, subject to the process set out in (c) below.

- (c) Any member of the board may request that a committee chair place an item on the agenda of that chair's committee, other than the Committee of the Full Board, as either a discussion item or an action item. If the committee chair agrees, the item is placed on the agenda of that chair's committee in accordance with the member's request, subject to the approval of the board chair. If the committee chair denies the member's request, the member may appeal the denial to the board chair. If the board chair denies the request, the member may appeal the denial to the board. If the board approves the request, it is placed on the agenda of the committee to which the request was made at the next meeting of that committee.
- (d) A subject on the agenda that is outside the scope of the board's authority may only be considered by the board or the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination regarding whether an item is outside the scope of the board's authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board's authority on the agenda for a subsequent meeting.
- (e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item. Materials supplementing the agenda may be included as attachments.
- (f) Official agendas and agenda attachments will be available one week before the board meeting. Any items submitted after this deadline may be considered at the next board meeting.

§2.6. Official Transaction of Business.

- (a) The board shall transact official business only when in session with a quorum present. Unless otherwise provided by law, in order for a board action to be final, it must be approved by a majority of the board members present and voting.
- (b) The chair may authorize the board to meet via remote video or web conference. As required by Government Code §551.127(c), if videoconference calling technology is used, the meeting location where the presiding officer of the meeting is present must be open to the public, except during executive sessions. The chair may limit the number of remote conference locations in the interest of decorum and capacity.
- (c) The chair may modify procedures for conducting meetings of the board if emergency protocols are enacted by the governor related to a pandemic or similar event. In such instances, governor's orders and emergency rules shall be followed.
- (d) A board member who wishes to participate in a meeting virtually shall notify the board chair and the State Board of Education Support office at least five business days prior to the start of the full board meeting during which the member will need to participate virtually. In the event of an emergency, every effort will be made to accommodate the board member. If a board member participates in a meeting virtually, the board member

must be visible by video and must have capabilities to be heard by other board members and members of the public. A member who is not present on camera during a vote of the board will be noted as absent for the vote.

- (e) No posters, props, or other visual displays are allowed by board members within the meeting rooms or at remote locations without permission from the presiding chair.
- (f) The presiding chair shall designate the area inside the velvet ropes as the bar of the meeting (the only place where discussion and votes may take place). Members of the public shall not enter areas of the bar of the meeting space designated for SBOE members only and shall not impede or interfere with the movement of SBOE members to or from designated areas. At the start of each meeting, the presiding chair shall inform members of the public that the bar has been established, that they are not permitted inside the bar, and that they may not limit members' movements to or from the bar.
- (g) For the sake of expediency, each board member shall be limited to 10 minutes of questions and discussion on each agenda item.

§2.7. Rules of Order.

- (a) The board shall observe *Robert's Rules of Order, Newly Revised*, except as otherwise provided by board rules or by statute.
- (b) The presiding chair shall preserve order and decorum during meetings by informing all individuals in attendance of the rules of decorum and providing notice that written rules are posted at the entrance to the room and in the room. The presiding chair shall also provide notice that an individual who does not comply with the rules of decorum may be removed from the meeting. In case of disturbance or disorderly conduct in the public gallery, the chair may order that any disruptive individuals be cleared from the area.
- (c) Members in the audience shall not distract or disrupt SBOE members or others in the audience during a meeting. Anyone needing to engage in a conversation should quietly exit the meeting room to a public space. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.
- (d) No signs, placards, flags, noisemakers, or other objects of a similar nature shall be permitted in the audience gallery area.
- (e) No applause, outburst, other demonstration, or disruption by any spectator shall be permitted during any portion of any State Board of Education meeting. After warnings to the audience to refrain from such demonstrations, the presiding chair may direct that disruptive individuals in the gallery area be removed as necessary to preserve decorum during meetings. If, after at least one warning from the presiding officer, any individual continues to disrupt a meeting by his or her words or actions, the presiding officer may direct that the individual be removed as necessary to preserve decorum during meetings.
- (f) Supporters of a testifier may not gather behind the podiums used for testimony. Testifiers are free to use a portion of their testimony time to acknowledge supporters seated in the audience.

§2.8. Minutes.

The official minutes of the board shall be kept by the office of the commissioner of education or the commissioner's designee and shall be available to any citizen desiring to examine them. Official minutes are those which the board has approved, and which carry the original signature of the secretary of the board.

§2.9. Resolutions.

- (a) A member wishing to offer a resolution shall give notice of the resolution by submitting a copy to the chair and the State Board of Education Support staff not less than four weeks prior to the Monday of the week during which the meeting at which the resolution is to be considered. The board shall consider the resolution and any germane amendments at the next meeting following such notice.
- (b) Titles for congratulatory, commendatory or other non-substantive resolutions shall be submitted by the timelines prescribed in this section with resolution text following a date and time consistent with the staff's pre-meeting preparation timeline.
- (c) The board may consider a resolution which expresses an opinion related to specific instructional materials or which expresses concerns as to the appropriateness of specific instructional materials for certain ages or populations. Resolutions considered under this subsection must conform to the following:
 - (1) The resolution shall be submitted in compliance with subsection (a) of this section.
 - (2) Board action on a resolution expressing an opinion related to specific instructional materials may only be considered after final action has been taken concerning placement of the specific instructional materials on the list of adopted instructional materials for use in the public schools of Texas. Board action relative to instructional materials resolutions must take place within 90 days of adoption of the specific instructional materials under 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, §66.66(b).
 - (3) Nothing in the resolution shall be construed to replace or modify any final action taken by the board under 19 TAC Chapter 66.
 - (4) The board may adopt a resolution expressing an opinion related to instructional materials based on the following criteria:
 - (A) Instructional materials should present the most current factual information accurately and objectively without editorial opinion or bias by the authors. Theories should be clearly distinguished from fact and presented in an objective educational manner. Materials should focus on scientific processes and recognize the ongoing process of scientific discovery and change over time in the natural world.
 - (B) Instructional materials should promote citizenship, patriotism, democracy, understanding of the essentials and benefits of the free enterprise system, respect for recognized authority, and respect for individual rights. The materials should not include selections or works that encourage or condone civil disorder, social strife, or disregard of the law. Violence, if it appears,

should be treated in the context of its cause and consequence. It should not appear for reasons of unwholesome excitement or sensationalism.

- (i) Instructional materials should present positive aspects of the United States and Texas and its heritage and abundant natural resources.
 - (ii) When significant political or social movements in history generate no clear consensus, instructional materials should present balanced and factual treatment of the positions.
 - (iii) Free enterprise means an economic system characterized by private or corporate ownership of capital goods; investments that are determined by private decision rather than by state control; and prices, production, and the distribution of goods that are determined in a free market.
- (C) Instructional materials should not include blatantly offensive language or illustrations.
- (D) Instructional materials should treat divergent groups fairly without stereotyping and reflect the positive contributions of all individuals and groups to the American way of life. Illustrations and written materials should avoid bias toward any particular group or individual and present a wide range of goal choices. Particular care should be taken in the treatment of ethnic groups, issues related to the aging and aged, roles of men and women, the dignity of workers, and respect for the work ethic.
- (i) Instructional materials should not encourage lifestyles deviating from generally accepted standards of Texas society.
 - (ii) Instructional materials should provide an objective view of cultural confluence and include information needed to develop mutual understanding and respect among all elements of our population. Materials should reflect an awareness that culture and language variation does exist and can be used to promote successful learning.
 - (iii) Instructional materials should present examples of men and women participating in a variety of roles and activities and also shall present the economic, political, social, and cultural contributions of men and women, past and present.
 - (iv) Instructional materials that treat aspects of the world of work should reflect the positive contributions of all types of careers to the American economic system and way of life. People presented should reflect varieties of work and be treated without bias toward particular kinds of work.
 - (v) Instructional materials should present traditional and contemporary roles of men, women, boys, and girls.
 - (vi) Instructional materials should present balanced treatment of issues related to aging and the aged.
 - (vii) Instructional materials shall present factual information, avoid bias, and encourage discussion.

- (5) A representative of the publisher of the specific instructional material shall be given the opportunity to address the board prior to action by the board on such a resolution.
- (6) A copy of any resolution passed by the board expressing an opinion related to specific instructional material shall be provided to the board president and superintendent of each school district in Texas.

§2.10. Oral Public Testimony in Connection with Regular Board and Committee Meetings.

(a) General Provisions.

- (1) In accordance with Texas Education Code, §7.110, the board shall provide opportunity for oral public testimony at regular committee meetings, special meetings, and at regularly scheduled meetings of the State Board of Education.
- (2) Work session and ad hoc committee meetings are exempt from this requirement.
- (3) The presiding chair shall take appropriate action to avoid unduly repetitious testimony.
- (4) The presiding chair shall assure that members of the public with differing viewpoints have reasonable access to address the board and take steps to ensure that individuals will be given priority over registered lobbyists.
- (5) The presiding chair shall determine which speakers will be heard and the order in which they will be heard if the number exceeds that number which may reasonably be expected to testify in the allotted time for presentations. The presiding chair shall also determine whether speakers who did not register or who registered late will be heard and whether persons asking to testify as a substitute for a registered speaker may do so.
- (6) The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.
- (7) At the start of public testimony or a public hearing, the presiding chair shall announce that testimony will be heard for a maximum of two consecutive hours at which time a recess of at least 15 minutes will be observed. Testimony will continue in this manner until such time as all registered testifiers have been permitted to speak. The presiding chair shall also announce that reasonable lunch and dinner breaks will be observed.

(b) Registration Procedures.

- (1) Individuals may register between the hours of 8 a.m. (Central Time) on the Monday preceding the board meeting and 5 p.m. on the Friday preceding the board meeting on the agency website at [Operating Rules](#) or, during normal operating hours, by telephone at (512) 463-9007 or in person at the William B. Travis (WBT) State Office Building, 1701 N. Congress, room 1-109, Austin, Texas 78701.
- (2) The speaker shall provide his or her name and organizational affiliation, if any, contact telephone number, mailing address, email address, and indicate which item or topic the speaker will address and viewpoint on the topic; and the speaker will disclose if he or she is a lobbyist registered with the Texas Ethics Commission.
- (3) Those registering online will receive an email confirming the registration during the next business day.
- (4) Registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
- (5) Late registration will be accepted until 30 minutes before the scheduled start of a meeting, however late registrants are not guaranteed an opportunity to testify due to time constraints.
- (6) Speakers will be informed if it appears that time constraints will not permit all speakers to make their presentation within the allotted time.
- (7) All speakers may provide an electronic copy of their testimony. Registered speakers who are unable to make their presentations due to time constraints are encouraged to provide an electronic copy of their testimony for distribution to board members and agency executive staff. Written testimony will not be attached to committee minutes.

(c) Oral Public Testimony to Committees.

- (1) Oral public testimony to committees is limited to the topics posted for action or discussion on committee agendas at that specific committee meeting.
- (2) In order to maximize the total number of testifiers who are able to provide oral testimony, two-minute time limits on individual oral testimony will be imposed unless modified by the presiding chair.
- (4) The presiding chair shall designate whether oral public testimony shall be taken at the beginning of the meeting or at the time the related item is taken up by the committee.
- (5) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The committee, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

(d) Oral Public Testimony to the General Meeting of the Board.

- (1) Oral public testimony at general meetings of the State Board of Education is limited to topics that are *not* posted for action or discussion at the corresponding regular committee meetings or information published in the information section of the agenda.
- (2) Thirty (30) minutes shall be allotted for oral public testimony, excluding the questions and answers, at the beginning of each board meeting, unless modified by a majority vote of the board. Two-minute time limits on individual oral testimony will be imposed unless modified by the presiding chair. Testimony invited by board members shall not be counted against the time allotted for oral public testimony. Agency staff shall inform the presiding chair and any affected registered speakers prior to the meeting if time constraints may not allow some registered speakers to testify.
- (3) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.

§2.11. Written Testimony in Connection with Regular Board and Committee Meetings.

- (a) Persons may file written testimony with regard to any committee or board agenda item. Any written testimony or comments shall identify the date of the meeting; the subject of the comments; the name of the author; the name of the author's organizational affiliation, if any; and indicate whether the author is a lobbyist registered with the Texas Ethics Commission.
- (b) If the written testimony is submitted at the regular board or committee meeting, an electronic copy may be provided for distribution to board members and agency executive staff. Written testimony will not be attached to the board minutes.
- (c) Persons who are unable to attend or to testify at a committee or board meeting due to time constraints may provide an electronic copy of their testimony to agency staff for distribution to board members and agency executive staff.

§2.12. Public Hearings.

- (a) Types of Public Hearings.
 - (1) Hearings regarding proposed board rules. The board shall conduct a public hearing on a substantive rule if a hearing is requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members. Testimony is restricted to comments regarding the proposed action. The hearing must be set to take place before any action is adopted. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules.
 - (2) Other types of hearings. The board may also hold public hearings on proposed actions, such as those relating to adoption of Texas Essential Knowledge and Skills (TEKS) and instructional materials issues. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules. Public

hearings regarding the instructional materials adoption process are governed by 19 TAC §66.60. Public hearings regarding revision of the TEKS are governed by the SBOE-approved TEKS Review and Revision Process.

- (b) Speakers shall preregister in accordance with the procedures set out in §2.10(b).
- (c) The presiding chair shall establish the procedures for conducting the public hearing. These procedures shall include, but are not limited to, the following:
 - (1) Providing for presentations from invited persons or an introduction from staff;
 - (2) Providing that preregistered speakers are heard in order of registration times and dates, or requiring alternating points of view in order of registration times and dates;
 - (3) Establishing time limits for speakers, generally two minutes each;
 - (4) Adjourning the hearing at the end of the allotted time period listed in the agenda item or any extension granted by a vote of the majority of the board or appropriate committee.
- (d) Persons who testify at a public hearing may bring an electronic copy of their testimony for distribution to board members and agency executive staff.
- (e) Persons who are unable to testify at a public hearing due to time constraints may provide an electronic copy of their testimony to agency staff for distribution to board members and agency executive staff.
- (f) Prior to the meeting, agency staff shall inform the presiding chair and shall attempt to inform any affected registered speakers if time constraints may not allow some registered speakers to testify.

§2.13. Public Comments Regarding Proposed Rulemaking.

All interested persons have a reasonable opportunity to submit data, views and arguments, prior to the board adoption of any rule. Public comments regarding proposed board rules may be submitted as provided in the notice of proposed rulemaking published in the *Texas Register*. The deadline for submitting public comments will be noted in the *Texas Register* posting for each item. A minimum of 30 days will be allotted for public comment on a rule item. The board will also take registered oral and written comments on proposed rulemaking at the appropriate committee meeting.

CHAPTER 3. TRAVEL AND EXPENSES

The statutory citations for this chapter are the Texas Education Code, §7.105, Texas Government Code, Chapter 660, and the General Appropriations Act.

§3.1. Reimbursement of Expenses.

- (a) Members of the State Board of Education receive no salary but are reimbursed for all expenses incurred for attending regular and special meetings of the board and of board committees.
- (b) All reimbursements for expenditures shall be in accordance with Texas Education Code, §7.105(b), Texas Government Code, Chapter 660, the General Appropriations Act, and these rules.
- (c) Only expenses of board members may be reimbursed. Expenses for spouses, family, or other persons traveling with board members are not reimbursable.
- (d) Board members must submit receipts for the following expenses:
 - (1) public transportation (excluding receipts for bus, taxi, ride share services or limousine);
 - (2) car rental;
 - (3) lodging; and
 - (4) conference registration fees (which may not include banquets, books, or materials).
- (e) Lodging receipts must show the rate for single occupancy plus tax which will be the maximum reimbursable amount per day for lodging.
- (f) Receipts are not required to claim expenses for meals; however, the General Appropriations Act provides that "none of the funds appropriated under this act for travel expenses may be expended for alcoholic beverages" and no such expenses may be claimed for reimbursement.
- (g) Other official travel expenses which board members may claim include the following when the expenses are required for the conduct of state business:
 - (1) parking fees (including personal vehicles);
 - (3) notary fees for official documents; and
 - (4) wireless connection.

- (h) Board members may not claim reimbursement for expenses such as the following:
 - (1) laundry or other personal items;
 - (2) tips or gratuities of any kind; and
 - (3) alcoholic beverages.
- (i) All claims for reimbursement will be reviewed by agency accounting personnel to ensure compliance with the requirements of the appropriations act, and any appropriate adjustments to claims shall be made by staff.
- (j) A yearly budget shall be established for travel of board members. The budgeted amount would include an allotment of travel funds for board members to attend board meetings and committee meetings, and an allotment for in-district, out-of-district, and out-of-state meetings. An additional allotment shall be budgeted for travel of the chair when representing the State Board of Education at meetings. When there is a change in office during the fiscal year, the travel budget will be reassigned to the new board member.
- (k) A board member may be reimbursed for travel expenses for attending activities other than State Board of Education meetings and committee meetings provided that the board members are in compliance with the following procedures:
 - (1) In-District and Out-of-District Travel. In-district and out-of-district travel is at each member's discretion. Prior approval is not required; however, any travel for which reimbursement is requested must be directly related to the duties and responsibilities of the State Board of Education. Any requests for reimbursement, directly or indirectly related to seeking election to office, will not be allowed.
 - (2) Out-of-State Travel. Prior approval is required by the officers of the board (chair, vice chair, and secretary).
- (l) A board member may be reimbursed for travel expenses incurred while serving on any board, council, or commission or serving in any official board position as an appointee for specific administrative functions when appointed by the State Board of Education or its chair, or subject to approval of the board or its officers of the board.
- (m) None of the funds appropriated in the General Appropriations Act shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure.

§3.2. Travel Arrangements and Hotel Reservations for State Board of Education Meetings.

- (a) Board members shall be responsible for making their own arrangements for travel to and from board meetings. Agency travel coordinators are available for assistance.
- (b) A State Board of Education Support staff member or his/her designee will make guaranteed hotel reservations for each board member upon request.

- (c) Any change in or cancellation of reservations shall be the responsibility of the individual board member in whose name the reservations were made. Board members who wish to change or cancel their reservations must contact the hotel directly or call the State Board of Education support office. All bills received by the agency for unused or uncanceled reservations will be forwarded for payment to the board member in whose name the reservations were made.

§3.3. Acceptance of Gifts and/or Grants for Charter School Evaluation.

- (a) Purpose. The State Board of Education (SBOE) may accept a gift and/or grant for the limited purpose of expenses associated with evaluating an applicant for an open-enrollment charter school.
 - (1) An entity making a gift and/or grant under this section may not:
 - (A) limit the use of the funds to any individual applicant, cycle or class of applicants;
 - (B) be a charter operator in this or any other state, a management company, service provider or vendor of any kind to charter schools in this or any other state;
 - (C) have common board members or corporate members with any entity operating a charter in Texas or applying to operate a charter in Texas;
 - (D) be an individual required to register as a lobbyist under Chapter 305, Government Code; or
 - (E) be an employee, attorney, contractor or other agent of any kind to charter schools in this or any other state.
 - (2) An entity making a gift and/or grant under this section may not do so if the source of funds used for the gift and/or grant were received from an entity that could not make a gift and/or grant under this section.
 - (3) For purposes of this section, a spouse or dependent child of an individual prohibited from making a gift and/or grant is also prohibited.
 - (4) For purposes of this section, an entity includes any legal entity such as corporations, individuals and other business associations. An individual is limited to a natural person.
 - (5) An entity making a gift and/or grant shall certify that it has complied with all requirements of this section in a format approved by the board chair.
- (b) Procedure. The SBOE may accept a gift and/or grant under this section only by an affirmative vote of the board.
 - (1) A charter may not be evaluated using funds under this section unless the commissioner has:

- (A) proposed to award a charter to that applicant pursuant to Section 12.101(b); or
 - (B) requested the participation of individual board members in the agency's preliminary evaluation of an applicant.
- (2) The commissioner shall receive, disburse, and account for funds accepted by the board.
 - (3) Funds accepted under this section may be used solely to pay reasonable travel expenses, including meals and accommodations, for SBOE members and TEA staff as necessary to evaluate applicants for open-enrollment charter schools under this section. Unless approved by the board chair and the commissioner, travel expenses are limited to those available for travel by SBOE members or state employees.
 - (4) In making decisions under this section, the board chair will consult with the board member acting as a liaison under Section 12.101(b). The board chair will also consult with the chair of the Committee on School Initiatives, unless doing so would create a quorum of a committee of the board. A decision by the board chair under this section is final.
 - (5) Board members evaluating a charter applicant under this section shall be selected by the board chair. The board chair will, to the extent possible, give preference to board members whose districts include proposed locations at which the charter would operate. Under no circumstances will a quorum of the board or a committee of the board participate in an evaluation under this section.
 - (6) The board chair may request that relevant TEA employees accompany board members in evaluating charter applicants under this section. The commissioner must approve participation of agency employees.
 - (7) Except as provided by this subsection, board members and TEA staff may not accept anything of value from an applicant and shall limit contact with the applicant and its employees and representatives to the actual investigation of the charter. The board chair may authorize acceptance of reasonable local transportation and meals from the applicant as necessary to facilitate the evaluation.
 - (8) In addition to board members and TEA staff, the board chair may authorize other professionals to participate in an evaluation under this section. Such a professional may not be an individual or entity unable to donate funds under subsection (a) and is subject to all conditions and limits imposed by this section on board members.
- (c) Evaluation. Each board member will individually report to the Committee on School Initiatives regarding his/her evaluation of a proposed charter prior to consideration of the charter by the board under §7.102(c)(9). The Committee on School Initiatives will develop a standard form for use by board members in evaluating a charter under this section.
 - (d) Reporting. Expenses reimbursed for each board member, TEA staff or other professionals shall be made publicly available and reported as appropriate on a board member's personal financial statement.

CHAPTER 4. CONDUCT AND PUBLIC RELATIONS

The statutory citations for this chapter are the Texas Education Code, §7.108; the Texas Government Code, §305.006, and Chapter 572, Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest; and the Texas Election Code, Chapter 251, General Provisions.

§4.1. Standards of Conduct and Conflicts of Interest.

- (a) Personal interest in board actions. Whenever a board member has a private or personal interest including financial interest in any matter to be voted upon by the board, such a member shall state at an open meeting that he or she has such an interest in the matter and shall abstain from voting and discussion concerning the matter (See Texas Government Code §572.058 for further information.).
- (b) The ethical standards that govern the conduct of State Board of Education members with respect to their duties as to the Permanent School Fund are as provided under 19 TAC Chapter 33, §33.4 *Ethical Standards for Members of the State Board of Education*.

§4.2. Press and Public Relations.

- (a) Prior to each State Board of Education meeting, the agenda shall be made available by agency staff to the capitol press corps; governor's office; Legislative Budget Board; Legislative Reference Library; School Land Board; Texas Higher Education Coordinating Board; regional education service centers; and state offices of professional education organizations which have requested the agenda.
- (b) A press table shall be provided at meetings of the State Board of Education and press representatives shall be supplied with copies of the official agenda for the meeting and other materials relating to specific agenda items.
- (c) The State Board of Education shall seek to maintain open relations with the press by answering reporters' questions frankly and by providing official statements through press releases and answers to follow-up inquiries.

§4.3. Disclosure of Campaign Contributions and Gifts.

- (a) Any person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose whether, at any time in the preceding four years, the person, corporation, or other legal entity has made a campaign contribution to a candidate for or member of the State Board of Education. Disclosure shall be made in writing to the commissioner of education and distributed to board members 14 calendar days prior to consideration by the board or any committee of a contract, grant, or charter.

- (b) A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose in the same manner any benefit conferred on a candidate for or member of the State Board of Education during the preceding four years. A benefit need not be disclosed if the aggregate value of benefits conferred on a candidate for or a member of the State Board of Education during the preceding four years does not exceed \$250, or a different limit set by §572.023(b)(7), Texas Government Code. This requirement applies whether or not the person, corporation, or other legal entity is required to report the expenditure to the Texas Ethics Commission. For purposes of this section, a benefit is not conferred if the candidate for or a member of the State Board of Education has paid for the member's own participation, as well as any participation by other persons for the direct benefit of any business in which the member has a substantial interest as defined under Texas Government Code §572.005 (1) - (7).
- (c) In this section:
- (1) "person, corporation, or other legal entity" includes:
 - (A) any individual who would have a "substantial interest" in the person, corporation, or other legal entity as that term is defined in Texas Government Code, §572.005 (1) - (6);
 - (B) an attorney, representative, registered lobbyist, employee, or other agent who receives payment for representing the interests of the person, firm, or corporation before the board or to board members, or whose duties are directly related to the contract, grant, or charter; or
 - (C) an individual related within the first degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to the person covered by (c)(1).
 - (2) "contract, grant, or charter" means any application to enter into a direct contractual relationship with or otherwise receive funding from the State Board of Education, including without limitation applicants for charters to operate open enrollment charter schools.
 - (3) "campaign contribution" has the meaning defined in Texas Election Code, §251.001.
 - (4) "benefit" has the meaning defined in Texas Penal Code, §36.01.
 - (5) "candidate for or a member of the State Board of Education" includes a person related within the first degree of affinity or consanguinity, as determined under Chapter 573, Government Code, to a candidate for or a member of the State Board of Education.
- (d) A person, corporation, or other legal entity has a continuing duty to report contributions or expenditures made through the term of a contract, grant, or charter and shall within 21 calendar days notify the commissioner of education and the board chair upon making a contribution or expenditure covered by this section.

- (e) Failure to disclose a contribution or expenditure under this section shall be grounds for canceling or revoking the contract, grant, or charter in the discretion of the board. Only those contributions or expenditures made after the effective date of this rule are required to be disclosed.
- (f) This section does not affect the validity of contracts, grants, or charters existing on its effective date but does apply to the renewal or extension of any contract, grant, or charter.
- (g) Before distributing bids or applications for a contract with the board, staff will provide any disclosure made under subsection (a) or (b) to a board member to whom the disclosure applies. A board member shall have 10 calendar days to provide a written statement relating to the disclosure for distribution along with all disclosures.
- (h) An SBOE member shall on April 15 of each year submit a list of businesses that the SBOE member has a substantial interest in as defined in Texas Government Code §572.005 (1) - (7) and all DBAs or assumed names of any such businesses. If any change occurs in the identities of businesses that an SBOE member has a substantial interest in, the SBOE member shall submit an amendment within 30 calendar days of the date of such change. A person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter that may be granted by the State Board of Education shall be provided the combined list of all board members and shall disclose any campaign contribution or benefit under subsections (a) or (b) on behalf of any business in which an SBOE member has a substantial interest.

§4.4. Instructional Materials Submitted to the Texas Resource Review.

- (a) An SBOE member shall not nominate instructional materials for submittal to the Texas Resource Review without a majority vote of the board endorsing said nomination.

CHAPTER 5. RULES AND THE RULEMAKING PROCESS

The statutory citation for this chapter is the Texas Government Code, Chapter 2001, Subchapter B; Texas Government Code, Chapter 2002, Subchapter B; Texas Education Code, §7.102(e)-(f).

§5.1. State Board of Education Rules.

- (a) An action of the board to adopt a rule under the Texas Education Code is effective only if the rule's preamble published in the *Texas Register* includes a statement of the specified statutory authority contained in the Texas Education Code to adopt the rule.
- (b) Rules submitted to the Office of the Secretary of State for publication in the *Texas Register* shall conform to requirements promulgated by the Secretary of State.

§5.2. Adoption, Amendment, and Repeal of State Board of Education Rules.

- (a) Proposed new rules, amendments, and repeals must appear on the agenda for discussion at one board meeting and for action at two subsequent board meetings as first reading and second reading, unless a departure from this rulemaking process is approved by the board.
- (b) Each member of the board shall receive copies of the preliminary and official board meeting agendas containing all proposed new rules, amendments, or repeals to be considered at least one week before the board meeting.
- (c) The board may take action only if the rule is posted for action in the official notice of the meeting that is published in the *Texas Register*. The commissioner is authorized to file information with the Secretary of State to comply with the requirements of Texas Government Code, Chapter 2001, Subchapter B; and Texas Government Code, Chapter 2002, Subchapter B, regarding adoption of rules.
 - (1) **First Reading and Filing Authorization.** The board may authorize the commissioner to file a proposed new rule, amendment, or repeal with the Secretary of State for publication in the *Texas Register* as it appears in the agenda or with changes to the material presented in the agenda.
 - (2) **Second Reading and Final Adoption.** If the public comment period after filing the proposal with the Secretary of State has elapsed, the board may adopt a new rule, amendment, or repeal. If a board committee determines that a substantial revision of the material presented in the agenda shall be considered, the board shall not take final action before the next board meeting.
 - (3) **Withdrawal.** The board may authorize the commissioner to withdraw a proposed new rule, amendment, or repeal that was previously filed with the Secretary of State.
 - (4) **Refiling.** The board may authorize the commissioner to withdraw and refile a proposed new rule or amendment that was previously filed with the Secretary of State if there are substantive changes from the original filing.

- (d) The board may authorize the commissioner to conduct a public hearing on behalf of the State Board of Education concerning board rules. The public hearing shall be transcribed and the transcript made available for review by board members.
- (e) Except as otherwise provided by law, a rule does not take effect until the beginning of the school year that begins at least 90 days after the date of the rule adoption.
- (f) A rule may take effect earlier than the date set forth in subsection (e) if the rule's preamble specified an earlier date with the reason for the earlier date and:
 - (1) the earlier effective date is a requirement of:
 - (A) a federal law, or
 - (B) a state law that specifically refers to Texas Education Code §7.102 and expressly requires the adoption of an earlier effective date; or
 - (2) on an affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

§5.3. Emergency Rules.

The board may adopt emergency rules without prior notice or hearing. Conditions under which emergency rules may be adopted and the periods for which they are effective are governed by Texas Government Code §2001.034. The board shall also comply with the requirements of Section 5.2(f) of these rules and the notice of emergency meeting requirements in Texas Government Code, §551.045. Emergency rules will be placed on a board agenda for adoption as a permanent rule.

§5.4. Filing Non-Substantive Rule Corrections with the Secretary of State.

The commissioner may approve and file with the Secretary of State non-substantive corrections to State Board of Education rules. Non-substantive rule corrections may only include typographical, grammatical, referencing, or spelling errors and technical edits to comply with *Texas Register* style and format requirements. The commissioner will provide a mark-up of any such corrections to the board.

§5.5. Rulemaking Authority.

Except for rules adopted under §5.4 of these rules (relating to Filing Non-Substantive Rule Corrections with the Secretary of State), or other exceptions specifically authorized by the board, all rules of the State Board of Education shall be approved by the State Board of Education.

§5.6. Review of the State Board of Education Rules.

In accordance with Texas Government Code, §2001.039, the State Board of Education shall review its rules every four years to assure that statutory authority for the rules continues to exist. If necessary, proposed amendments will be brought to the board following the procedure described in §5.2 of these rules.

§5.7. Filing of Amendments.

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for second reading and final adoption shall submit the amendment in writing to the staff no later than noon on the day prior to the final vote on the adoption of the TEKS. All amendments shall be made available to the public to the extent possible. This rule may be suspended by a two-thirds vote.

CHAPTER 6. ADVISORY GROUPS

The statutory citations for this chapter are the Texas Education Code, §§7.102(b), 29.254, 32.034, and 61.077.

§6.1. General Provisions.

Content advisors and work group members will be selected in accordance with the TEKS Review and Revision Process.

CHAPTER 7. NOMINATIONS FOR GUBERNATORIAL APPOINTMENTS

The statutory citations for this chapter are the Texas Government Code, §651.009(a) and §825.003, and Texas Natural Resources Code, §32.012.

§7.1. Gubernatorial Appointments.

Pursuant to statute, the State Board of Education shall submit to the Governor lists of citizens from which appointments are to be made for the boards described in this section: Teacher Retirement System Board of Trustees and School Land Board.

§7.2. Timelines.

The Chair and/or his or her designee shall work collaboratively with staff and the Governor's Appointments Office to establish appropriate timelines for the placement on the agenda to meet appointment timelines and ensure that proper criteria are applied by the State Board of Education.

§7.3. Nominee Selection.

The board shall select nominees in such a manner as to facilitate adherence to diversity of appointments: "In each case in which the governing body of a state board, commission, or other state agency that has statewide jurisdiction is appointed by the governor or another appointing authority, the governor or appointing authority shall ensure that, to the extent possible, the membership of the governing body reflects the racial, ethnic, and geographic diversity of this state." (§651.009(a), Government Code)

§7.4. Teacher Retirement System.

The Governor shall appoint two members of the TRS board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These persons must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience preferably in investment of pension funds (Government Code §825.003). The board selection process shall be as follows:

- (a) Each member shall be entitled to nominate one person who meets the criteria described in this section.
- (b) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.
- (c) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.

§7.5. School Land Board.

The Governor shall appoint two members of the School Land Board, subject to confirmation by the senate, from lists of candidates submitted by the State Board of Education. One of the

members appointed by the governor must be a resident of a county with a population of less than 200,000.

- (a) The School Land Board duties as described in the Texas Natural Resources Code (§§32.061, 51.011, 51.413) are to:
 - (1) manage and control any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund together with the mineral estate in riverbeds, channels, and the tidelands, including islands;
 - (2) acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, real estate investments, or other interests, including revenue received from those sources, that are set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund;
 - (3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and,
 - (4) make determinations as to the release of any funds to the available school fund or to the State Board of Education for investment in the permanent school fund.
- (b) Each member shall be entitled to nominate one person who meets the criteria described in this section.
- (c) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.
- (d) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.

§7.6. Rules and Procedures.

The board may adopt additional rules and procedures related to these selection processes.

2021-2025 Rule Review Plan for State Board of Education Rules

STATE BOARD OF EDUCATION: INFORMATION

SUMMARY: This item outlines the rule review plan for State Board of Education (SBOE) rules during the period of September 2021 through August 2025. Texas Government Code (TGC), §2001.039, requires an ongoing four-year rule review of existing state agency rules, including SBOE rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for initially adopting or readopting a rule continues to exist.

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill 178, 76th Texas Legislature, 1999, amended the TGC by adding §2001.039, which requires the review of existing state agency rules. The rule review requirement in TGC, §2001.039, is designed to ensure that the reason for adopting or readopting the rule continues to exist.

The 2021-2025 SBOE rule review plan reflected in Attachment I repeats the cycle of review that was conducted during the 2017-2021 SBOE rule review period with the addition of new rules that took effect subsequent to the adoption of that plan and the removal of rules that were repealed. The 2021-2025 plan, approved by the SBOE in June 2021, is the seventh rule review cycle of SBOE rules. In accordance with Texas Education Code, §28.002(m), and as was the case with previous rule review plans, the Texas Essential Knowledge and Skills (TEKS) are exempt from the rule review requirement and are not included in the 2021-2025 rule review plan. Although the TEKS will not be reviewed as part of the rule review process, the SBOE conducts a review of the curriculum content on a schedule determined by the SBOE.

The 2021-2025 rule review plan for SBOE rules will appear on an ongoing basis in the information pages of the SBOE agenda. Any necessary modifications to the plan will also appear in the information pages of the SBOE agenda. The rule review plan will also be posted on the agency's website and updated if necessary.

Rule Review Procedures. Secretary of State rules specify the following two-step review process to implement the rule review requirement in TGC, §2001.039:

1. a Notice of Proposed Review (Intention to review) that announces a public comment period for comments on whether the reason for adopting or readopting the rules continues to exist (see example in Attachment II); and
2. a Notice of Adopted Review (Readoption) that summarizes the public comments received, if any, in response to the notice of proposed review and provides a response to each comment (see examples in Attachment II).

The rule review process for SBOE rules is illustrated in this item using three examples that present the following points: (1) if no amendments are recommended to rules under review, the item presenting the adoption of the review will complete the rule review process and no further action will be necessary; and (2) if amendments are recommended to rules under review, the item presenting the adoption of the review will complete the rule review process and the amendments will be presented as a separate item under the standard rulemaking process.

Example 1. Rule Review with No Changes

January SBOE Meeting	SBOE Committee (discussion)	Discussion item that briefly describes the rule and specifies that no changes are being recommended.
	Texas Register	After the SBOE meeting, staff files Notice of Proposed Review (see Attachment II).
April SBOE Meeting	SBOE Committee and Full SBOE	Action item that presents a summary of comments received, if any, from Notice of Proposed Review. The SBOE authorizes filing the Notice of Adopted Review, noting that no changes are being proposed to the rule as a result of the review.
	Texas Register	After the SBOE meeting, staff files Notice of Adopted Review that states the rule will continue to exist without changes (see Attachment II).
END OF REVIEW PROCESS (no item at June SBOE Meeting)		

Example 2. Rule Review with Changes

January SBOE Meeting	SBOE Committee (discussion)	Discussion item that briefly describes the rule, outlines issues to be considered, and specifies anticipated changes to the rule.
	Texas Register	After the SBOE meeting, staff files Notice of Proposed Review (see Attachment II).
April SBOE Meeting	SBOE Committee and Full SBOE (first reading)	Separate action items are included in the agenda: one that presents comments received, if any, from Notice of Proposed Review and one that provides the SBOE the opportunity to propose amendments. The SBOE authorizes filing the Notice of Adopted Review and approves the proposed amendments for first reading and filing authorization.
	Texas Register	After the SBOE meeting, staff files proposed amendments and the Notice of Adopted Review that states the rule will continue to exist and changes are being proposed (see Attachment II).
END OF REVIEW PROCESS		
June SBOE Meeting	SBOE Committee and Full SBOE (second reading)	Action item that presents the proposed amendments for second reading and final adoption. Item includes a summary of comments, if any, on proposed amendments.
	Texas Register	After the SBOE meeting, staff files adopted amendments.
END OF AMENDMENT PROCESS		

Example 3. Repeal of Rule under Review

January SBOE Meeting	SBOE Committee (first reading)	Action item that presents the proposed repeal of rule. SBOE approves proposed repeal for first reading and filing authorization.
	Texas Register	After the SBOE meeting, staff files proposed repeal. No Notice of Proposed Review required for repeals.
April SBOE Meeting	SBOE Committee and Full SBOE (second reading)	Action item that presents the proposed repeal of rule for second reading and final adoption.
	Texas Register	After the SBOE meeting, staff files adopted repeal.
END OF REPEAL PROCESS		

Staff Members Responsible:

Cristina De La Fuente-Valadez, Director, Rulemaking

Lynette Smith, Program Specialist, Rulemaking

Attachment I:

2021-2025 Rule Review Plan for State Board of Education Rules

Attachment II:

Sample Notices of Proposed Review and Adopted Review

ATTACHMENT I

2021-2025 Rule Review Plan for State Board of Education Rules
(Approved June 25, 2021)

Texas Government Code, §2001.039, requires a four-year rule review cycle for all state agency rules, including State Board of Education (SBOE) rules. The rule review is designed to ensure that the reason for adopting or readopting the rule continues to exist. It only includes rules currently in effect at the time the plan is adopted.

Texas Education Code, §28.002(m), exempts the Texas Essential Knowledge and Skills (TEKS) from the rule review requirement; accordingly, this rule review plan does not include the rule chapters for the TEKS. Although the rules will not be reviewed as part of the rule review process, the SBOE conducts a review of the TEKS on a schedule determined by the SBOE.

Review Period: September 2021–August 2022			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 74. Curriculum Requirements	<i>Subchapter A. Required Curriculum</i>	Curriculum	September 2021
	<i>Subchapter B. Graduation Requirements</i>		
	<i>Subchapter C. Other Provisions</i>		
	<i>Subchapter D. Graduation Requirements, Beginning with School Year 2001-2002</i>		
	<i>Subchapter E. Graduation Requirements, Beginning with School Year 2004-2005</i>		
	<i>Subchapter F. Graduation Requirements, Beginning with School Year 2007-2008</i>		
	<i>Subchapter G. Graduation Requirements, Beginning with School Year 2012-2013</i>		
Chapter 89. Adaptations for Special Populations	<i>Subchapter A. Gifted/Talented Education</i>	Special Populations	January 2022
	<i>Subchapter C. Texas Certificate of High School Equivalency</i>		
	<i>Subchapter D. Special Education Services and Settings</i>		
Chapter 61. School Districts	<i>Subchapter A. Board of Trustees Relationship</i>	Administration	April 2022
	<i>Subchapter B. Special Purpose School Districts</i>		

Review Period: September 2022–August 2023			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 129. Student Attendance	<i>Subchapter A. Student Attendance Allowed</i>	Finance	January 2023
	<i>Subchapter B. Student Attendance Accounting</i>		
Chapter 157. Hearings and Appeals	<i>Subchapter A. General Provisions for Hearings Before the State Board of Education</i>	Personnel	January 2023
	<i>Subchapter D. Independent Hearing Examiners</i>		

Review Period: September 2023–August 2024			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund	<i>Subchapter A. State Board of Education Rules</i>	Finance	September 2023
Chapter 66. State Adoption and Distribution of Instructional Materials	<i>Subchapter A. General Provisions</i>	Instructional Materials	November 2023
	<i>Subchapter B. State Adoption of Instructional Materials</i>		
	<i>Subchapter C. Local Operations</i>		
Chapter 100. Charters	<i>Subchapter A. Open-Enrollment Charter Schools</i>	Charter Schools	January 2024
	<i>Subchapter B. Home-Rule School District Charters</i>		

Review Period: September 2024–August 2025			
Chapter Title	Subchapter Title	Topic	Begin Review
Chapter 30. Administration	<i>Subchapter A. State Board of Education: General Provisions</i>	Administration	November 2024
	<i>Subchapter B. State Board of Education: Purchasing and Contracts</i>		
Chapter 101. Assessment	<i>Subchapter A. General Provisions</i>	Assessment	January 2025
	<i>Subchapter B. Implementation of Assessments</i>		
	<i>Subchapter C. Local Option</i>		
Chapter 109. Budgeting, Accounting, and Auditing	<i>Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts</i>	Finance	January 2025
	<i>Subchapter B. Texas Education Agency Audit Functions</i>		
	<i>Subchapter C. Adoptions by Reference</i>		
	<i>Subchapter D. Uniform Bank Bid or Request for Proposal and Depository Contract</i>		

SAMPLES

Attachment II

Notice of Proposed Review (Intention to review)

The State Board of Education (SBOE) proposes the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code (TGC), §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts.

As required by TGC, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 30, Subchapters A and B, continue to exist.

The public comment period on the review begins December 18, 2020, and ends at 5:00 p.m. on January 22, 2021. A form for submitting public comments on the proposed rule review is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_\(TAC\)/State_Board_of_Education_Rule_Review](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/State_Board_of_Education_Rule_Review). The SBOE will take registered oral and written comments on the review at the appropriate committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures.

Notice of Adopted Review (with no changes to rule) (Readoption)

The State Board of Education (SBOE) adopts the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code, §2001.039. The rules in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts. The SBOE proposed the review of 19 TAC Chapter 30, Subchapters A and B, in the December 18, 2020 issue of the *Texas Register* (45 TexReg 9253).

The SBOE finds that the reasons for adopting 19 TAC Chapter 30, Subchapters A and B, continue to exist and readopts the rules. The SBOE received no comments related to the review.

No changes are necessary as a result of the review.

**Notice of Adopted Review (with changes to rule)
(Readoption with changes)**

The State Board of Education (SBOE) adopts the review of 19 Texas Administrative Code (TAC) Chapter 30, Administration, pursuant to Texas Government Code (TGC), §2001.039. The rules in 19 TAC Chapter 30 are organized under the following subchapters: Subchapter A, State Board of Education: General Provisions, and Subchapter B, State Board of Education: Purchasing and Contracts. The SBOE proposed the review of 19 TAC Chapter 30, Subchapters A and B, in the December 18, 2020 issue of the *Texas Register* (45 TexReg 9253).

Relating to the review of 19 TAC Chapter 30, Subchapter A, the SBOE finds that the reasons for adopting Subchapter A continue to exist and readopts the rule. The SBOE received no comments related to the review of Subchapter A. As a result of the review, the SBOE approved a proposed amendment to 19 TAC §30.1, which can be found in the Proposed Rules section of this issue. The proposed amendment would update the SBOE petition procedures to allow for electronic submission of a petition authorized under TGC, §2001.021.

Relating to the review of 19 TAC Chapter 30, Subchapter B, the SBOE finds that the reasons for adopting Subchapter B continue to exist and readopts the rules. The SBOE received no comments related to the review of Subchapter B. No changes are necessary as a result of the review.

STATUTORY AUTHORITY REFERENCE SECTION:

TEXAS CONSTITUTION ARTICLE VII

TEXAS EDUCATION CODE (TEC)

TEXAS GOVERNMENT CODE (TGC)

TEXAS OCCUPATIONS CODE (TOC)

NATURAL RESOURCES CODE (NRC)

THE TEXAS CONSTITUTION
ARTICLE 7. EDUCATION
SECTION 2

Sec. 2. PERMANENT SCHOOL FUND.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.

Sec. 2A. RELEASE OF STATE CLAIM TO CERTAIN LANDS AND MINERALS WITHIN SHELBY, FRAZIER, AND MCCORMICK LEAGUE AND IN BASTROP COUNTY.

- (a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.
- (b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:
 - (1) shown on Bastrop County Rolled Sketch No. 4, recorded in the General Land Office on December 15, 1999; and
 - (2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.
- (c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.
- (d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.
- (e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.
- (f) This section is self-executing.

Sec. 2B. AUTHORITY TO RELEASE STATE'S INTEREST IN CERTAIN PERMANENT SCHOOL FUND LAND HELD BY PERSON UNDER COLOR OF TITLE.

- (a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:
 - (1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office;
 - (2) the land is not patentable under the law in effect before January 1, 2002; and
 - (3) the person claiming title to the land:

THE TEXAS CONSTITUTION
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SECTION 2

- (A) holds the land under color of title;
 - (B) holds the land under a chain of title that originated on or before January 1, 1952;
 - (C) acquired the land without actual knowledge that title to the land was vested in the State of Texas;
 - (D) has a deed to the land recorded in the appropriate county; and
 - (E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.
- (b) This section does not apply to:
- (1) beach land, submerged or filled land, or islands; or
 - (2) land that has been determined to be state-owned by judicial decree.
- (c) This section may not be used to:
- (1) resolve boundary disputes; or
 - (2) change the mineral reservation in an existing patent.

Sec. 2C. RELEASE OF STATE CLAIM TO CERTAIN LANDS IN UPSHUR AND SMITH COUNTIES.

- (a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

- (b) This section does not apply to:
- (1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;
 - (2) any navigable waterway or related interest owned by a governmental entity; or
 - (3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.
- (c) This section is self-executing.

THE TEXAS CONSTITUTION
ARTICLE 7. EDUCATION
SECTION 5

Sec. 5. PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND: COMPOSITION, MANAGEMENT, USE, AND DISTRIBUTION.

- (a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:
- (1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:
- (A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or
- (B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and
- (2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.
- (b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.
- (c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

- (d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.
- (e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.
- (f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section [70](#), of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- (g) Notwithstanding any other provision of this constitution or of a statute, the State Board of Education, the General Land Office, or another entity that has responsibility for the management of revenues derived from permanent school fund land or other properties may, in its sole discretion and in addition to other distributions authorized under this constitution or a statute, distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed \$600 million by each entity each year.

(Amended Aug. 11, 1891, and Nov. 3, 1964; Subsec. (a) amended and (b) and (c) added Nov. 8, 1983; Subsec. (d) added Nov. 8, 1988; Subsec. (b) amended Nov. 7, 1989; Subsec. (a) amended, a new (b) added, a portion of (a) redesignated as (c), former (b) and (c) amended, former (b)-(d) redesignated as (d)-(f), and (g) and (h) added Sept. 13, 2003; former Subsec. (g) and Subsec. (h) expired Dec. 1, 2006; Subsec. (a) amended and current Subsec. (g) added Nov. 8, 2011; Subsec. (g) amended Nov. 5, 2019.)

**NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE C. ADMINISTRATION
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

NRC, §32.012. MEMBERS OF THE BOARD.

- (a) The board is composed of:
 - (1) the commissioner; and
 - (2) four citizens of the state appointed by the governor with the advice and consent of the senate.
- (b) Two citizens appointed by the governor must be selected from lists of nominees submitted by the State Board of Education. The State Board of Education shall submit to the governor a list of six nominees for a vacant position described by this subsection. The governor may request that the State Board of Education submit a second list of six nominees if the governor does not choose to appoint a nominee from the first list.
- (c) At least one of the citizens appointed under Subsection (a) must be a resident of a county with a population of less than 200,000. The governor and the State Board of Education shall collaborate to ensure that the membership of the board complies with this subsection.
- (d) Each appointment made by the governor shall be made in accordance with and subject to the provisions of the Texas Constitution authorizing the filling of vacancies in state offices by appointment of the governor.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 524 (S.B. 608), Sec. 2, eff. September 1, 2019.

NATURAL RESOURCES CODE
TITLE 2. PUBLIC DOMAIN
SUBTITLE C. ADMINISTRATION
CHAPTER 32. SCHOOL LAND BOARD
SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

NRC, §32.013. TERMS OF APPOINTED MEMBERS.

The appointed members of the board serve for terms of two years.

Acts 1977, 65th Leg., p. 2377, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 524 (S.B. 608), Sec. 3, eff. September 1, 2019.

TEXAS EDUCATION CODE
CHAPTER 7. STATE ORGANIZATION
SUBCHAPTER D. STATE BOARD OF EDUCATION

TEC, §7.102. STATE BOARD OF EDUCATION POWERS AND DUTIES.

- (a) The board may perform only those duties relating to school districts or regional education service centers assigned to the board by the constitution of this state or by this subchapter or another provision of this code.
- (b) The board has the powers and duties provided by Subsection (c), which shall be carried out with the advice and assistance of the commissioner.
- (c)
 - (1) The board shall develop and update a long-range plan for public education.
 - (2) The board may enter into contracts relating to or accept grants for the improvement of educational programs specifically authorized by statute.
 - (3) The board may accept a gift, donation, or other contribution on behalf of the public school system or agency and, unless otherwise specified by the donor, may use the contribution in the manner the board determines.
 - (4) The board shall establish curriculum and graduation requirements.
 - (5) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 4.001(a)(1), eff. September 1, 2019.
 - (6) The board may create special-purpose school districts under Chapter [11](#).
 - (7) The board shall provide for a training course for school district trustees under Section [11.159](#).
 - (8) The board shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter as required by Subchapter B, Chapter [12](#), and may place on probation or revoke a home-rule school district charter as provided by that subchapter.
 - (9) Repealed by Acts 2019, 86th Leg., R.S., Ch. 439 (S.B. [1376](#)), Sec. 4.01(a)(1), eff. June 4, 2019.
 - (10) The board shall adopt rules establishing criteria for certifying hearing examiners as provided by Section [21.252](#).
 - (11) The board shall adopt rules to carry out the curriculum required or authorized under Section [28.002](#).
 - (12) The board shall establish guidelines for credit by examination under Section [28.023](#).
 - (13) The board shall adopt transcript forms and standards for differentiating high school programs for purposes of reporting academic achievement under Section [28.025](#).
 - (14) The board shall adopt guidelines for determining financial need for purposes of the Texas Advanced Placement Incentive Program under Subchapter C, Chapter [28](#), and may approve payments as provided by that subchapter.
 - (15) The board shall adopt criteria for identifying gifted and talented students and shall develop and update a state plan for the education of gifted and talented students as required under Subchapter D, Chapter [29](#).
 - (16) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 73, Sec. 2.06(a)(1), eff. September 1, 2013.
 - (17) The board shall adopt rules relating to community education development projects as required under Section [29.257](#).
 - (18) The board may approve the plan to be developed and implemented by the commissioner for the coordination of services to children with disabilities as required under Section [30.001](#).
 - (19) The board shall establish a date by which each school district and state institution shall provide to the commissioner the necessary information to determine the district's share of the cost of the education of a student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as required under Section [30.003](#) and may adopt other rules concerning funding of the education of students enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as authorized under Section [30.003](#).
 - (20) The board shall adopt rules prescribing the form and content of information school districts are required to provide concerning programs offered by state institutions as required under Section [30.004](#).
 - (21) The board shall adopt rules concerning admission of students to the Texas School for the Deaf as required under Section [30.057](#).
 - (22) The board shall carry out powers and duties related to regional day school programs for the deaf as provided under Subchapter D, Chapter [30](#).

- (23) The board shall adopt and purchase or license instructional materials as provided by Chapter [31](#) and adopt rules required by that chapter.
 - (24) The board shall develop and update a long-range plan concerning technology in the public school system as required under Section [32.001](#) and shall adopt rules and policies concerning technology in public schools as provided by Chapter [32](#).
 - (25) The board shall conduct feasibility studies related to the telecommunications capabilities of school districts and regional education service centers as provided by Section [32.033](#).
 - (26) The board shall appoint a board of directors of the center for educational technology under Section [32.034](#).
 - (27) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 4.001(b), eff. Sept. 1, 2001.
 - (28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section [38.003](#).
 - (29) The board shall perform duties in connection with the public school accountability system as prescribed by Chapters [39](#) and [39A](#).
 - (30) The board shall perform duties in connection with the Foundation School Program as prescribed by Chapter [48](#) [~~42~~].
 - (31) The board may invest the permanent school fund within the limits of the authority granted by Section [5](#), Article VII, Texas Constitution, and Chapter 43.
 - (32) The board shall adopt rules concerning school district budgets and audits of school district fiscal accounts as required under Subchapter A, Chapter [44](#).
 - (33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Subchapter C, Chapter [45](#).
 - (34) The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank as required under Section [45.206](#).
- (d) The board may adopt rules relating to school districts or regional education service centers only as required to carry out the specific duties assigned to the board by the constitution or under Subsection (c).
 - (e) An action of the board to adopt a rule under this section is effective only if the board includes in the rule's preamble a statement of the specific authority under Subsection (c) to adopt the rule.
 - (f) Except as otherwise provided by this subsection, a rule adopted by the board under this section does not take effect until the beginning of the school year that begins at least 90 days after the date on which the rule was adopted. The rule takes effect earlier if the rule's preamble specifies an earlier effective date and the reason for that earlier date and:
 - (1) the earlier effective date is a requirement of:
 - (A) a federal law; or
 - (B) a state law that specifically refers to this section and expressly requires the adoption of an earlier effective date; or
 - (2) on the affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 11. SCHOOL DISTRICTS
SUBCHAPTER D. POWERS AND DUTIES OF BOARD OF TRUSTEES OF
INDEPENDENT SCHOOL DISTRICT

TEC, §11.159. MEMBER TRAINING AND ORIENTATION.

- (a) The State Board of Education shall provide a training course for independent school district trustees to be offered by the regional education service centers. Registration for a course must be open to any interested person, including current and prospective board members, and the state board may prescribe a registration fee designed to offset the costs of providing that course.
- (b) A trustee must complete any training required by the State Board of Education. The minutes of the last regular meeting of the board of trustees held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment. If the minutes reflect that a trustee is deficient, the district shall post the minutes on the district's Internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements.
- (b-1) The State Board of Education shall require a trustee to complete training on school safety. The state board, in coordination with the Texas School Safety Center, shall develop the curriculum and materials for the training.
- (c) The State Board of Education shall require a trustee to complete every two years at least:
 - (1) three hours of training on evaluating student academic performance; and
 - (2) one hour of training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children.
- (c-1) The training required by Subsection (c)(1) must be research-based and designed to support the oversight role of the board of trustees under Section [11.1515](#).
- (c-2) A candidate for trustee may complete the training required by Subsection (c) up to one year before the candidate is elected. A new trustee shall complete the training within 120 days after the date of the trustee's election or appointment. A returning trustee shall complete the training by the second anniversary of the completion of the trustee's previous training.
- (d) A trustee or candidate for trustee may complete training required under Subsection (c) at a regional education service center or through another authorized provider. A provider must certify the completion of the training by a trustee or candidate.

(e) For purposes of this section, "other maltreatment" has the meaning assigned by Section [42.002](#), Human Resources Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1244 (H.B. [2563](#)), Sec. 5, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 925 (S.B. [1566](#)), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 214 (H.B. [403](#)), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 313 (H.B. [690](#)), Sec. 1, eff. September 1, 2021.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE C. LOCAL ORGANIZATION AND GOVERNANCE
CHAPTER 12. CHARTERS
SUBCHAPTER D. OPEN-ENROLLMENT CHARTER SCHOOL

TEC, §12.101. AUTHORIZATION.

- (a) In accordance with this subchapter, the commissioner may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:
- (1) an institution of higher education as defined under Section [61.003](#);
 - (2) a private or independent institution of higher education as defined under Section [61.003](#);
 - (3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or
 - (4) a governmental entity.
- (b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:
- (1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or
 - (2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.
- (b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.
- (b-1) In granting charters for open-enrollment charter schools, the commissioner may not grant a total of more than:

- (1) 215 charters through the fiscal year ending August 31, 2014;
 - (2) 225 charters beginning September 1, 2014;
 - (3) 240 charters beginning September 1, 2015;
 - (4) 255 charters beginning September 1, 2016;
 - (5) 270 charters beginning September 1, 2017; and
 - (6) 285 charters beginning September 1, 2018.
- (b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.
- (b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.
- (b-4) Notwithstanding Section [12.114](#), approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter [39](#), or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:
- (1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter [39](#) and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter [39](#), for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;
 - (2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and
 - (3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder that the commissioner has determined that the charter holder does not satisfy the requirements of this section.
- (b-5) The initial term of a charter granted under this section is five years.

- (b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter [39](#).
- (b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section [12.1141\(c\)](#).
- (b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:
 - (1) exclude any loan or line of credit in determining an applicant's available funding; or
 - (2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.
- (b-10) The commissioner by rule shall allow a charter holder to provide written notice of the establishment of a new open-enrollment charter school under Subsection (b-4)(2) up to 18 months before the date on which the campus is anticipated to open. Notice provided to the commissioner under this section does not obligate the charter holder to open a new campus.
- (c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.
- (d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

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TEC, §21.003. CERTIFICATION REQUIRED.

- (a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.
- (b) Except as otherwise provided by this subsection, a person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.
- (c) The commissioner may waive the requirement for certification of a superintendent if requested by a school district as provided by Section 7.056. A person who is not certified as a superintendent may not be employed by a school district as the superintendent before the person has received a waiver of certification from the commissioner. The commissioner may limit the waiver of certification in any manner the commissioner determines is appropriate. A person may be designated to act as a temporary or interim superintendent for a school district, but the district may not employ the person under a contract as superintendent unless the person has been certified or a waiver has been granted.

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TEC, §21.031. PURPOSE.

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

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TEC, §21.035. DELEGATION AUTHORITY; ADMINISTRATION BY AGENCY.

- (a) The board is permitted to make a written delegation of authority to the commissioner or the agency to informally dispose of a contested case involving educator certification.
- (b) The agency shall provide the board's administrative functions and services.

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TEC, §21.040. GENERAL POWERS AND DUTIES OF BOARD.

The board shall:

- (1) appoint the members of any advisory committee to the board;
- (2) for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the board;
- (3) provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees; and
- (4) develop and implement policies that clearly define the respective responsibilities of the board and the board's staff.

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TEC, §21.041. RULES; FEES.

- (a) The board may adopt rules as necessary for its own procedures.
- (b) The board shall propose rules that:
 - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
 - (2) specify the classes of educator certificates to be issued, including emergency certificates;
 - (3) specify the period for which each class of educator certificate is valid;
 - (4) specify the requirements for the issuance and renewal of an educator certificate;
 - (5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;
 - (6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;
 - (7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;
 - (8) provide for the adoption, amendment, and enforcement of an educator's code of ethics;
 - (9) provide for continuing education requirements; and
 - (10) provide for certification of persons performing appraisals under Subchapter H.
- (c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that, when combined with any fees imposed under Subsection (d), is adequate to cover the cost of administration of this subchapter.
- (d) The board may propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program, or for the addition of a certificate or field of certification to the scope of a program's approval. A fee imposed under this subsection may not exceed the amount necessary, as determined by the board, to provide for the administrative cost of approving, renewing the approval of, and appropriately ensuring the accountability of educator preparation programs under this subchapter.

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TEC, §21.042. APPROVAL OF RULES.

The State Board for Educator Certification must submit a written copy of each rule it proposes to adopt to the State Board of Education for review. The State Board of Education may reject a proposed rule by a vote of at least two-thirds of the members of the board present and voting. If the State Board of Education fails to reject a proposal before the 90th day after the date on which it receives the proposal, the proposal takes effect as a rule of the State Board for Educator Certification as provided by Chapter 2001, Government Code. The State Board of Education may not modify a rule proposed by the State Board for Educator Certification.

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TEC, §21.044. EDUCATOR PREPARATION.

- (a) The board shall propose rules:
 - (1) specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities;
 - (2) establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; and
 - (3) specifying the minimum academic qualifications required for a certificate.
- (a-1) Any training requirements for a certificate specified under Subsection (a) must require that the person demonstrate:
 - (1) basic knowledge of:
 - (A) each disability category under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and how each category can affect student learning and development; and
 - (B) conditions that may be considered a disability under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and how a condition covered by that section can affect student learning and development;
 - (2) competence in the use of proactive instructional planning techniques that:
 - (A) provide flexibility in the ways:
 - (i) information is presented;
 - (ii) students respond or demonstrate knowledge and skills; and
 - (iii) students are engaged;
 - (B) reduce barriers in instruction;
 - (C) provide appropriate accommodations, supports, and challenges; and
 - (D) maintain high achievement expectations for all students, including students with disabilities and students of limited English proficiency; and
 - (3) competence in the use of evidence-based inclusive instructional practices, including:
 - (A) general and special education collaborative and co-teaching models and approaches;
 - (B) multitiered systems of support, including response to intervention strategies, classroom and school level data-based collaborative structures, and evidence-based strategies for intervention and progress monitoring systems in academic areas;
 - (C) classroom management techniques using evidence-based behavioral intervention strategies and supports; and
 - (D) appropriate adaptation strategies, including accommodations, modifications, and instruction in the use of assistive technology for instruction.
- (b) The minimum academic qualifications for a certificate specified under Subsection (a) must require that the

person receive, as part of the training required to obtain that certificate, instruction in detection and education of students with dyslexia.

- (c) The instruction under Subsection (b) must:
 - (1) be developed by a panel of experts in the diagnosis and treatment of dyslexia who are:
 - (A) employed by institutions of higher education; and
 - (B) approved by the board; and
 - (2) include information on:
 - (A) characteristics of dyslexia;
 - (B) identification of dyslexia; and
 - (C) effective, multisensory strategies for teaching students with dyslexia.
- (c-1) The minimum academic qualifications for a certificate specified under Subsection (a) must require that the person receive, as part of the training required to obtain that certificate, instruction regarding mental health, substance abuse, and youth suicide. The instruction required must:
 - (1) be provided through:
 - (A) a program selected from the list of recommended best practice-based programs and research-based practices established under Section [38.351](#); or
 - (B) a course offered by any accredited public or private postsecondary educational institution as part of a degree program; and
 - (2) include effective strategies, including de-escalation techniques and positive behavioral interventions and supports, for teaching and intervening with students with mental health conditions or who engage in substance abuse.
- (c-2) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction in digital learning, virtual learning, and virtual instruction, including a digital literacy evaluation followed by a prescribed digital learning curriculum. The instruction required must:
 - (1) be aligned with the International Society for Technology in Education's standards for teachers;
 - (2) provide effective, evidence-based strategies to determine a person's degree of digital literacy;
 - (3) cover best practices in:
 - (A) assessing students receiving virtual instruction, based on academic progress; and
 - (B) developing a virtual learning curriculum; and
 - (4) include resources to address any deficiencies identified by the digital literacy evaluation.
- (d) In proposing rules under this section, the board shall specify that to obtain a certificate to teach an "applied STEM course," as that term is defined by Section [28.027](#), at a secondary school, a person must:
 - (1) pass the certification test administered by the recognized national or international business and industry group that created the curriculum the applied STEM course is based on; and
 - (2) have at a minimum:
 - (A) an associate degree from an accredited institution of higher education; and

- (B) three years of work experience in an occupation for which the applied STEM course is intended to prepare the student.
- (e) In proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, the board shall specify that a person must have:
 - (1) an associate degree or more advanced degree from an accredited institution of higher education;
 - (2) current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and
 - (3) at least two years of wage earning experience utilizing the licensure requirement.
- (f) The board may not propose rules for a certificate to teach a health science technology education course that specify that a person must have a bachelor's degree or that establish any other credential or teaching experience requirements that exceed the requirements under Subsection (e).
- (f-1) Board rules addressing ongoing educator preparation program support for a candidate seeking certification in a certification class other than classroom teacher may not require that an educator preparation program conduct one or more formal observations of the candidate on the candidate's site in a face-to-face setting. The rules must permit each required formal observation to occur on the candidate's site or through use of electronic transmission or other video-based or technology-based method.
- (g) Each educator preparation program must provide information regarding:
 - (1) the skills that educators are required to possess, the responsibilities that educators are required to accept, and the high expectations for all students, including students with disabilities, in this state;
 - (2) the effect of supply and demand forces on the educator workforce in this state;
 - (3) the performance over time of the educator preparation program;
 - (4) the importance of building strong classroom management skills;
 - (5) the framework in this state for teacher and principal evaluation, including the procedures followed in accordance with Subchapter H; and
 - (6) appropriate relationships, boundaries, and communications between educators and students.

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TEC, §21.045. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAMS.

- a) The board shall propose rules necessary to establish standards to govern the continuing accountability of all educator preparation programs based on the following information that is disaggregated with respect to race, sex, and ethnicity:
- (1) results of the certification examinations prescribed under Section [21.048\(a\)](#);
 - (2) performance based on the appraisal system for beginning teachers adopted by the board;
 - (3) achievement, including improvement in achievement, of all students, including students with disabilities, taught by beginning teachers for the first three years following certification, to the extent practicable;
 - (4) compliance with board requirements regarding the frequency, duration, and quality of structural guidance and ongoing support provided by field supervisors to candidates completing student teaching, clinical teaching, or an internship; and
 - (5) results from a teacher satisfaction survey, developed by the board with stakeholder input, of new teachers performed at the end of the teacher's first year of teaching.
- (b) Each educator preparation program shall submit data elements as required by the board for an annual performance report to ensure access and equity. At a minimum, the annual report must contain:
- (1) the performance data from Subsection (a), other than the data required for purposes of Subsection (a)(3);
 - (2) data related to the program's compliance with requirements for field supervision of candidates during their clinical teaching and internship experiences;
 - (3) the following information, disaggregated by race, sex, and ethnicity:
 - (A) the number of candidates who apply;
 - (B) the number of candidates admitted;
 - (C) the number of candidates retained;
 - (D) the number of candidates completing the program;

- (E) the number of candidates employed as beginning teachers under standard teaching certificates by not later than the first anniversary of completing the program;
 - (F) the amount of time required by candidates employed as beginning teachers under probationary teaching certificates to be issued standard teaching certificates;
 - (G) the number of candidates retained in the profession; and
 - (H) any other information required by federal law;
- (4) the ratio of field supervisors to candidates completing student teaching, clinical teaching, or an internship; and
 - (5) any other information necessary to enable the board to assess the effectiveness of the program on the basis of teacher retention and success criteria adopted by the board.
- (c) The board shall propose rules necessary to establish performance standards for the Accountability System for Educator Preparation for accrediting educator preparation programs. At a minimum, performance standards must be based on Subsection (a).
 - (d) To assist an educator preparation program in improving the design and effectiveness of the program in preparing educators for the classroom, the agency shall provide to each program data that is compiled and analyzed by the agency based on information reported through the Public Education Information Management System (PEIMS) relating to the program.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 723 (S.B. [174](#)), Sec. 2, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 931 (H.B. [2205](#)), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 757 (S.B. [1839](#)), Sec. 4, eff. June 12, 2017.

Acts 2021, 87th Leg., R.S., Ch. 215 (H.B. [159](#)), Sec. 4, eff. September 1, 2021.

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TEC, §21.048. CERTIFICATION EXAMINATIONS.

- (a) The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination.
- (a-1) The board may not require that more than 45 days elapse before a person may retake an examination. A person may not retake an examination more than four times, unless the board waives the limitation for good cause as prescribed by the board.
- (a-2) The board shall adopt rules that provide that in order to teach any grade level from prekindergarten through grade six a person must demonstrate proficiency in the science of teaching reading on a certification examination for each class of certificate issued by the board after January 1, 2021.
- (b) The board may not administer a written examination to determine the competence or level of performance of an educator who has a hearing impairment unless the examination has been field tested to determine its appropriateness, reliability, and validity as applied to, and minimum acceptable performance scores for, persons with hearing impairments.
- (c) An educator who has a hearing impairment is exempt from taking a written examination for a period ending on the first anniversary of the date on which the board determines, on the basis of appropriate field tests, that the examination complies with the standards specified in Subsection (b). On application to the board, the board shall issue a temporary exemption certificate to a person entitled to an exemption under this subsection.
- (c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057.
- (d) In this section:

- (1) "Hearing impairment" means a hearing impairment so severe that the person cannot process linguistic information with or without amplification.
- (2) "Reliability" means the extent to which an experiment, test, or measuring procedure yields the same results on repeated trials.
- (3) "Validity" means being:
 - (A) well-grounded or justifiable;
 - (B) relevant and meaningful;
 - (C) correctly derived from premises or inferences; and
 - (D) supported by objective truth or generally accepted authority.

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TEC, §21.054. CONTINUING EDUCATION.

- (a) The board shall propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements, including opportunities for educators to receive micro-credentials in fields of study related to the educator's certification class as provided by Subsection (i).
- (a-1) Continuing education requirements for educators must include training regarding educating students with disabilities.
- (b) Continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia.
- (c) The training required under Subsection (b) may be offered in an online course.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 1045 (S.B. [1267](#)), Sec. 3

- (d) Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:
 - (1) collecting and analyzing information that will improve effectiveness in the classroom;
 - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
 - (3) digital learning, digital teaching, and integrating technology into classroom instruction;
 - (4) educating diverse student populations, including:
 - (A) students who are educationally disadvantaged; and
 - (B) students at risk of dropping out of school; and
 - (5) understanding appropriate relationships, boundaries, and communications between educators and students.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 973 (S.B. [2066](#)), Sec. 2

- (d) Continuing education requirements for a classroom teacher must provide that at least 25 percent of the training required every five years include instruction regarding:
 - (1) collecting and analyzing information that will improve effectiveness in the classroom;
 - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
 - (3) digital learning, digital teaching, and integrating technology into classroom instruction;
 - (4) educating diverse student populations, including:
 - (A) students who are eligible to participate in special education programs under Subchapter [A](#), Chapter [29](#);
 - (B) students who are eligible to receive educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);
 - (C) students with mental health conditions or who engage in substance abuse;

- (D) students with intellectual or developmental disabilities;
 - (E) students who are educationally disadvantaged;
 - (F) emergent bilingual students; and
 - (G) students at risk of dropping out of school;
- (5) understanding appropriate relationships, boundaries, and communications between educators and students; and
 - (6) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.
- (d-1) The instruction required under Subsection (d) may include two or more listed topics together.
- (e) Continuing education requirements for a principal must provide that not more than 25 percent of the training required every five years include instruction regarding:
- (1) effective and efficient management, including:
 - (A) collecting and analyzing information;
 - (B) making decisions and managing time; and
 - (C) supervising student discipline and managing behavior;
 - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
 - (3) digital learning, digital teaching, and integrating technology into campus curriculum and instruction;
 - (4) effective implementation of a comprehensive school counseling program under Section [33.005](#);
 - (5) mental health programs addressing a mental health condition;
 - (6) educating diverse student populations, including:
 - (A) students who are educationally disadvantaged;
 - (B) emergent bilingual students; and
 - (C) students at risk of dropping out of school; and
 - (7) preventing, recognizing, and reporting any sexual conduct between an educator and student that is prohibited under Section [21.12](#), Penal Code, or for which reporting is required under Section [21.006](#) of this code.
- (f) Continuing education requirements for a counselor must provide that not more than 25 percent of training required every five years include instruction regarding:
- (1) assisting students in developing high school graduation plans;
 - (2) implementing dropout prevention strategies;
 - (3) informing students concerning:
 - (A) college admissions, including college financial aid resources and application procedures; and
 - (B) career opportunities;

- (4) counseling students concerning mental health conditions and substance abuse, including through the use of grief-informed and trauma-informed interventions and crisis management and suicide prevention strategies; and
 - (5) effective implementation of a comprehensive school counseling program under Section [33.005](#).
- (g) The board shall adopt rules that allow an educator to fulfill continuing education requirements by participating in an evidence-based mental health first aid training program or an evidence-based grief-informed and trauma-informed care program. The rules adopted under this subsection must allow an educator to complete a program described by this subsection and receive credit toward continuing education requirements for twice the number of hours of instruction provided under that program, not to exceed 16 hours. The program must be offered through a classroom instruction format that requires in-person attendance.
- (h) Continuing education requirements for a superintendent must include at least 2-1/2 hours of training every five years on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children. For purposes of this subsection, "other maltreatment" has the meaning assigned by Section [42.002](#), Human Resources Code.
- (i) The board shall propose rules establishing a program to issue micro-credentials in fields of study related to an educator's certification class. The agency shall approve continuing education providers to offer micro-credential courses. A micro-credential received by an educator shall be recorded on the agency's Educator Certification Online System (ECOS) and included as part of the educator's public certification records.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 675 (S.B. [143](#)), Sec. 2, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 596 (H.B. [200](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 895 (H.B. [3](#)), Sec. 67(a), eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 635 (S.B. [866](#)), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 638 (H.B. [642](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1306 (H.B. [3793](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 21.001(9), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. [7](#)), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. [179](#)), Sec. 8, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 757 (S.B. [1839](#)), Sec. 8, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 214 (H.B. [403](#)), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 352 (H.B. [18](#)), Sec. 1.04, eff. December 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. [11](#)), Sec. 4, eff. June 6, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1123 (H.B. [2424](#)), Sec. 1, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 973 (S.B. [2066](#)), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1045 (S.B. [1267](#)), Sec. 3, eff. June 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1045 (S.B. [1267](#)), Sec. 24(1), eff. June 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1045 (S.B. [1267](#)), Sec. 24(2), eff. June 18, 2021.

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SUBCHAPTER F. HEARING BEFORE HEARING EXAMINERS

TEC, §21.252. CERTIFICATION OF HEARING EXAMINERS.

- (a) The State Board of Education, in consultation with the State Office of Administrative Hearings, by rule shall establish criteria for the certification of hearing examiners eligible to conduct hearings under this subchapter. A hearing examiner certified under this subchapter must be licensed to practice law in this state.

- (b) The commissioner shall certify hearing examiners according to the criteria established under Subsection (a). A person certified as a hearing examiner or the law firm with which the person is associated may not serve as an agent or representative of:
 - (1) a school district;
 - (2) a teacher in any dispute with a school district; or
 - (3) an organization of school employees, school administrators, or school boards.

- (c) The commissioner shall set hourly rates of compensation for a hearing examiner and shall set maximum amount of compensation a hearing examiner may receive for a hearing.

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**TEC, §21.0487. JUNIOR RESERVE OFFICER TRAINING CORPS TEACHER
CERTIFICATION.**

- (a) The board shall establish a standard Junior Reserve Officer Training Corps teaching certificate to provide Junior Reserve Officer Training Corps instruction.
- (b) To be eligible for a certificate under this section, a person must:
 - (1) hold a bachelor's degree from an institution of higher education that is, and at the time the person received the degree was, accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board;
 - (2) satisfy the eligibility and testing requirements for certification as a Junior Reserve Officer Training Corps instructor established by the branch of service in which the person served; and
 - (3) complete an approved educator preparation program.
- (c) The board shall propose rules to:
 - (1) approve educator preparation programs to prepare a person as a teacher for certification under this section; and
 - (2) establish requirements under which:
 - (A) a person's training and experience acquired during the person's military service serves as proof of the person's demonstration of subject matter knowledge if that training and experience is verified by the branch of service in which the person served; and
 - (B) a person's employment by a school district as a Junior Reserve Officer Training Corps instructor before the person was enrolled in an educator preparation program or while the person is enrolled in an educator preparation program is applied to satisfy any student teaching, internship, or field-based experience program requirement.
- (d) A person is not required to hold a certificate established under this section to be employed by a school district as a Junior Reserve Officer Training Corps instructor.

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CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

TEC, §21.0489. EARLY CHILDHOOD CERTIFICATION.

- (a) To ensure that there are teachers with special training in early childhood education focusing on prekindergarten through grade three, the board shall establish an early childhood certificate.
- (b) A person is not required to hold a certificate established under this section to be employed by a school district to provide instruction in prekindergarten through grade three.
- (c) To be eligible for a certificate established under this section, a person must:
 - (1) either:
 - (A) satisfactorily complete the course work for that certificate in an educator preparation program, including a knowledge-based and skills-based course of instruction on early childhood education that includes:
 - (i) teaching methods for:
 - (a) using small group instructional formats that focus on building social, emotional, and academic skills;
 - (b) navigating multiple content areas; and
 - (c) managing a classroom environment in which small groups of students are working on different tasks; and
 - (ii) strategies for teaching fundamental academic skills, including reading, writing, and numeracy; or
 - (B) hold an early childhood through grade six certificate issued under this subchapter and satisfactorily complete a course of instruction described by Paragraph (A);
 - (2) perform satisfactorily on an early childhood certificate examination prescribed by the board; and
 - (3) satisfy any other requirements prescribed by the board.
- (d) The criteria for the course of instruction described by Subsection (c)(1)(A) shall be developed by the board in consultation with faculty members who provide instruction at institutions of higher education in educator preparation programs for an early childhood through grade six certificate.

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CHAPTER 21. EDUCATORS
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TEC, §21.0491. PROBATIONARY AND STANDARD TRADE AND INDUSTRIAL WORKFORCE TRAINING CERTIFICATES.

- (a) To provide a continuing additional source of teachers to provide workforce training, the board shall establish a probationary trade and industrial workforce training certificate and a standard trade and industrial workforce training certificate that may be obtained through an abbreviated educator preparation program under Section 21.0442.
- (b) To be eligible for a probationary certificate under this section, a person must:
 - (1) satisfactorily complete the course work for that certificate in an educator preparation program under Section [21.0442](#); and
 - (2) satisfy any other requirements prescribed by the board.
- (c) To be eligible for a standard certificate under this section, a person must:
 - (1) hold a probationary certificate issued under this section;
 - (2) be employed by:
 - (A) a public or private primary or secondary school; or
 - (B) an institution of higher education or an independent or private institution of higher education as those terms are defined by Section [61.003](#); and
 - (3) perform satisfactorily on a standard trade and industrial workforce training certificate examination prescribed by the board.
- (d) The limitation imposed by Section [21.048](#)(a-1) on the number of administrations of an examination does not apply to the administration of the standard trade and industrial workforce training certificate examination prescribed by the board.
- (e) Notwithstanding any other law, the board may administer the standard trade and industrial workforce training certificate examination to a person who satisfies the requirements of Subsections (c)(1) and (2).
- (f) The board shall propose rules to:
 - (1) specify the term of a probationary certificate and a standard certificate issued under this section; and
 - (2) establish the requirements for renewal of a standard certificate.

Text of section effective on June 15, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 1077 (H.B. [3349](#)), Sec. 3, which states: This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 1077 (H.B. [3349](#)), Sec. 1, eff. June 15, 2017.

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CHAPTER 22. SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
SUBCHAPTER C. CRIMINAL HISTORY RECORDS

TEC, §22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTIFIED EDUCATORS .

- (a) In this section, "board" means the State Board for Educator Certification.
- (b) This section applies to a person who is an applicant for or holder of a certificate under Subchapter B, Chapter [21](#), and who is employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.
- (c) The board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review.
- (d) The board shall place an educator's certificate on inactive status for failure to comply with a deadline for submitting information required under this section.
- (e) The board may allow a person who is applying for a certificate under Subchapter B, Chapter [21](#), and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.
- (f) The board may propose rules to implement this section, including rules establishing:
 - (1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and
 - (2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.
- (g) Expired.

TEXAS EDUCATION CODE
CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.002. REQUIRED CURRICULUM.

- (a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:
 - (1) a foundation curriculum that includes:
 - (A) English language arts;
 - (B) mathematics;
 - (C) science; and
 - (D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
 - (2) an enrichment curriculum that includes:
 - (A) to the extent possible, languages other than English;
 - (B) health, with emphasis on:
 - (i) physical health, including the importance of proper nutrition and exercise;
 - (ii) mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
 - (iii) suicide prevention, including recognizing suicide-related risk factors and warning signs;
 - (C) physical education;
 - (D) fine arts;
 - (E) career and technology education;
 - (F) technology applications;
 - (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
 - (H) personal financial literacy.
- (b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.
- (b-1) In this section, "common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative.
- (b-2) The State Board of Education may not adopt common core state standards to comply with a duty imposed under this chapter.

- (b-3) A school district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c).
- (b-4) Notwithstanding any other provision of this code, a school district or open-enrollment charter school may not be required to offer any aspect of a common core state standards curriculum.
- (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter [31](#) and addressed on the assessment instruments required under Subchapter [B](#), Chapter [39](#). As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.
 - (c-1) The State Board of Education shall adopt rules requiring students enrolled in grade levels six, seven, and eight to complete at least one fine arts course during those grade levels as part of a district's fine arts curriculum.
 - (c-2) Each time the Texas Higher Education Coordinating Board revises the Internet database of the coordinating board's official statewide inventory of workforce education courses, the State Board of Education shall by rule revise the essential knowledge and skills of any corresponding career and technology education curriculum as provided by Subsection (c).
 - (c-3) In adopting the essential knowledge and skills for the technology applications curriculum for kindergarten through grade eight, the State Board of Education shall adopt essential knowledge and skills that include coding, computer programming, computational thinking, and cybersecurity. The State Board of Education shall review and revise, as needed, the essential knowledge and skills of the technology applications curriculum every five years to ensure the curriculum:
 - (1) is relevant to student education; and
 - (2) aligns with current or emerging professions.
- (d) The physical education curriculum required under Subsection (a)(2)(C) must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. In identifying the essential knowledge and skills of physical education, the State Board of Education shall ensure that the curriculum:
 - (1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;
 - (2) is consistent with national physical education standards for:
 - (A) the information that students should learn about physical activity; and
 - (B) the physical activities that students should be able to perform;

- (3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;
 - (4) offers students an opportunity to choose among many types of physical activity in which to participate;
 - (5) offers students both cooperative and competitive games;
 - (6) meets the needs of students of all physical ability levels, including students who have a chronic health problem, disability, including a student who is a person with a disability described under Section [29.003\(b\)](#) or criteria developed by the agency in accordance with that section, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;
 - (7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested;
 - (8) teaches self-management and movement skills;
 - (9) teaches cooperation, fair play, and responsible participation in physical activity;
 - (10) promotes student participation in physical activity outside of school; and
 - (11) allows physical education classes to be an enjoyable experience for students.
- (e) American Sign Language is a language for purposes of Subsection (a)(2)(A). A public school may offer an elective course in the language.
- (f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall:
- (1) be flexible in approving a course for credit for high school graduation under this subsection; and
 - (2) approve courses in cybersecurity for credit for high school graduation under this subsection.
- (g) A local instructional plan may draw on state curriculum frameworks and program standards as appropriate. Each district is encouraged to exceed minimum requirements of law and State Board of Education rule. Each district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:
- (1) includes teacher input;
 - (2) provides district employees with the opportunity to express opinions regarding the initiative; and
 - (3) includes a meeting of the board of trustees of the district at which:

- (A) information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and
 - (B) members of the public and district employees are given the opportunity to comment regarding the initiative.
- (g-1) A district may also offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board of trustees for credit without obtaining State Board of Education approval if:
 - (1) the district develops a program under which the district partners with a public or private institution of higher education and local business, labor, and community leaders to develop and provide the courses; and
 - (2) the course or other activity allows students to enter:
 - (A) a career or technology training program in the district's region of the state;
 - (B) an institution of higher education without remediation;
 - (C) an apprenticeship training program; or
 - (D) an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.
- (g-2) Each school district shall annually report to the agency the names of the courses, programs, institutions of higher education, and internships in which the district's students have enrolled under Subsection (g-1) and the names of the courses and institutions of higher education in which the district's students have enrolled under Subsection (g-3). The agency shall make available information provided under this subsection to other districts.
- (g-3) A district may also offer a course in cybersecurity that is approved by the board of trustees for credit without obtaining State Board of Education approval if the district partners with a public or private institution of higher education that offers an undergraduate degree program in cybersecurity to develop and provide the course.
- (h) The State Board of Education and each school district shall require the teaching of informed American patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for kindergarten through grade 12, including the founding documents of the United States. A primary purpose of the public school curriculum is to prepare thoughtful, informed citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the fundamental democratic principles of our state and national heritage.
- (h-1) In adopting the essential knowledge and skills for the foundation curriculum under Subsection (a)(1), the State Board of Education shall, as appropriate, adopt essential knowledge and skills that develop each student's civic knowledge, including an understanding of:
 - (1) the fundamental moral, political, and intellectual foundations of the American experiment in self-government;
 - (2) the history, qualities, traditions, and features of civic engagement in the United States;

- (3) the structure, function, and processes of government institutions at the federal, state, and local levels; and
 - (4) the founding documents of the United States, including:
 - (A) the entirety of the Declaration of Independence;
 - (B) the entirety of the United States Constitution;
 - (C) the Federalist Papers, including the entirety of Essays 10 and 51;
 - (D) excerpts from Alexis de Tocqueville's *Democracy in America*;
 - (E) the transcript of the first Lincoln-Douglas debate;
 - (F) the writings of the founding fathers of the United States;
 - (G) the entirety of Frederick Douglass's speeches "The Meaning of July Fourth for the Negro" and "What the Black Man Wants"; and
 - (H) the entirety of Martin Luther King Jr.'s speech "I Have a Dream."
- (h-2) In adopting the essential knowledge and skills for the social studies curriculum for each grade level from kindergarten through grade 12, the State Board of Education shall adopt essential knowledge and skills that develop each student's civic knowledge, including:
- (1) an understanding of:
 - (A) the fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government;
 - (B) the history, qualities, traditions, and features of civic engagement in the United States;
 - (C) the structure, function, and processes of government institutions at the federal, state, and local levels; and
 - (D) the founding documents of the United States;
 - (2) the ability to:
 - (A) analyze and determine the reliability of information sources;
 - (B) formulate and articulate reasoned positions;
 - (C) understand the manner in which local, state, and federal government works and operates through the use of simulations and models of governmental and democratic processes;
 - (D) actively listen and engage in civil discourse, including discourse with those with different viewpoints; and
 - (E) participate as a citizen in a constitutional democracy by voting; and
 - (3) an appreciation of:
 - (A) the importance and responsibility of participating in civic life;
 - (B) a commitment to the United States and its form of government; and

(C) a commitment to free speech and civil discourse.

- (h-3) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. 3), Sec. 6, eff. December 2, 2021.
- (h-4) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. [3](#)), Sec. 6, eff. December 2, 2021.
- (h-5) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. [3](#)), Sec. 6, eff. December 2, 2021.
- (h-6) In providing instruction regarding the founding documents of the United States as described by Subsection (h-1)(4), a school district or open-enrollment charter school shall use those documents as part of the instructional materials for the instruction.
- (h-7) The agency shall ensure that each school district or open-enrollment charter school teaches civics education as part of the district's social studies curriculum in a manner consistent with the essential knowledge and skills adopted under Subsection (h-2).
- (h-8) Nothing in Subsection (h-2) or (h-7) may be construed as limiting the teaching of or instruction in the essential knowledge and skills adopted under this subchapter.
 - (i) The State Board of Education shall adopt rules for the implementation of this subchapter. Except as provided by Subsection (j), the board may not adopt rules that designate the methodology used by a teacher or the time spent by a teacher or a student on a particular task or subject.
 - (j) The State Board of Education by rule may require laboratory instruction in secondary science courses and may require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.
 - (k) The State Board of Education, in consultation with the Department of State Health Services and the Texas Diabetes Council, shall develop a diabetes education program that a school district may use in the health curriculum under Subsection (a)(2)(B).
 - (l) A school district shall require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. To the extent practicable, a school district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for:

- (1) any student who is unable to participate in the required physical activity because of illness or disability; and
 - (2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner.
- (1-1) In adopting rules relating to an activity described by Subsection (1)(2), the commissioner may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.
- (1-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).
- (1-3) (1) This subsection may be cited as "Lauren's Law."
 (2) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (l), (1-1), or (1-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:
- (A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or
 - (B) children at a school-designated function.
- (m) Section [2001.039](#), Government Code, as added by Chapter 1499, Acts of the 76th Legislature, Regular Session, 1999, does not apply to a rule adopted by the State Board of Education under Subsection (c) or (d).
- (n) The State Board of Education may by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum under Subsection (a)(2)(E).
- (o) In approving career and technology courses, the State Board of Education must determine that at least 50 percent of the approved courses are cost-effective for a school district to implement.
- (p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. The program must:
- (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;

- (2) address relationship skills, including money management, communication skills, and marriage preparation; and
 - (3) in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.
- (p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:
- (1) child development;
 - (2) parenting skills, including child abuse and neglect prevention; and
 - (3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.
- (p-3) The agency shall evaluate programs and curriculum materials developed under Subsection (p-2) and distribute to other school districts information regarding those programs and materials.
- (p-4) A student under 14 years of age may not participate in a program developed under Subsection (p) without the permission of the student's parent or person standing in parental relation to the student.
- (q) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(1), eff. September 1, 2014.
- (r) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the science, risk factors, causes, dangers, consequences, signs, symptoms, and treatment of substance abuse, including the use of illegal drugs, abuse of prescription drugs, abuse of alcohol such as by binge drinking or other excessive drinking resulting in alcohol poisoning, inhaling solvents, and other forms of substance abuse. The agency shall compile a list of evidence-based substance abuse awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based substance abuse awareness program" means a program, practice, or strategy that has been proven to effectively prevent substance abuse among students, as determined by evaluations that are evidence-based.
- (s) In this subsection, "bullying" has the meaning assigned by Section [37.0832](#) and "harassment" has the meaning assigned by Section [37.001](#). In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.
- (t) The State Board of Education, in consultation with the commissioner of higher education and business and industry leaders, shall develop an advanced language course that a school district may use in the curriculum under Subsection (a)(2)(A) to provide students with instruction in industry-related terminology that prepares students to communicate in a language other than English in a specific professional, business, or industry environment.

- (w) Repealed by Acts 2019, 86th Leg., R.S., Ch. 352 (H.B. [18](#)), Sec. 4.01(2), eff. December 1, 2019.
- (z) The State Board of Education by rule shall require each school district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying. In this subsection:
 - (1) "Cyberbullying" has the meaning assigned by Section [37.0832](#).
 - (2) "Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

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SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.016. INSTRUCTION IN HIGH SCHOOL, COLLEGE, AND CAREER PREPARATION.

- (a) Each school district shall provide instruction to students in grade seven or eight in preparing for high school, college, and a career.
- (b) The instruction must include information regarding:
 - (1) the creation of a high school personal graduation plan under Section [28.02121](#);
 - (2) the distinguished level of achievement described by Section [28.025](#)(b-15);
 - (3) each endorsement described by Section [28.025](#)(c-1);
 - (4) college readiness standards; and
 - (5) potential career choices and the education needed to enter those careers.
- (c) A school district may:
 - (1) provide the instruction as part of an existing course in the required curriculum;
 - (2) provide the instruction as part of an existing career and technology course designated by the State Board of Education as appropriate for that purpose; or
 - (3) establish a new elective course through which to provide the instruction.
- (d) Each school district shall ensure that at least once in grade seven or eight each student receives the instruction under this section.

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TITLE 2. PUBLIC EDUCATION
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC §31.002. DEFINITIONS.

In this chapter:

- (1) "Instructional material" means content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.
- (1-a) "Open education resource instructional material" means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. The term includes state-developed open education resource instructional material purchased under Subchapter B-1.
- (2) "Publisher" includes an on-line service or a developer or distributor of electronic instructional materials.
- (3) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(1), eff. July 19, 2011.
- (4) "Technological equipment" means hardware, a device, or equipment necessary for:
 - (A) instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or
 - (B) professional use by a classroom teacher.

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TITLE 2. PUBLIC EDUCATION
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CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.003. RULES.

The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

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CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS.

An open-enrollment charter school is entitled to the instructional materials and technology allotment under this chapter and is subject to this chapter as if the school were a school district.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 20, eff. July 19, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 4, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 3, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.004, eff. September 1, 2019.

TEXAS EDUCATION CODE
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.022. INSTRUCTIONAL MATERIALS REVIEW AND ADOPTION.

- (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:
 - (1) is not required to review and adopt instructional materials for all grade levels in a single year; and
 - (2) shall give priority to instructional materials in the following subjects:
 - (A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
 - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
 - (C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and
 - (D) enrichment curriculum subjects.
- (b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.
- (c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.
- (d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (d-1) A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.
- (f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.
- (g) In determining the disbursement of money to the available school fund and the amount of that disbursement that will be used, in accordance with Section 43.001(d), to fund the instructional materials and technology

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allotment under Section [31.0211](#), the board must consider the cost of all district technology requirements, as estimated by the commissioner under Section [31.0211\(d\)](#), and instructional materials for that state fiscal biennium.

- (h) The board shall include information regarding open education resource instructional materials during the adoption cycle, including any cost savings associated with the adoption of open education resource instructional materials.
- (i) During any state fiscal biennium beginning on or after September 1, 2023, the total projected cost of instructional materials under requests for production issued by the board may not exceed 75 percent of the total amount used to fund the instructional materials and technology allotment under Section [31.0211](#) for that biennium.

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TEC, §31.023. INSTRUCTIONAL MATERIAL LIST

- (a) For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by the State Board of Education under Section [28.002](#) and adopted under Section [31.024](#).
- (a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.
- (b) Each instructional material on the list must be:
 - (1) free from factual errors;
 - (2) suitable for the subject and grade level for which the instructional material was submitted; and
 - (3) reviewed by academic experts in the subject and grade level for which the instructional material was submitted.

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TEC, §31.024. ADOPTION BY STATE BOARD OF EDUCATION.

- (a) By majority vote, the State Board of Education shall:
- (1) place each submitted instructional material on the list adopted under Section [31.023](#);
or
 - (2) reject instructional material submitted for placement on that list.
- (b) Not later than December 1 of the year preceding the school year for which the instructional materials for a particular subject and grade level will be purchased under the cycle adopted by the board under Section [31.022](#), the board shall provide the list of adopted instructional materials to each school district.

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TEC, §31.026. CONTRACT; PRICE.

- (a) The State Board of Education shall execute a contract for the purchase or licensing of each adopted instructional material.
- (b) A contract must require the publisher to provide the number of instructional materials required by school districts in this state for the term of the contract, which must coincide with the board's adoption cycle.
- (c) As applicable, a contract must provide for the purchase or licensing of instructional material at a specific price, which may not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.
- (d) This section does not apply to open education resource instructional material.

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SUBCHAPTER A. GENERAL PROVISIONS

TEC, §31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS.

- (a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials that are not on the list adopted under Section [31.023](#). The State Board of Education may adopt supplemental instructional material under this section only if the instructional material:
 - (1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section [28.002](#), as determined by the State Board of Education;
 - (2) is not designed to serve as the sole instructional material for a full course;
 - (3) meets applicable physical specifications adopted by the State Board of Education;
 - (4) is free from factual errors;
 - (5) is suitable for the subject and grade level; and
 - (6) is reviewed by academic experts in the subject and grade level.
- (b) The State Board of Education shall identify the essential knowledge and skills identified under Section [28.002](#) that are covered by supplemental instructional material adopted by the board under this section.
- (c) Supplemental instructional material is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.
- (d) A school district or open-enrollment charter school may requisition supplemental instructional material adopted under this section only if the district or school requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Section [31.023](#) that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials.
- (e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(5), eff. July 19, 2011.
- (f) A school district or open-enrollment charter school that requisitions supplemental instructional materials shall certify to the agency that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district or school, cover the essential knowledge and skills identified under Section [28.002](#) by the State Board of Education for the subject and grade level for which the district or school is requisitioning the supplemental instructional materials.
- (g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(5), eff. July 19, 2011.

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SUBCHAPTER D. ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

TEC, §31.151. DUTIES OF PUBLISHERS AND MANUFACTURERS

- (a) A publisher or manufacturer of instructional materials:
- (1) shall furnish any instructional material the publisher or manufacturer offers in this state at a price that does not exceed the lowest price at which the publisher offers that instructional material for adoption or sale to any state, public school, or school district in the United States;
 - (2) shall automatically reduce the price of instructional material sold for use in a school district or open-enrollment charter school to the extent that the price is reduced elsewhere in the United States;
 - (3) shall provide any instructional material or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the instructional material or ancillary item free of charge to any state, public school, or school district in the United States;
 - (4) shall guarantee that each copy of instructional material sold in this state is at least equal in quality to copies of that instructional material sold elsewhere in the United States and is free from factual error;
 - (5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in instructional materials or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials for use in this state;
 - (6) shall deliver instructional materials to a school district or open-enrollment charter school;
 - (7) shall, at the time an order for instructional materials is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for instructional materials that are back-ordered;
 - (8) shall guarantee delivery of instructional materials at least 10 business days before the opening day of school of the year for which the instructional materials are ordered if the instructional materials are ordered by a date specified in the sales contract; and
 - (9) shall submit to the State Board of Education an affidavit certifying any instructional material the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section [31.026](#).
- (b) The State Board of Education may impose a reasonable administrative penalty against a publisher or manufacturer who knowingly violates Subsection (a). The board shall provide for

a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:

- (1) the seriousness of the violation;
 - (2) any history of a previous violation;
 - (3) the amount necessary to deter a future violation;
 - (4) any effort to correct the violation; and
 - (5) any other matter justice requires.
- (c) A hearing under Subsection (b) shall be held according to rules adopted by the State Board of Education.
- (d) A penalty collected under this section shall be deposited to the credit of the state instructional materials and technology fund.
- (e) An eligible institution, as defined by Section [31.0241](#)(a), that offers open education resource instructional materials under Section [31.0241](#) is not a publisher or manufacturer for purposes of this section.

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SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

TEC, §31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL MATERIALS.

- (a) The State Board of Education shall adopt rules for the midcycle review and adoption of instructional material for a subject for which instructional materials are not currently under review by the board under Section 31.022. The rules must require:
 - (1) the publisher of the instructional material to pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material;
 - (2) the publisher of the instructional material to enter into a contract with the board concerning the instructional material for a term that ends at the same time as any contract entered into by the board for other instructional materials for the same subject and grade level; and
 - (3) a commitment from the publisher to provide the instructional material to school districts in the manner specified by the publisher, which may include:
 - (A) providing the instructional material to any district in a regional education service center area identified by the publisher; or
 - (B) providing a certain maximum number of instructional materials specified by the publisher.
- (b) Sections 31.023 and 31.024 apply to instructional material adopted under this section. Section 31.027 does not apply to instructional material adopted under this section.

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TEC, §31.0241. ADOPTION OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS.

- (a) In this section, "eligible institution" means:
- (1) a public institution of higher education that is designated as a research university or emerging research university under the higher education coordinating board's accountability system, or a private university located in this state that is a member of the Association of American Universities; or
 - (2) a public technical institute, as defined by Section 61.003.
- (b) The State Board of Education shall place open education resource instructional material for a secondary-level course submitted for adoption by an eligible institution on the list adopted under Section 31.023 if:
- (1) the instructional material is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the instructional material;
 - (2) the eligible institution identifies each contributing author;
 - (3) the appropriate department of the eligible institution certifies the instructional material for accuracy; and
 - (4) the eligible institution determines that the instructional material qualifies for placement on the list based on the extent to which the instructional material covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material is written and certifies that:
 - (A) for instructional material for a senior-level course, a student who successfully completes a course based on the instructional material will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or
 - (B) for instructional material for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material will be prepared for entry into the senior-level course.
- (c) This section does not prohibit an eligible institution from submitting instructional material for placement on the list adopted under Section 31.023 through any other adoption process provided by this chapter.

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TEC, §31.0242. REVIEW OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL.

Not later than the 90th day after the date open education resource instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

- (1) post with the list adopted under Section 31.023 comments made by the board regarding the open education resource instructional material placed on the list; and
- (2) distribute board comments to school districts.

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**TEC, §31.0261. CONTRACTS FOR PRINTING OF OPEN EDUCATION RESOURCE
INSTRUCTIONAL MATERIALS.**

The State Board of Education may execute a contract for the printing of open education resource instructional materials placed on the list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of open education resource instructional materials as provided by Section 31.103.

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SUBTITLE G. SAFE SCHOOLS
CHAPTER 37. DISCIPLINE; LAW AND ORDER
SUBCHAPTER G. TEXAS SCHOOL SAFETY CENTER

TEC, §37.216 BIENNIAL REPORT.

- (a) Not later than January 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.
- (b) The biennial report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

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TITLE 2. PUBLIC EDUCATION
SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT
CHAPTER 43. PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §43.0031. PERMANENT SCHOOL FUND ETHICS POLICY.

- (a) In addition to any other requirements provided by law, the State Board of Education shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the permanent school fund. The ethics policy must include provisions that address the following issues as they apply to the management and investment of the permanent school fund and to persons responsible for managing and investing the fund:
 - (1) general ethical standards;
 - (2) conflicts of interest;
 - (3) prohibited transactions and interests;
 - (4) the acceptance of gifts and entertainment;
 - (5) compliance with applicable professional standards;
 - (6) ethics training; and
 - (7) compliance with and enforcement of the ethics policy.
- (b) The ethics policy must include provisions applicable to:
 - (1) members of the State Board of Education;
 - (2) the commissioner;
 - (3) employees of the agency; and
 - (4) any person who provides services to the board relating to the management or investment of the permanent school fund.
- (c) Not later than the 45th day before the date on which the board intends to adopt a proposed ethics policy or an amendment to or revision of an adopted ethics policy, the board shall submit a copy of the proposed policy, amendment, or revision to the Texas Ethics Commission and the state auditor for review and comments. The board shall consider any comments from the commission or state auditor before adopting the proposed policy.
- (d) The provisions of the ethics policy that apply to a person who provides services to the board relating to the management or investment of the permanent school fund must be based on the Code of Ethics and the Standards of Professional Conduct prescribed by the Association for Investment Management and Research or other ethics standards adopted by another appropriate professionally recognized entity.
- (e) The board shall ensure that applicable provisions of the ethics policy are included in any contract under which a person provides services to the board relating to the management and investment of the permanent school fund.

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SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT
CHAPTER 45. SCHOOL DISTRICT FUNDS
SUBCHAPTER C. GUARANTEED BONDS

TEC, §45.053. LIMITATION; VALUE ESTIMATES.

- (a) Except as provided by Subsection (d), the commissioner may not approve bonds for guarantee under this subchapter if the approval would result in the total amount of outstanding guaranteed bonds under this subchapter exceeding an amount equal to 2-1/2 times the cost value of the permanent school fund, as estimated by the board and certified by the state auditor.
- (b) Each year, the state auditor shall analyze the status of guaranteed bonds under this subchapter as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed under this subchapter is within the limit prescribed by this section.
- (c) The commissioner shall prepare and the board shall adopt an annual report on the status of the guaranteed bond program under this subchapter.
- (d) The board by rule may increase the limit prescribed by Subsection (a) to an amount not to exceed five times the cost value of the permanent school fund, provided that the increased limit is consistent with federal law and regulations and does not prevent the bonds to be guaranteed from receiving the highest available credit rating, as determined by the board. The board shall at least annually consider whether to change any limit in accordance with this subsection. This subsection may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

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TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

**TEC, §21.0442. EDUCATOR PREPARATION PROGRAM FOR PROBATIONARY AND
STANDARD TRADE AND INDUSTRIAL WORKFORCE TRAINING
CERTIFICATES.**

- (a) The board shall propose rules under this subchapter to create an abbreviated educator preparation program for a person seeking certification in trade and industrial workforce training.
- (b) A person is eligible for admission to an educator preparation program created under this section only if the person:
 - (1) has been issued a high school diploma or a postsecondary credential, certificate, or degree;
 - (2) has seven years of full-time wage-earning experience within the preceding 10 years in an approved occupation for which instruction is offered;
 - (3) holds with respect to that occupation a current license, certificate, or registration, as applicable, issued by a nationally recognized accrediting agency based on a recognized test or measurement; and
 - (4) within the period described by Subdivision (2), has not been the subject of a complaint filed with a licensing entity or other agency that regulates the occupation of the person, other than a complaint that was determined baseless or unfounded by that entity or agency.
- (c) In proposing rules for an educator preparation program under this section, the board shall ensure that the program requires at least 80 hours of classroom instruction in:
 - (1) a specific pedagogy;
 - (2) creating lesson plans;
 - (3) creating student assessment instruments;
 - (4) classroom management; and
 - (5) relevant federal and state education laws.

Text of section effective on June 15, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 1077 (H.B. [3349](#)), Sec. 3, which states: This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 1077 (H.B. [3349](#)), Sec. 1, eff. June 15, 2017.

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CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER B. ADVANCEMENT, PLACEMENT, CREDIT, AND
ACADEMIC ACHIEVEMENT RECORD

TEC, §28.025. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD.

- (a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section [28.002](#). The State Board of Education shall designate the specific courses in the foundation curriculum under Section [28.002\(a\)\(1\)](#) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.
- (b) A school district shall ensure that each student, on entering ninth grade, indicates in writing an endorsement under Subsection (c-1) that the student intends to earn. A district shall permit a student to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:
 - (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
 - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the agency, allowing the student to graduate under the foundation high school program without earning an endorsement.
- (b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:
 - (1) four credits in English language arts under Section [28.002\(a\)\(1\)\(A\)](#), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course authorized under Subsection (b-2);
 - (2) three credits in mathematics under Section [28.002\(a\)\(1\)\(B\)](#), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);
 - (3) three credits in science under Section [28.002\(a\)\(1\)\(C\)](#), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);
 - (4) three credits in social studies under Section [28.002\(a\)\(1\)\(D\)](#), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics or personal financial literacy & economics, and one credit in world geography or world history;
 - (5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section [28.002\(a\)\(2\)\(A\)](#);
 - (6) five elective credits;
 - (7) one credit in fine arts under Section [28.002\(a\)\(2\)\(D\)](#); and

- (8) except as provided by Subsection (b-11), one credit in physical education under Section [28.002\(a\)\(2\)\(C\)](#).
- (b-2) In adopting rules under Subsection (b-1), the State Board of Education shall:
- (1) provide for a student to comply with the curriculum requirements for an advanced English course under Subsection (b-1)(1), for an advanced mathematics course under Subsection (b-1)(2), and for any advanced science course under Subsection (b-1)(3) by successfully completing a course in the appropriate content area that has been approved as an advanced course by board rule or that is offered as an advanced course for credit without board approval as provided by Section [28.002\(g-1\)](#); and
 - (2) allow a student to comply with the curriculum requirements for the third and fourth mathematics credits under Subsection (b-1)(2) or the third and fourth science credits under Subsection (b-1)(3) by successfully completing an advanced career and technical course designated by the State Board of Education as containing substantively similar and rigorous academic content.
- (b-3) In adopting rules for purposes of Subsection (b-2), the State Board of Education must approve a variety of advanced English, mathematics, and science courses that may be taken to comply with the foundation high school program requirements, provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation.
- (b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections [39.023\(c\)](#) and [39.025](#).
- (b-5) A school district may offer a mathematics or science course to be taken by a student after completion of Algebra II and physics. A course approved under this subsection must be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit.
- (b-6) A school district may allow a student to enroll concurrently in Algebra I and geometry.
- (b-7) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section [61.822](#). Notwithstanding Subsection (b-15) or (c) of this section, Section [39.025](#), or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section [61.822](#), as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.
- (b-8) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.
- (b-9) A school district, with the approval of the commissioner, may allow a student to satisfy the fine arts credit required under Subsection (b-1)(7) by participating in a community-based fine arts program not provided by the school district in which the student is enrolled. The fine arts program must provide instruction in the

essential knowledge and skills identified for fine arts by the State Board of Education under Section [28.002](#)(c). The fine arts program may be provided on or off a school campus and outside the regular school day.

- (b-10) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(8) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.
- (b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section [28.002](#)(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:
 - (1) if the student receives special education services under Subchapter [A](#), Chapter [29](#), the student's admission, review, and dismissal committee;
 - (2) if the student does not receive special education services under Subchapter [A](#), Chapter [29](#), but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or
 - (3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.
- (b-12) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirements for the two credits in a language other than English required under Subsection (b-1)(5) by substituting two credits in computer programming languages, including computer coding.
- (b-13) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to substitute credit in another appropriate course for the second credit in the same language in a language other than English otherwise required by Subsection (b-1)(5) if the student, in completing the first credit required under Subsection (b-1)(5), demonstrates that the student is unlikely to be able to complete the second credit. The board rules must establish:
 - (1) the standards and, as applicable, the appropriate school personnel for making a determination under this subsection; and
 - (2) appropriate substitute courses for purposes of this subsection.
- (b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:
 - (1) if the student receives special education services under Subchapter [A](#), Chapter [29](#), the student's admission, review, and dismissal committee; or

- (2) if the student does not receive special education services under Subchapter [A](#), Chapter [29](#), but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.
- (b-15) A student may earn a distinguished level of achievement under the foundation high school program by successfully completing:
 - (1) four credits in mathematics, which must include Algebra II and the courses described by Subsection (b-1)(2);
 - (2) four credits in science, which must include the courses described by Subsection (b-1)(3);
 - (3) the remaining curriculum requirements under Subsection (b-1); and
 - (4) the curriculum requirements for at least one endorsement under Subsection (c-1).
- (b-16) A student may satisfy an elective credit required under Subsection (b-1)(6) with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the foundation high school program or an endorsement under Subsection (c-1). This subsection may apply to more than one elective credit.
- (b-17) The State Board of Education shall adopt rules to ensure that a student may comply with the curriculum requirements under Subsection (b-1)(6) by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.
- (b-18) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements under Subsection (b-1) by successfully completing a dual credit course.
- (b-19) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with curriculum requirements for the world geography or world history credit under Subsection (b-1)(4) by successfully completing a combined world history and world geography course developed by the State Board of Education.
- (b-20) The State Board of Education shall adopt rules to include the instruction developed under Section [28.012](#) in one or more courses in the required curriculum for students in grade levels 9 through 12.
- (b-21) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirement for one credit under Subsection (b-1)(5) by successfully completing at an elementary school either a dual language immersion program under Section [28.0051](#) or a course in American Sign Language.
- (b-22) In adopting rules under Subsection (b-1), the State Board of Education shall ensure that a personal financial literacy & economics course taken to comply with the curriculum requirement under Subsection (b-1)(4) allocates:
 - (1) two-thirds of instruction time to instruction in personal financial literacy; and
 - (2) one-third of instruction time to instruction in economics.
- (b-23) The agency shall:
 - (1) develop a list of free, open-source, and publicly available curricula that may be used by a school district to provide a personal financial literacy & economics course that satisfies the curriculum requirement under Subsection (b-1)(4); and

- (2) seek, accept, and spend any federal or private grant funds and gifts that are available for the purpose of providing a personal financial literacy & economics course as part of the foundation high school program.
- (c) A person may receive a diploma if the person is eligible for a diploma under Section [28.0251](#). In other cases, a student may graduate and receive a diploma only if:
 - (1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with Sections [28.0256](#) and [39.025](#); or
 - (2) the student successfully completes an individualized education program developed under Section [29.005](#).
- (c-1) A student may earn an endorsement on the student's transcript by successfully completing curriculum requirements for that endorsement adopted by the State Board of Education by rule. The State Board of Education by rule shall provide students with multiple options for earning each endorsement, including, to the greatest extent possible, coherent sequences of courses. The State Board of Education by rule must permit a student to enroll in courses under more than one endorsement curriculum before the student's junior year. An endorsement under this subsection may be earned in any of the following categories:
 - (1) science, technology, engineering, and mathematics (STEM), which includes courses directly related to science, including environmental science, technology, including computer science, cybersecurity, and computer coding, engineering, and advanced mathematics;
 - (2) business and industry, which includes courses directly related to database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and heating, ventilation, and air conditioning;
 - (3) public services, which includes courses directly related to health sciences and occupations, mental health, education and training, law enforcement, and culinary arts and hospitality;
 - (4) arts and humanities, which includes courses directly related to political science, world languages, cultural studies, English literature, history, and fine arts; and
 - (5) multidisciplinary studies, which allows a student to:
 - (A) select courses from the curriculum of each endorsement area described by Subdivisions (1) through (4); and
 - (B) earn credits in a variety of advanced courses from multiple content areas sufficient to complete the distinguished level of achievement under the foundation high school program.
- (c-2) In adopting rules under Subsection (c-1), the State Board of Education shall:
 - (1) require a student in order to earn any endorsement to successfully complete:
 - (A) four credits in mathematics, which must include:
 - (i) the courses described by Subsection (b-1)(2); and
 - (ii) an additional advanced mathematics course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education;
 - (B) four credits in science, which must include:

- (i) the courses described by Subsection (b-1)(3); and
 - (ii) an additional advanced science course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education; and
- (C) two elective credits in addition to the elective credits required under Subsection (b-1)(6); and
- (2) develop additional curriculum requirements for each endorsement with the direct participation of educators and business, labor, and industry representatives, and shall require each school district to report to the agency the categories of endorsements under Subsection (c-1) for which the district offers all courses for curriculum requirements, as determined by board rule.
- (c-3) In adopting rules under Subsection (c-1), the State Board of Education shall adopt criteria to allow a student participating in the arts and humanities endorsement under Subsection (c-1)(4), with the written permission of the student's parent or a person standing in parental relation to the student, to comply with the curriculum requirements for science required under Subsection (c-2)(1)(B)(ii) by substituting for an advanced course requirement a course related to that endorsement.
- (c-4) Each school district must make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement under Subsection (c-1). A school district that offers only one endorsement curriculum must offer the multidisciplinary studies endorsement curriculum.
- (c-5) A student may earn a performance acknowledgment on the student's transcript by satisfying the requirements for that acknowledgment adopted by the State Board of Education by rule. An acknowledgment under this subsection may be earned:
 - (1) for outstanding performance:
 - (A) in a dual credit course;
 - (B) in bilingualism and biliteracy;
 - (C) on a college advanced placement test or international baccalaureate examination;
 - (D) on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; or
 - (E) on an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
 - (2) for earning a state recognized or nationally or internationally recognized business or industry certification or license.
- (c-6) Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section [28.0258](#).
- (c-7) Subject to Subsection (c-8), a student who is enrolled in a special education program under Subchapter [A](#), Chapter [29](#), may earn an endorsement on the student's transcript by:
 - (1) successfully completing, with or without modification of the curriculum:
 - (A) the curriculum requirements identified by the State Board of Education under Subsection (a); and

- (B) the additional endorsement curriculum requirements prescribed by the State Board of Education under Subsection (c-2); and
- (2) successfully completing all curriculum requirements for that endorsement adopted by the State Board of Education:
 - (A) without modification of the curriculum; or
 - (B) with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's admission, review, and dismissal committee.
- (c-8) For purposes of Subsection (c-7), the admission, review, and dismissal committee of a student in a special education program under Subchapter [A](#), Chapter [29](#), shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.
- (c-10) In adopting rules under Subsection (c-1), the State Board of Education shall adopt or select five technology applications courses on cybersecurity to be included in a cybersecurity pathway for the science, technology, engineering, and mathematics endorsement.
- (d) A school district may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) but who fails to comply with Section [39.025](#). A school district may allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.
- (e) Each school district shall report the academic achievement record of students who have completed the foundation high school program on transcript forms adopted by the State Board of Education. The transcript forms adopted by the board must be designed to clearly identify whether a student received a diploma or a certificate of coursework completion.
- (e-1) A school district shall clearly indicate a distinguished level of achievement under the foundation high school program as described by Subsection (b-15), an endorsement described by Subsection (c-1), and a performance acknowledgment described by Subsection (c-5) on the transcript of a student who satisfies the applicable requirements. The State Board of Education shall adopt rules as necessary to administer this subsection.
- (e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:
 - (1) enrolled in the foundation high school program;
 - (2) pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-15); and
 - (3) enrolled in a program to earn an endorsement described by Subsection (c-1).
- (e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter [A](#), Chapter [29](#).
- (f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter [A](#), Chapter [29](#), and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student

may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).

- (g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(b)(3), eff. September 1, 2014.
- (h) Expired.
- (i) If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred.

TEXAS GOVERNMENT CODE
TITLE 8. PUBLIC RETIREMENT SYSTEMS
SUBTITLE C. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 825. ADMINISTRATION
SUBCHAPTER A. BOARD OF TRUSTEES

TGC, §825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION.

The governor shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER A. GENERAL PROVISIONS

TGC, §2001.004. REQUIREMENT TO ADOPT RULES OF PRACTICE AND INDEX RULES, ORDERS, AND DECISIONS.

In addition to other requirements under law, a state agency shall:

- (1) adopt rules of practice stating the nature and requirements of all available formal and informal procedures;
- (2) index, cross-index to statute, and make available for public inspection all rules and other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions; and
- (3) index, cross-index to statute, and make available for public inspection all final orders, decisions, and opinions.

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER B. RULEMAKING

TGC, §2001.039. AGENCY REVIEW OF EXISTING RULES.

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

MINUTES

STATE BOARD OF EDUCATION

FEBRUARY 2023

Minutes

State Board of Education

February 3, 2023

STATE BOARD OF EDUCATION

(updated February 2023)

(State Board for Career and Technology Education)

KEVEN ELLIS, Lufkin
Chair of the State Board of Education
District 9

PAM LITTLE, Fairview
Vice Chair of the State Board of Education
District 12

PAT HARDY, Fort Worth
Secretary of the State Board of Education
District 11

Board Members

MELISSA ORTEGA, El Paso
District 1

JULIE PICKREN, Pearland
District 7

LJ FRANCIS, Corpus Christi
District 2

AUDREY YOUNG, Trinity
District 8

MARISA PEREZ-DIAZ, San Antonio
District 3

TOM MAYNARD, Florence
District 10

STACI CHILDS, Houston
District 4

AICHA DAVIS, Dallas
District 13

REBECCA BELL-METHEREAU
San Marcos, District 5

EVELYN BROOKS, Frisco
District 14

WILL HICKMAN, Houston
District 6

AARON KINSEY, Midland
District 15

Committees of the State Board of Education
(Updated February 2023)

INSTRUCTION

Audrey Young- Chair
Evelyn Brooks-Vice Chair
Aicha Davis
Pam Little
Melissa N. Ortega

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard-Chair
Marisa Perez-Diaz-Vice Chair
Keven Ellis
Patricia Hardy
Aaron Kinsey

SCHOOL INITIATIVES

Will Hickman-Chair
LJ Francis-Vice Chair
Rebecca Bell-Metereau
Staci Childs
Julie Pickren

Minutes
State Board of Education
Friday, February 3, 2023

The State Board of Education met at 9:00 a.m. on Friday, February 3, 2023, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Rebecca Bell-Metereau; Evelyn Brooks; Staci Childs; Aicha Davis; L.J. Francis; Patricia Hardy; Will Hickman; Aaron Kinsey; Pam Little; Tom Maynard; Melissa Ortega (virtual); Marisa B. Perez-Diaz; Julie Pickren; Audrey Young

Student Performance

A student performance was provided by the Swingin' Stingers Jazz Ensemble of Huntsville High School in the Huntsville Independent School District.

Invocation

Pledge of Allegiance

Swearing-in Ceremony for Members of the State Board of Education

(Board agenda page SBOE-1)

This item was postponed from January 31, 2023.

The Honorable Greg Abbott, Texas Governor, administered the Oath of Office to the following newly elected members of State Board of Education (SBOE): Melissa N. Ortega, District 1; LJ Francis, District 2; Staci Childs, District 4; Julie Pickren, District 7; Evelyn Brooks, District 14; and Aaron Kinsey District 15; and the following re-elected SBOE members: Marisa Perez-Diaz, District 3; Rebecca Bell-Metereau, District 5; Will Hickman, District 6; Audrey Young, District 8; Keven Ellis, District 9; Tom Maynard, District 10; Pat Hardy, District 11; Pam Little, District 12; and Aisha Davis, District 13.

Roll Call

1. Resolutions and Presentation

National Blue Ribbon Schools

The State Board of Education, by unanimous consent, adopted a resolution congratulating Nursery Elementary School in Nursery Independent School District (ISD); Devers Elementary School in Devers ISD; Kerr High School in Alief ISD; School for the Talented and Gifted in Dallas ISD; School of Science and Engineering in Dallas ISD; Grand Prairie Collegiate Institute in Grand Prairie ISD; East Elementary School in Brownwood ISD; Garden City Elementary School in Glasscock County ISD; Gruver Elementary School in Gruver ISD; Gruver Junior High School in Gruver ISD; Happy High School in Happy ISD; Early College High School at Midland College in Midland ISD; and Vega Elementary School in Vega ISD; Sonora Secondary School in Sonora ISD; Somerset Elementary School in Somerset ISD; Three Rivers Elementary School in Three Rivers

ISD; DeKalb Elementary School in DeKalb ISD; Terrell Elementary School in Denison ISD; Bynum School in Bynum ISD; Valley Mills High School in Valley Mills ISD; Claude School in Claude ISD; Muleshoe High School in Muleshoe ISD; Smyer Schools in Smyer ISD; Springlake-Earth Elementary/Middle School in Springlake-Earth ISD; and Wink Elementary School in Wink-Loving ISD

(ATTACHMENT 1, page 9)

Career and Technical Education Month

The State Board of Education, by unanimous consent, adopted a resolution designating February 2023 as National Career and Technical Education Month.

(ATTACHMENT 2, page 11)

Approval of Minutes

State Board of Education, November 18, 2022

MOTION AND VOTE: *The State Board of Education unanimously approved the minutes of the November 18, 2022, meeting of the State Board of Education, as printed.*

Public Testimony

Public Testimony was provided by the following individuals:

NAME: Deborah Simmons

AFFILIATION: Self

NAME: Mary Lowe

AFFILIATION: Families Engaged for Effective Education

NAME: Amie Super

AFFILIATION: Families Engaged

2. Approval of Consent Agenda

Any agenda item may be placed on the consent agenda by any State Board of Education committee. The State Board of Education may elect to take separate action on any item on the consent agenda.

By unanimous consent, the State Board of Education approved the following items on the consent agenda.

- (1) **Proposed New 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, Advanced Placement (AP) Precalculus (One Credit) (Second Reading and Final Adoption)**
(Board agenda page II-2)

The State Board of Education removed this item from the consent agenda.

- (2) **Approval of Updates and Substitutions to Adopted Instructional Materials**
(Board agenda page II-21)

The State Board of Education removed this item from the consent agenda.

- (3) **Recommendations Regarding Renewal of Instructional Materials Contracts**
(Board agenda page II-23)

The State Board of Education approved the request to renew *Proclamation 2015* contracts for subject areas and periods indicated in the attachment, as recommended by the Committee on Instruction.

- (4) **Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of September and October 2022**
(Board agenda page III-7)

Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the State Board of Education ratified the purchases and sales for the months of September 2022 and October 2022, in the amount of \$1,649,381,704 and \$1,001,399,698, respectively, as recommended by the Committee on School Finance Permanent School Fund (ATTACHMENT 3, page 13).

- (5) **Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of September and October 2022**
(Board agenda page III-8)

Based on the information provided by staff and the recommendation of the Executive administrator and chief investment officer and the commissioner of education, the State Board of Education ratified the purchases and sales of the Permanent School Fund Liquid Account for the period September 1, 2022, through October 31, 2022, in the amounts of \$636,697,756 and \$86,107,821, respectively, as recommended by the Committee on School Finance Permanent School Fund (ATTACHMENT 4, page 15).

(6) Proposed Revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund (Second Reading and Final Adoption)
(Board agenda page III-11)

The State Board of Education approved for second reading and final adoption the proposed revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules, as amended, to include language in §33.7(d)(1) to ensure that the percentage established under §33.6(e)(2) will be the percentage established for the charter reserve in §33.7(d)(1), as discussed and recommended by the Committee on School Finance Permanent School Fund; and

Made an affirmative finding that immediate adoption of the proposed revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules, is necessary and shall have an effective date of 20 days after filing as adopted with the *Texas Register*.

(ATTACHMENT 5, page 17)

(7) Review of the Bond Guarantee Program Reserve
(Board agenda page III-43)

There was no motion to be considered for this item because the matter was addressed as part of consent agenda item (6).

(8) Recommendation for One Appointment to the Boys Ranch Independent School District Board of Trustees
(Board agenda page IV-2)

The State Board of Education, based on Mr. Richard Nedelkoff's recommendation, approved the appointment of Mr. Tim Nation to serve a two-year term of office, from February 3, 2023, to February 2, 2025, on the Boys Ranch ISD Board of Trustees, as recommended by the Committee on School Initiatives.

(9) Proposed Repeal of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting (Second Reading and Final Adoption)
(Board agenda page III-2)

The State Board of Education approved for second reading and final adoption the proposed repeal of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting, as recommended by the Committee on School Initiatives; and

Made an affirmative finding that immediate adoption of the proposed repeal to 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

(ATTACHMENT 6, page 45)

COMMITTEE OF THE FULL BOARD

- 3. Consideration of Texas Certificate of High School Equivalency Test Fee Changes**
(Board agenda page I-22)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education reject the GED Testing Service's request to increase pricing for certain Texas Certificate of High School Equivalency tests and reduce the number of discounted retests, as recommended by the Committee of Full Board.*

- 4. Legislative Recommendations for the 88th Texas Legislature**
(Board agenda page I-26)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education strike item (G) from the "State Board of Education - 88th Legislative Priorities" that were adopted by the State Board of Education in November 2022, as recommended by the Committee of Full Board.*

- 5. Update on Texas Essential Knowledge and Skills (TEKS) Review**
(Board agenda page I-29)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education approve adjustments to the instructional materials adoption cycle as presented by staff (ATTACHMENT 7, page 47).*

- 6. Consideration of Petition for Amendment of Rule Concerning 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process**
(Board agenda page I-31)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education direct Texas Education Agency staff to initiate the rulemaking proceedings to present an item to amend §100.1 to end the no contact period for charter school applicants on the date the applicant passes the external review with a passing score, as recommended by the Committee of the Full Board.*

COMMITTEE ON INSTRUCTION

- 7. Proposed New 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, Advanced Placement (AP) Precalculus (One Credit)**
(Second Reading and Final Adoption)
(Board agenda page II-2)

MOTION AND VOTE: *It was moved by Dr. Young and carried that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, Advanced Placement (AP) Precalculus (One Credit), as recommended by the Committee on Instruction. (ATTACHMENT 8, page 49)*

8. **Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School (Second Reading and Final Adoption)**
(Board agenda page II-6)

MOTION AND VOTE: *It was moved by Dr. Young and carried that the State Board of Education postpone action on the proposed revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School, to the April SBOE meeting, as recommended by the Committee on Instruction.*

9. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript) (First Reading and Filing Authorization)**
(Board agenda page II-16)

MOTION AND VOTE: *It was moved by Dr. Young and carried that the State Board of Education suspend the board operating procedures in accordance with §5.2(a) to allow consideration at first reading and filing authorization; and*

Approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript), as recommended by the Committee on Instruction.

10. **Approval of Updates and Substitutions to Adopted Instructional Materials**
(Board agenda page II-21)

MOTION AND VOTE: *It was moved by Dr. Young and carried unanimously that the State Board of Education postpone action on the approval of updates and substitutions to adopted instructional materials until the April 2023 SBOE meeting.*

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND

9. **Proposed Repeal of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting (Second Reading and Final Adoption)**
(Board agenda page III-2)

This item was placed on the consent agenda.

REGARDING AGENDA ITEMS POSTED FOR DISCUSSION ON COMMITTEE AGENDAS

Committee on Instruction

Dr. Young did not report on the Committee on Instruction.

Committee on School Finance/Permanent School Fund

Mr. Maynard reported that the PSF corporation meeting was postponed. He requested that if members have conversations with any members of the Congressional Delegation that they ask them to co-sponsor House Resolution 32.

Committee on School Initiatives

Mr. Hickman announced that he appointed Mr. Francis to serve as vice-chair of the Committee on School Initiatives.

REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS

Dr. Ellis gave board members an opportunity to provide information regarding agenda items or other relevant information about public education.

The meeting adjourned at 11:42 a.m.

Pat Hardy, Secretary

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RESOLUTION

WHEREAS the *National Blue Ribbon Schools* program recognizes elementary, middle, and high schools where educational excellence is achieved;

WHEREAS a *National Blue Ribbon Schools* flag overhead is a mark of exemplary teaching and learning;

WHEREAS in 2022, Texas nominated twenty-six schools to be recognized for their students' achievement; and

WHEREAS Twenty-five of these schools were named 2022 *National Blue Ribbon Schools* by the United States Department of Education; now, therefore, be it

RESOLVED, That the State Board of Education does hereby extend its congratulations as Exemplary High-Performing Schools to Nursery Elementary School in Nursery Independent School District (ISD); Devers Elementary School in Devers ISD; Kerr High School in Alief ISD; School for the Talented and Gifted in Dallas ISD; School of Science and Engineering in Dallas ISD; Grand Prairie Collegiate Institute in Grand Prairie ISD; East Elementary School in Brownwood ISD; Garden City Elementary School in Glasscock County ISD; Gruver Elementary School in Gruver ISD; Gruver Junior High School in Gruver ISD; Happy High School in Happy ISD; Early College High School at Midland College in Midland ISD; and Vega Elementary School in Vega ISD; and be it further

RESOLVED, That the State Board of Education does hereby extend its congratulations as Exemplary Achievement Gap Closing Schools to Sonora Secondary School in Sonora ISD; Somerset Elementary School in Somerset ISD; Three Rivers Elementary School in Three Rivers ISD; DeKalb Elementary School in DeKalb ISD; Terrell Elementary School in Denison ISD; Bynum School in Bynum ISD; Valley Mills High School in Valley Mills ISD; Claude School in Claude ISD; Muleshoe High School in Muleshoe ISD; Smyer Schools in Smyer ISD; Springlake-Earth Elementary/Middle School in Springlake-Earth ISD; and Wink Elementary School in Wink-Loving ISD; and be it further

RESOLVED, That this resolution be presented to the principals of the aforementioned schools for being recognized for excellence through the *National Blue Ribbon Schools* program and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this third day of February two thousand twenty-three in Austin, Texas.

Keven Ellis, Chair

Pat Hardy, Secretary

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RESOLUTION

WHEREAS February 1-28, 2023, has been designated National Career and Technical Education Month; and

WHEREAS about 1.37 million Texas secondary students are enrolled in one or more career and technical education (CTE) courses in 1,200 school districts and charter schools throughout the state; and

WHEREAS CTE offers students the opportunity to gain the academic, technical and employability skills necessary for career readiness; and

WHEREAS students in CTE programs participate in authentic, meaningful experiences and apply academic knowledge and skills from across the curriculum which improve the quality of their overall education; and

WHEREAS CTE is a vital and integral part of the Foundation High School Program, offering students pathways to earn endorsements, performance acknowledgements, and industry-validated credentials; and

WHEREAS Texas is proud to support nine CTE student organizations – Business Professionals of America; DECA Texas Association; Future Business Leaders of America; Family, Career and Community Leaders of America; Health Occupations Students of America; SkillsUSA Texas; Texas Association of Future Educators; Texas FFA Association; and Texas Technology Student Association; and

WHEREAS CTE programs prepare students for a variety of careers by offering integrated programs of study that link secondary and postsecondary education and significantly contribute to college readiness; and

WHEREAS ensuring that employers have access to a qualified workforce is crucial to the Texas economy; now, therefore, be it

RESOLVED, That the State Board of Education, which has been designated by the Texas Legislature as the State Board for Career and Technical Education, does hereby proclaim February 1-28, 2023 as Career and Technical Education Month in Texas, and does hereby urge all Texans to become familiar with the outstanding programs delivered by exceptional CTE teachers in communities across the state, and to support these programs to enhance college and career readiness for all Texas students.

WITNESS our signatures this third day of February, two thousand and twenty-three, in Austin, Texas.

Keven Ellis, Chair

Pat Hardy, Secretary

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
(Including External Manager's Trades)
For September 1, 2022 through October 31, 2022**

Purchases/Capital Calls:

Long Term Fixed Income	\$ 365,065,727
Public Market Equities	392,012,238
Alternative Investments	<u>892,303,739</u>
 TOTAL	 <u><u>\$ 1,649,381,704</u></u>

Sales/Distributions:

Long Term Fixed Income	\$ 311,385,132
Public Market Equities	391,835,832
Alternative Investments	<u>298,178,734</u>
 TOTAL	 <u><u>\$ 1,001,399,698</u></u>

General Land Office Contributions:

FY 2022 Cumulative August 2022	FY 2023 Cumulative October
\$0	\$0

Based on the above information provided by staff including a report that deposits to the Permanent School Fund from the General Land Office were \$0 through August 2022 for fiscal year 2022 versus \$0 through October 2023 for fiscal year 2023, and the recommendation of the Executive Administrator and Chief Investment Officer and the Commissioner of Education; it is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the months of September 2022 through October 2022 Permanent School Fund portfolio purchases of \$1,649,381,704 and sales of \$1,001,399,698.

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
FOR PSF LIQUID ACCOUNTS
For September 1, 2022 through October 31, 2022**

<u>Purchases:</u>		
Fixed Income	\$	251,967,292
Public Market Equities		384,730,464
TOTAL	\$	636,697,756
 <u>Sales:</u>		
Fixed Income	\$	49,318,944
Public Market Equities		36,788,877
TOTAL	\$	86,107,821

Based on the above information provided by staff and the recommendation of the Executive Administrator and Chief Investment officer and the Commissioner of Education: It is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the period September 1, 2022 through October 31, 2022 Permanent School Fund Liquid Account purchases of \$636,697,756 and sales of \$86,107,821.

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ATTACHMENT
Text of Proposed New 19 TAC

Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

Subchapter A. State Board of Education Rules

§33.3. Duties and Responsibilities of the State Board of Education Related to the Texas Permanent School Fund Corporation.

- (a) The Texas Constitution, Article VII, §§1-8, establish the Available School Fund, the Texas Permanent School Fund (PSF), and the State Board of Education (SBOE) and specify the standard of care SBOE members must exercise in managing PSF assets. In addition, the constitution directs the legislature to establish suitable provisions for supporting and maintaining an efficient public free school system, defines the composition of the PSF and the Available School Fund, and requires the SBOE to set aside sufficient funds to provide free instructional materials for the use of children attending the public free schools of this state. The members of the SBOE serve as fiduciaries of the PSF.
- (b) Pursuant to Texas Education Code, Chapter 43, Subchapter B, the SBOE delegated the authority to manage and invest the PSF to the Texas PSF Corporation, a special-purpose governmental corporation that is an instrumentality of the state of Texas with all necessary and implied powers to accomplish its purpose. The SBOE has the following duties and responsibilities with respect to the Texas PSF Corporation:
- (1) establish by rule the terms of the five members of the SBOE appointed to the Texas PSF Corporation Board of Directors;
 - (2) adopt the certificate of formation for the Texas PSF Corporation;
 - (3) approve the adoption and amendment of the Texas PSF Corporation bylaws; and
 - (4) act as the sole member of the Texas PSF Corporation.

§33.4. Ethical Standards for Members of the State Board of Education.

- (a) Definitions. For purposes of this section, the following definitions have the following meanings.
- (1) Commissioner--the commissioner of education. As the commissioner is an employee of the Texas Education Agency (TEA), any provisions that apply to TEA employees apply to the commissioner.
 - (2) Official act or official action--a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.
 - (3) Permanent School Fund (PSF) service provider--any person who provides services to the PSF or relating to the management or investment of the PSF, including, but not limited to, external investment managers and consultants, banks, custodians, and professional services (attorneys, accountants, etc.). Notwithstanding the foregoing, for all purposes under this section, the term PSF service provider excludes State Board of Education (SBOE) members, TEA employees, and private fund managers. PSF service providers who provide services to the Texas PSF Corporation are covered by the Texas PSF Corporation's ethics policy.
 - (4) Personal securities transactions--
 - (A) transactions for a member's or employee's own account, including an individual retirement account; or
 - (B) transactions for an account, other than an account over which the member or employee has no direct or indirect influence or control, in which the member or employee (or the member's or employee's spouse, minor child, or other dependent relative):
 - (i) is an income or principal beneficiary or other equity owner of the account; or

- (ii) receives compensation for managing the account for the benefit of persons other than the member or employee or his or her family.
- (5) Private fund manager--a person who controls a non-publicly traded investment fund or other investment vehicle (including, but not limited to, a partnership, limited liability company, trust, association, or other entity) in which the PSF is invested. A private fund manager may include the vehicle's sponsor, general partner, managing member, manager, advisor, or other agent thereof. For purposes of this section, private fund managers are not considered to be PSF service providers.
- (6) Publicly traded securities--securities of a class that is listed on a national securities exchange or quoted on the NASDAQ national market system in the United States or that is publicly traded on any foreign stock exchange or other foreign market.
- (7) Relative--an individual related within the third degree by consanguinity (blood relative) or the second degree by affinity (marriage) determined in accordance with Texas Government Code, §§573.021-573.025. For purposes of this definition:
 - (A) examples of a relative within the third degree by consanguinity are a child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew;
 - (B) examples of a relative within the second degree by affinity are a spouse, an individual related to a spouse within the second degree by consanguinity, or a spouse of such an individual;
 - (C) an individual adopted into a family is considered a relative on the same basis as a natural born family member; and
 - (D) an individual is considered a spouse even if the marriage has been dissolved by death or divorce if there are surviving children of that marriage.
- (8) Texas Education Agency (TEA) employee--a person employed by TEA who provides advice to the SBOE, commissioner, or TEA concerning the PSF.
- (b) General principles. Under Texas Education Code (TEC), §43.0031, members of the SBOE, the commissioner, TEA employees, and persons providing services to the SBOE relating to the PSF are subject to general ethical standards relating to the PSF. The PSF is held in public trust for the benefit of the schoolchildren of Texas. The members of the SBOE serve as fiduciaries of the PSF in accordance with the Texas Constitution, Article VII, §5(f). SBOE members or anyone acting on their behalf shall aspire to the highest standards of ethical conduct and shall comply with the provisions of this section, the Texas Constitution, Texas statutes, and all other applicable provisions governing the responsibilities of a fiduciary.
- (c) General ethical standards.
 - (1) SBOE members must comply with all laws applicable to them, which may include one or more of the following statutes: Texas Government Code, §572.051 (Standards of Conduct; State Agency Ethics Policy), §552.352 (Distribution or Misuse of Confidential Information), §572.002 (General Definitions), §572.004 (Definition: Regulation), §572.054 (Representation by Former Officer or Employee of Regulatory Agency Restricted; Criminal Offense), §572.058 (Private Interest in Measure or Decision; Disclosure; Removal from Office for Violation), §572.021 (Financial Statement Required), §2252.908 (Disclosure of Interested Parties), Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), and Chapter 305 (Registration of Lobbyists); Texas Penal Code, Chapter 36 (Bribery and Corrupt Influence) and Chapter 39 (Abuse of Office); and TEC, §43.0032 (Conflicts of Interest) and §43.0033 (Reports of Expenditures). The omission of any applicable statute listed in this paragraph does not excuse violation of its provisions.
 - (2) SBOE members must be honest in the exercise of their duties and must not take actions that will discredit the PSF.
 - (3) SBOE members shall be loyal to the interests of the PSF to the extent that such loyalty is not in conflict with other duties that legally have priority.

(4) SBOE members shall not use nonpublic information gained through their relationship with the PSF to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of PSF as a reference or the communication to others of the fact that a relationship with PSF exists, provided that no misrepresentation is involved.

(5) This section is adopted to satisfy the requirements of TEC, §43.0031.

(d) Conflicts of interest.

(1) A conflict of interest exists whenever SBOE members, the commissioner, or TEA employees have business, commercial, or other relationships, including, but not limited to, personal and private relationships, that could reasonably be expected to diminish their independence of judgment in the performance of their duties. Conflicts include, but are not limited to, beneficial interests in securities, corporate memberships, trustee positions, familial relationships, or other special relationships that could reasonably be considered a conflict of interest with the fiduciary duties to the PSF. Further, TEC, §43.0032, requires disclosure and no participation in a matter affected by the possible conflict of interest, unless a waiver is granted, when an SBOE member, the commissioner, a TEA employee, or a person who provides services to the SBOE that relate to management or investment of the PSF has a business, commercial, or other relationship that could reasonably be expected to diminish a person's independence of judgment in the performance of the person's responsibilities relating to the PSF. Such business, commercial, or other relationship is defined to be a relationship that is prohibited under Texas Government Code, §572.051, or that would require public disclosure under Texas Government Code, §572.058, or a relationship that does not rise to this level but that is determined by the SBOE to create an unacceptable risk to the integrity and reputation of the PSF investment program.

(2) Any person who has a possible conflict of interest as defined in paragraph (1) of this subsection shall, upon discovery, promptly disclose the possible conflict to the commissioner and the chair and vice chair of the SBOE on a disclosure form prescribed by the commissioner.

(e) Prohibited transactions and interests. SBOE members, the commissioner, and TEA employees may not:

(1) engage in any personal securities transaction when the person has actual knowledge that the Texas PSF Corporation is trading such securities or has acquired information through his or her position that is not otherwise available to the public. An SBOE member, the commissioner, or a TEA employee may otherwise buy or sell a publicly traded security of an issuer that is held by the Texas PSF Corporation;

(2) accept or solicit any gifts, favors, services, or benefits that might reasonably tend to influence the person in the discharge of his or her duties for the PSF or that the person knows, or should know, is being offered with the intent to influence the person's conduct on behalf of the PSF;

(3) accept employment or engage in a business or professional activity while serving as an SBOE member or a TEA employee that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of his or her position concerning the PSF;

(4) accept employment or compensation while serving as a member or employee that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of his or her duties;

(5) make personal investments that could reasonably be expected to create a substantial conflict of interest between the member's or employee's private interest and the interests of the PSF;

(6) intentionally or knowingly solicit, accept, or agree to accept any gifts, favors, services, or benefits for the exercise of the member's or employee's authority or performance of the member's or employee's duties;

(7) purchase, sell, exchange, or lease property to or from the Texas PSF Corporation if such person holds an interest in the property (whether direct or indirect);

- (8) purchase, sell, or exchange any interest in an entity with the Texas PSF Corporation if such person holds an interest in the entity (whether direct or indirect);
 - (9) accept offers, under any circumstances, by reason of their official position to trade in any security or other investment on terms more favorable than those available to the general investing public or, in the case of private market investments, a similarly situated investor;
 - (10) lend to or borrow from the Texas PSF Corporation, PSF service providers, private fund managers, or other third parties with which the Texas PSF Corporation has a business relationship, unless such entities are normally engaged in such lending in the usual course of their business, and then only on customary terms offered to others under similar circumstances to finance proper and usual activities; or
 - (11) act as a representative or agent of a third party, including a PSF service provider or private fund manager, in connection with the acquisition of services or an investment for the Texas PSF Corporation.
- (f) Gifts and entertainment. An SBOE member, the commissioner, or a TEA employee (or the spouse, minor child, or dependent relative thereof) may not:
- (1) accept any gift or benefit, unless such gift is a permissible gift as defined in subsection (g) of this section;
 - (2) solicit, offer, or accept a gift or benefit (for the personal benefit of the member or employee or for the benefit of a third party), regardless of whether it is a permissible gift, that the member or employee knows, or should know, is being offered or given because of the member's or employee's official position, in exchange for an official act, or with the intent to influence the member's or employee's conduct on behalf of the PSF;
 - (3) solicit, accept, or agree to accept an honorarium in consideration for services that the member or employee would not have been requested to provide but for his or her official position or duties;
 - (4) accept any gift or benefit from a lobbyist, or a person who is required to be registered as a lobbyist, that is not expressly permitted by Texas Government Code, Chapter 305; or
 - (5) accept a gift or benefit if the source of the gift or benefit is not identified or if the member or employee knows, or has reason to know, that a prohibited gift is being offered through an intermediary.
- (g) Definition of permissible gift. The term "permissible gift" means a gift or benefit that is offered or accepted in compliance with all applicable statutes and rules and is one of the following:
- (1) an occasional gift that is not cash or money, including checks, gift cards, or negotiable instruments, and does not exceed \$50 in value;
 - (2) food, lodging, entertainment, and transportation, if accepted as a guest (i.e., the donor is present) and, if required, the member or employee reports the gift as required by law;
 - (3) an item is given in the context of a personal relationship, such as kinship, or a professional or business relationship that is independent of the member's or employee's official capacity; or
 - (4) transportation, lodging, and meals in connection with attendance at a conference or similar event in which the member or employee renders services, such as speaking, if the services are more than perfunctory.
- (h) Receipt of prohibited gift. A member or employee who receives a gift that is not a permissible gift should return the gift to its source or, if that is not possible or feasible, donate the gift to a recognized tax-exempt charitable organization or governmental entity.
- (i) Contributions and solicitation of support.
- (1) All SBOE members, the commissioner, and TEA employees (and their respective agents) shall follow all applicable laws governing campaign contributions, including, without limitation, the

rules promulgated by the Securities and Exchange Commission relating to political contributions by certain investment advisors.

(2) An SBOE member shall not request that a PSF service provider or private fund manager make any gift or donation to a school or other charitable interest on behalf of or at the request of a member.

(j) Compliance and enforcement.

(1) The SBOE will enforce this section through its chair or vice chair or the commissioner.

(2) Any violation of this section will be reported to the chair and vice chair of the SBOE and the commissioner, and a recommended action will be presented to the SBOE by the chair of the SBOE or the commissioner.

(3) The ethics advisor of TEA shall respond to inquiries from SBOE members, the commissioner, and TEA employees concerning the provisions of this section. The ethics advisor may confer with the general counsel.

(k) Ethics training. The SBOE shall receive annual training regarding state ethics laws through the Texas Ethics Commission or TEA's ethics advisor. TEA employees shall complete all ethics training required by TEA.

§33.6. Bond Guarantee Program for School Districts.

(a) Statutory provision. The commissioner of education must administer the guarantee program for school district bonds according to the provisions of Texas Education Code (TEC), Chapter 45, Subchapter C.

(b) Definitions. The following definitions apply to the guarantee program for school district bonds.

(1) Annual debt service--payments of principal and interest on outstanding bonded debt scheduled to occur between September 1 and August 31 during the fiscal year in which the guarantee is sought as reported by the Municipal Advisory Council (MAC) of Texas or its successor, if the district has outstanding bonded indebtedness.

(A) The annual debt service will be determined by the current report of the bonded indebtedness of the district as reported by the MAC of Texas or its successor as of the date of the application deadline.

(B) The annual debt service does not include:

(i) the amount of debt service to be paid on the bonds for which the reservation is sought; or

(ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that the Texas Education Agency (TEA) has sufficient evidence of the discharge or defeasance of such debt.

(C) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement, or if there is no official statement, debt service amounts based on the maximum rate permitted by the bond order or other bond proceeding that establishes a maximum interest rate for the bonds.

(2) Application deadline--the last business day of the month in which an application for a guarantee is filed. Applications must be submitted electronically through the website of the MAC of Texas or its successor by 5:00 p.m. on the last business day of the month to be considered in that month's application processing.

(3) Average daily attendance (ADA)--total refined average daily attendance as defined by TEC, §42.005.

(4) Bond--a debt security issuance approved by the attorney general, issued under TEC, §45.003 or §45.004, to provide long-term financing with a maturity schedule of at least three years.

- (5) Bond Guarantee Program (BGP)--the guarantee program that is described by this section and established under TEC, Chapter 45, Subchapter C.
- (6) Bond order--the order adopted by the governing body of a school district that authorizes the issuance of bonds and the pricing certificate, if any, establishing the terms of the bonds executed pursuant to such order.
- (7) Combination issue--an issuance of bonds for which an application for a guarantee is filed that includes both a new money portion and a refunding portion, as permitted by the Texas Government Code, Chapter 1207. The eligibility of combination issues for the guarantee is limited by the eligibility of the new money and refunding portions as defined in this subsection.
- (8) Enrollment growth--growth in student enrollment, as defined by §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook), that has occurred over the previous five school years.
- (9) Nationally recognized investment rating firm--an investment rating firm that is designated by the United States Securities and Exchange Commission as a nationally recognized statistical rating organization (NRSRO) and is demonstrating that it has:
- (A) had its current NRSRO designation for at least three consecutive years;
 - (B) provided credit ratings to each of the following:
 - (i) fifteen or more fixed income securities denominated in United States dollars and issued during the immediately preceding three years; and
 - (ii) ten or more school districts in the United States; and
 - (C) a documented separation of duties between employees involved in credit analysis and employees involved in business relationships with clients.
- (10) New money issue--an issuance of bonds for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. An issuance of bonds for the purpose of constructing teacher or student housing is eligible for the guarantee for new money only if it is an integral part of the educational mission of the school district as determined by the commissioner. Eligibility for the guarantee for new money issues is limited to the issuance of bonds authorized under TEC, §45.003. A new money issue does not include the issuance of bonds to purchase a facility from a public facility corporation created by the school district or to purchase any property that is currently under a lease-purchase contract under the Local Government Code, Chapter 271, Subchapter A. A new money issue does not include an issuance of bonds to refinance any type of maintenance tax-supported debt. Maintenance tax-supported debt includes, but is not limited to:
- (A) time warrants or loans entered under TEC, Chapter 45, Subchapter E; or
 - (B) any other type of loan or warrant that is not supported by bond taxes as defined by TEC, §45.003.
- (11) Notes issued to provide interim financing--an issuance of notes, including commercial paper notes, designed to provide short-term financing for the purposes of constructing, renovating, acquiring, and equipping school buildings; the purchase of property; or the purchase of school buses. For notes to be eligible for the guarantee under this section, the notes must be:
- (A) issued to pay costs for which bonds have been authorized at an election occurring before the issuance of the notes;
 - (B) approved by the attorney general or issued in accordance with proceedings that have been approved by the attorney general; and
 - (C) refunded by bonds issued to provide long-term financing no more than three years from the date of issuance of such notes, provided that the date of issuance of notes will be determined by reference to the date on which the notes were issued for capital

expenditures and the intervening date or dates of issuance of any notes issued to refinance outstanding notes will be disregarded.

- (12) Refunding issue--an issuance of bonds for the purpose of refunding bonds, including notes issued to provide interim financing, that are supported by bond taxes as defined by TEC, §45.003. Eligibility for the guarantee for refunding issues is limited to refunding issues that refund bonds, including notes issued to provide interim financing, that were authorized by a bond election under TEC, §45.003.
- (13) Total debt service--total outstanding principal and interest on bonded debt.
- (A) The total debt service will be determined by the current report of the bonded indebtedness of the district as reported by the MAC of Texas or its successor as of the date of the application deadline, if the district has outstanding bonded indebtedness.
- (B) The total debt service does not include:
- (i) the amount of debt service to be paid on the bonds for which the reservation is sought; or
- (ii) the amount of debt service attributable to any debt that is no longer outstanding at the application deadline, provided that TEA has sufficient evidence of the discharge or defeasance of such debt.
- (C) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement, or if there is no official statement, debt service amounts based on the maximum rate permitted by the bond order or other bond proceeding that establishes a maximum interest rate for the bonds.

(c) Data sources.

- (1) The following data sources will be used for purposes of prioritization:
- (A) projected ADA for the current school year as adopted by the legislature for appropriations purposes;
- (B) final property values certified by the comptroller of public accounts, as described in the Texas Government Code, Chapter 403, Subchapter M, for the tax year preceding the year in which the bonds will be issued. If final property values are unavailable, the most recent projection of property values by the comptroller, as described in the Texas Government Code, Chapter 403, Subchapter M, will be used;
- (C) debt service information reported by the MAC of Texas or its successor as of the date of the application deadline; and
- (D) enrollment information reported to the Public Education Information Management System (PEIMS) for the five-year time period ending in the year before the application date.
- (2) The commissioner may consider adjustments to data values determined to be erroneous or not reflective of current conditions before the deadline for receipt of applications for that application cycle.

(d) Bond eligibility.

- (1) Only those combination, new money, and refunding issues as defined in subsection (b)(7), (10), and (12), respectively, of this section are eligible to receive the guarantee.
- (2) Refunding issues must comply with the following requirements to retain eligibility for the guarantee for the refunding bonds, except that subparagraph (C) of this paragraph does not apply to a refunding issue that provides long-term financing for notes issued to provide interim financing.

- (A) As with any district applying for approval for the guarantee, the district issuing the refunding bonds must meet the requirements for initial approval specified in subsection (g)(2)(A) of this section.
- (B) The bonds to be refunded must have been:
- (i) previously guaranteed by the Permanent School Fund (PSF) or approved for credit enhancement under §61.1038 of this title (relating to School District Bond Enhancement Program);
 - (ii) issued on or after November 1, 2008, and before January 1, 2010; or
 - (iii) issued as notes to provide interim financing as defined in subsection (b)(11) of this section.
- (C) The district must demonstrate that issuing the refunding bond(s) will result in a present value savings to the district and that the refunding bond or bonds will not have a maturity date later than the final maturity date of the bonds being refunded. Present value savings is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. Present value savings must be computed at the true interest cost of the refunding bonds. If the commissioner approves refunding bonds for the guarantee based on evidence of present value savings but at the time of the sale of the refunding bonds a present value savings is not realized, the commissioner may revoke the approval of the bonds for the guarantee.
- (D) The refunding transaction must comply with the provisions of subsection (g)(4)(A)-(C) of this section.
- (3) If a district files an application for a combination issue, the application will be treated as an application for a single issue for the purposes of eligibility for the guarantee. A guarantee for the combination issue will be awarded only if both the new money portion and the refunding portion meet all of the applicable eligibility requirements described in this section. As part of its application, the applicant district must present data that demonstrate compliance for both the new money portion of the issue and the refunding portion of the issue.
- (4) If the commissioner determines that an applicant has deliberately misrepresented information related to a bond issue to secure a guarantee, the commissioner must revoke the approval of the bonds for the guarantee.
- (e) Determination of PSF capacity to guarantee bonds.
- (1) Each month the commissioner will estimate the available capacity of the PSF. If necessary, the commissioner will confirm that the PSF has sufficient capacity to guarantee the bonds before the issuance of the final approval for the guarantee in accordance with subsection (g)(3) of this section. The calculation of capacity will be based on a multiplier of three and one-half times the cost value of the PSF with the proviso that under no circumstances could the capacity of the fund exceed the limits set by federal regulation. The commissioner may increase or decrease the multiplier to prudently manage fund capacity and preserve the AAA credit rating of the PSF. Changes to the multiplier made by the commissioner are to be ratified or rejected by the State Board of Education (SBOE) at the next meeting for which the item can be posted.
 - (2) The SBOE may establish an amount of capacity to be held in reserve of up to 5.0% of the fund's capacity. The amount to be held in reserve may be increased or decreased by a majority vote of the SBOE based on changes in the cost value, asset allocation, and risk in the portfolio, or may be increased or decreased by the commissioner as necessary to prudently manage fund capacity and preserve the AAA credit rating of the PSF. Changes to the amount held in reserve made by the commissioner are to be ratified or rejected by the SBOE at the next meeting for which the item can be posted.

- (3) The net capacity of the PSF to guarantee bonds is determined by subtracting the amount to be held in reserve, as determined under paragraph (2) of this subsection, from the total available capacity, as described in paragraph (1) of this subsection.
- (f) Application process and application processing.
- (1) Application submission and fee. A district must apply to the commissioner for the guarantee of eligible bonds or the credit enhancement of eligible bonds as authorized under §61.1038 of this title by submitting an application electronically through the website of the MAC of Texas or its successor. The district must submit the information required under TEC, §45.055(b), and this section and any additional information the commissioner may require. The application and all additional information required by the commissioner must be received before the application will be processed. The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.
- (A) The application fee is \$1,500.
- (B) The fee is due at the time the application for the guarantee or the credit enhancement is submitted. An application will not be processed until the fee has been remitted according to the directions provided on the website of the MAC of Texas or its successor and received by TEA.
- (C) The fee will not be refunded to a district that:
- (i) is not approved for the guarantee or the credit enhancement; or
- (ii) does not sell its bonds before the expiration of its approval for the guarantee or the credit enhancement.
- (D) The fee may be transferred to a subsequent application for the guarantee or the credit enhancement by the district if the district withdraws its application and submits the subsequent application before the expiration of its approval for the guarantee or the credit enhancement.
- (2) Application prioritization and processing. Applications will be prioritized based on districts' property wealth per ADA, with the application of a district with a lower property wealth per ADA prioritized before that of a district with a higher property wealth per ADA. Applications may also be prioritized for districts that experience unforeseen catastrophes or emergencies that require the renovation or replacement of school facilities as described in TEC, §44.031(h). All applications received during a calendar month will be held until up to the 15th business day of the subsequent month. On or before the 15th business day of each month, the commissioner will announce the results of the prioritization and process applications for initial approval for the guarantee, up to the available net capacity as of the application deadline, subject to the requirements of this section.
- (A) Approval for guarantees will be awarded each month beginning with the districts with the lowest property wealth per ADA until the PSF reaches its net capacity to guarantee bonds.
- (B) Approval for guarantees will be awarded based on the fund's capacity to fully guarantee the bond issue for which the guarantee is sought. Applications for bond issues that cannot be fully guaranteed will not receive an award. The amount of bond issue for which the guarantee was requested may not be modified after the monthly application deadline for the purposes of securing the guarantee during the award process. If PSF net capacity has been exhausted, the commissioner will process the application for approval of the credit enhancement as specified in §61.1038 of this title.
- (C) The actual guarantee of the bonds is subject to the approval process prescribed in subsection (g) of this section.
- (D) An applicant school district is ineligible for consideration for the guarantee if its lowest credit rating from any nationally recognized investment rating firm as defined in subsection (b)(9) of this section is the same as or higher than that of the PSF.

- (3) Late application. An application received after the application deadline will be considered a valid application for the subsequent month, unless withdrawn by the submitting district before the end of the subsequent month.
 - (4) Notice of application status. Each district that submits a valid application will be notified of the application status within 15 business days of the application deadline.
 - (5) Reapplication. If a district does not receive approval for the guarantee or for any reason does not receive approval of the bonds from the attorney general within the time period specified in subsection (g)(4) of this section, the district may reapply in a subsequent month. Applications that were denied approval for the guarantee will not be retained for consideration in subsequent months.
- (g) Approval for the guarantee; district responsibilities on receipt of approval.
- (1) Initial and final approval provisions.
 - (A) If, during the monthly estimation of PSF capacity described in subsection (e)(1) of this section, the commissioner determines that the available capacity of the PSF is 10% or less, the commissioner may require an applicant school district to obtain final approval for the guarantee as described in paragraph (3) of this subsection.
 - (B) If the commissioner has not made such a determination:
 - (i) the commissioner will consider the initial approval described in paragraph (2) of this subsection as both the initial and final approval; and
 - (ii) an applicant school district that has received notification of initial approval for the guarantee, as described in paragraph (2) of this subsection, may consider that notification as notification of initial and final approval for the guarantee and may complete the sale of the applicable bonds.
 - (2) Initial approval.
 - (A) The following provisions apply to all applications for the guarantee, regardless of whether an application is for a new money, refunding, or combination issue. Under TEC, §45.056, the commissioner will investigate the applicant school district's accreditation status and financial status. A district must be accredited and financially sound to be eligible for initial approval by the commissioner. The commissioner's review will include the following:
 - (i) the purpose of the bond issue;
 - (ii) the district's accreditation status as defined by §97.1055 of this title (relating to Accreditation Status) in accordance with the following:
 - (I) if the district's accreditation status is Accredited, the district will be eligible for consideration for the guarantee;
 - (II) if the district's accreditation status is Accredited-Warning or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the district's financial soundness. If the accreditation rating is related to the district's financial soundness, the district will not be eligible for consideration for the guarantee; or
 - (III) if the district's accreditation status is Not Accredited-Revoked, the district will not be eligible for consideration for the guarantee;
 - (iii) the district's compliance with statutes and rules of TEA; and
 - (iv) the district's financial status and stability, regardless of the district's accreditation rating, including approval of the bonds by the attorney general under the provisions of TEC, §45.0031 and §45.005.

- (B) The following limitation applies to applications for new money issues of bonds for which the election authorizing the issuance of the bonds was called after July 15, 2004. The commissioner will limit approval for the guarantee to a district that has, at the time of the application for the guarantee, less than 90% of the annual debt service of the district with the highest annual debt service per ADA, as determined by the commissioner annually, or less than 90% of the total debt service of the district with the highest total debt service per ADA, as determined by the commissioner annually. The limitation will not apply to school districts that have enrollment growth, as defined in subsection (b)(8) of this section, of at least 25%, based on PEIMS data on enrollment available at the time of application. The annual debt service amount is the amount defined by subsection (b)(1) of this section. The total debt service amount is the amount defined by subsection (b)(13) of this section.
- (C) The commissioner will grant or deny initial approval for the guarantee based on the review described in subparagraph (A) of this paragraph and the limitation described in subparagraph (B) of this paragraph and will provide an applicant district whose application has received initial approval for the guarantee written notice of initial approval.
- (3) Final approval. The provisions of this paragraph apply only as described in paragraph (1) of this subsection. A district must receive final approval before completing the sale of the bonds for which the district has received notification of initial approval.
- (A) A district that has received initial approval must provide a written notice to TEA two business days before issuing a preliminary official statement (POS) for the bonds that are eligible for the guarantee or two business days before soliciting investment offers, if the bonds will be privately placed without the use of a POS.
- (i) The district must receive written confirmation from TEA that the capacity continues to be available before proceeding with the public or private offer to sell bonds.
- (ii) TEA will provide this notification within one business day of receiving the notice of the POS or notice of other solicitation offers to sell the bonds.
- (B) A district that received confirmation from TEA in accordance with subparagraph (A) of this paragraph must provide written notice to TEA of the placement of an item to approve the bond sale on the agenda of a meeting of the school board of trustees no later than two business days before the meeting. If the bond sale is completed pursuant to a delegation by the board to a pricing officer or committee, notice must be given to TEA no later than two business days before the execution of a bond purchase agreement by such pricing officer or committee.
- (i) The district must receive written confirmation from TEA that the capacity continues to be available for the bond sale before the approval of the sale by the school board of trustees or by the pricing officer or committee.
- (ii) TEA will provide this notification within one business day before the date that the district expects to complete the sale by official action of the board or of a pricing officer or committee.
- (C) TEA will process requests for final approval from districts that have received initial approval on a first come, first served basis. Requests for final approval must be received before the expiration of the initial approval.
- (D) A district may provide written notification as required by this paragraph by facsimile transmission or by email in a manner prescribed by the commissioner.
- (4) District responsibilities on receipt of approval.
- (A) Once a district is awarded initial approval for the guarantee, each issuance of the bonds must be approved by the attorney general within 180 days of the date of the letter

granting the approval for the guarantee. The initial approval for the guarantee will expire at the end of the 180-day period. The commissioner may extend the 180-day period, based on extraordinary circumstances, on receiving a written request from the district or the attorney general before the expiration of the 180-day period.

- (B) If the bonds are not approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee, the commissioner will consider the application withdrawn, and the district must reapply for a guarantee.
- (C) If applicable, the district must comply with the provisions for final approval described in paragraph (3) of this subsection to maintain approval for the guarantee.
- (D) A district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee.

(h) Financial exigency. The following provisions describe how a declaration of financial exigency under §109.2001 of this title (relating to Financial Exigency) affects a district's application for guarantee approval or a district's previously granted approval.

- (1) Application for guarantee of new money issue. The commissioner will deny approval of an application for the guarantee of a new money issue if the applicant school district has declared a state of financial exigency for the district's current fiscal year. The denial of approval will be in effect for the duration of the applicable fiscal year unless the district can demonstrate financial stability.
- (2) Approval granted before declaration. If in a given district's fiscal year the commissioner grants approval for the guarantee of a new money issue and the school district subsequently declares a state of financial exigency for that same fiscal year, the district must immediately notify the commissioner and may not offer the bonds for sale unless the commissioner determines that the district may proceed.
- (3) Application for guarantee of refunding issue. The commissioner will consider an application for the guarantee of a refunding issue that meets all applicable requirements specified in this section even if the applicant school district has declared a state of financial exigency for the district's current fiscal year. In addition to fulfilling all applicable requirements specified in this section, the applicant school district must also describe, in its application, the reason financial exigency was declared and how the refunding issue will support the district's financial recovery plan.

(i) Allocation of specific holdings. If necessary to successfully operate the BGP, the commissioner may allocate specific holdings of the PSF to specific bond issues guaranteed under this section. This allocation will not prejudice the right of the SBOE to dispose of the holdings according to law and requirements applicable to the fund; however, the SBOE will ensure that holdings of the PSF are available for a substitute allocation sufficient to meet the purposes of the initial allocation. This allocation will not affect any rights of the bond holders under law.

(j) Defeasance. The guarantee will be completely removed when bonds guaranteed by the BGP are defeased, and such a provision must be specifically stated in the bond order. If bonds guaranteed by the BGP are defeased, the district must notify the commissioner in writing within ten calendar days of the action.

(k) Bonds issued before August 15, 1993. For bonds issued before August 15, 1993, a school district seeking the guarantee of eligible bonds must certify that, on the date of issuance of any bond, no funds received by the district from the Available School Fund (ASF) are reasonably expected to be used directly or indirectly to pay the principal or interest on, or the tender or retirement price of, any bond of the political subdivision or to fund a reserve or placement fund for any such bond.

(l) Bonds guaranteed before December 1, 1993. For bonds guaranteed before December 1, 1993, if a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent solely from the PSF and not from the ASF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, excluding payments from the ASF.

- (m) Bonds issued after August 15, 1993, and guaranteed on or after December 1, 1993. If a school district cannot pay the maturing or matured principal or interest on a guaranteed bond, the commissioner will cause the amount needed to pay the principal or interest to be transferred to the district's paying agent from the PSF. The commissioner also will direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, regardless of source, including the ASF.
- (n) Payments. For purposes of the provisions of TEC, Chapter 45, Subchapter C, matured principal and interest payments are limited to amounts due on guaranteed bonds at scheduled maturity, at scheduled interest payment dates, and at dates when bonds are subject to mandatory redemption, including extraordinary mandatory redemption, in accordance with the terms of the bond order. All such payment dates, including mandatory redemption dates, must be specified in the bond order or other document pursuant to which the bonds initially are issued. Without limiting the provisions of this subsection, payments attributable to an optional redemption or a right granted to a bondholder to demand payment on a tender of such bonds according to the terms of the bonds do not constitute matured principal and interest payments.
- (o) Guarantee restrictions. The guarantee provided for eligible bonds under the provisions of TEC, Chapter 45, Subchapter C, is restricted to matured bond principal and interest. The guarantee applies to all matured interest on eligible bonds, whether the bonds were issued with a fixed or variable interest rate and whether the interest rate changes as a result of an interest reset provision or other bond order provision requiring an interest rate change. The guarantee does not extend to any obligation of a district under any agreement with a third party relating to bonds that is defined or described in state law as a "bond enhancement agreement" or a "credit agreement," unless the right to payment of such third party is directly as a result of such third party being a bondholder.
- (p) Notice of default. A school district that has determined that it is or will be unable to pay maturing or matured principal or interest on a guaranteed bond must immediately, but not later than the fifth business day before maturity date, notify the commissioner.
- (q) Payment from PSF.
- (1) Immediately after the commissioner receives the notice described in subsection (p) of this section, the commissioner will instruct the comptroller to transfer from the appropriate account in the PSF to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.
 - (2) Immediately after receipt of the funds for payment of the principal or interest, the paying agent must pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller will hold the canceled bond or coupon on behalf of the PSF.
 - (3) Following full reimbursement to the PSF with interest, the comptroller will further cancel the bond or coupon and forward it to the school district for which payment was made. Interest will be charged at the rate determined under the Texas Government Code, §2251.025(b). Interest will accrue as specified in the Texas Government Code, §2251.025(a) and (c).
- (r) Bonds not accelerated on default. If a school district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's default.
- (s) Reimbursement of PSF. If payment from the PSF is made on behalf of a school district, the school district must reimburse the amount of the payment, plus interest, in accordance with the requirements of TEC, §45.061.
- (t) Repeated failure to pay. If a total of two or more payments are made under the BGP or the credit enhancement program authorized under §61.1038 of this title on the bonds of a school district, the commissioner will take action in accordance with the provisions of TEC, §45.062.

§33.7. Bond Guarantee Program for Charter Schools.

- (a) Statutory provision. The commissioner of education must administer the guarantee program for open-enrollment charter school bonds according to the provisions of Texas Education Code (TEC), Chapter 45, Subchapter C.

- (b) Definitions. The following definitions apply to the guarantee program for open-enrollment charter school bonds.
- (1) Amortization expense--the annual expense of any debt and/or loan obligations.
 - (2) Annual debt service--payments of principal and noncapitalized interest on outstanding bonded debt scheduled to occur during a charter district's fiscal year as reported by the Municipal Advisory Council (MAC) of Texas or its successor, if the charter district is responsible for outstanding bonded indebtedness.
 - (A) The annual debt service will be determined by the current report of the bonded indebtedness of the charter district as reported by the MAC of Texas or its successor as of the date of the application deadline.
 - (B) Solely for the purpose of this calculation, the debt service amounts for variable rate bonds will be those that are published in the final official statement or, if there is no official statement, debt service amounts based on the maximum rate permitted by the bond resolution or other bond proceeding that establishes a maximum interest rate for the bonds.
 - (C) Annual debt service includes required payments into a sinking fund as authorized under 26 United States Code (USC) §54A(d)(4)(C), provided that the sinking fund is maintained by a trustee or other entity approved by the commissioner that is not under the control or common control of the charter district.
 - (3) Application deadline--the last business day of the month in which an application for a guarantee is filed. Applications must be submitted electronically through the website of the MAC of Texas or its successor by 5:00 p.m. on the last business day of the month to be considered in that month's application processing. This application deadline does not apply to applications for issues to refund bonds previously guaranteed by the Bond Guarantee Program.
 - (4) Board resolution--the resolution adopted by the governing body of an open-enrollment charter holder that:
 - (A) requests guarantee of bonds through the Bond Guarantee Program; and
 - (B) authorizes the charter holder's administration to pursue bond financing.
 - (5) Bond--a debt security issuance approved by the attorney general, issued under TEC, Chapter 53, to provide long-term financing with a maturity schedule of at least three years.
 - (6) Bond Guarantee Program (BGP)--the guarantee program that is described by this section and established under TEC, Chapter 45, Subchapter C.
 - (7) Bond resolution--the resolution, indenture, or other instrument adopted by the governing body of an issuer of bonds authorizing the issuance of bonds for the benefit of a charter district.
 - (8) Charter district--an open-enrollment charter holder designated as a charter district under subsection (e) of this section, as authorized by TEC, §12.135.
 - (9) Combination issue--an issuance of bonds for which an application for a guarantee is filed that includes both a new money portion and a refunding portion, as permitted by TEC, Chapter 53. The eligibility of combination issues for the guarantee is limited by the eligibility of the new money and refunding portions as defined in this subsection.
 - (10) Debt service coverage ratio--a measure of a charter district's ability to pay interest and principal with cash generated from current operations. The debt service coverage ratio (total debt service coverage on all long-term capital debt) equals the excess of revenues over expenses plus interest expense plus depreciation expense plus amortization expense, all divided by annual debt service. The calculation can be expressed as: (Excess of revenues over expenses + interest expense + depreciation expense + amortization expense)/ annual debt service.
 - (11) Depreciation expense--the audited amount of depreciation that was expensed during the fiscal period.

- (12) Educational facility--a classroom building, laboratory, science building, faculty or administrative office building, or other facility used exclusively for the conduct of the educational and administrative functions of a charter school.
- (13) Foundation School Program (FSP)--the program established under TEC, Chapters 41, 42, and 46, or any successor program of state appropriated funding for school districts in the state of Texas.
- (14) Long-term debt--any debt of the charter district that has a term of greater than three years and is secured on a parity basis with the bonds to be guaranteed.
- (15) Maximum annual debt service--as of any date of calculation, the highest annual debt service requirements with respect to all outstanding long-term debt for any succeeding fiscal year.
- (16) Nationally recognized investment rating firm--an investment rating firm that is designated by the United States Securities and Exchange Commission as a nationally recognized statistical rating organization (NRSRO) and is demonstrating that it has:
- (A) had its current NRSRO designation for at least three consecutive years;
 - (B) provided credit ratings to each of the following:
 - (i) fifteen or more fixed income securities denominated in United States dollars and issued during the immediately preceding three years;
 - (ii) ten or more school districts in the United States;
 - (iii) one or more charter schools in the United States; and
 - (C) a documented separation of duties between employees involved in credit analysis and employees involved in business relationships with clients.
- (17) New money issue--an issuance of revenue bonds under TEC, Chapter 53, for the purposes of:
- (A) the acquisition, construction, repair, or renovation of an educational facility of an open-enrollment charter school and equipping real property of an open-enrollment charter school, provided that any bonds for student or teacher housing must meet the following criteria:
 - (i) the proposed housing is contemplated in the charter or charter application; and
 - (ii) the proposed housing is an essential and integral part of the educational program included in the charter contract; or
 - (B) the refinancing of one or more promissory notes executed by an open-enrollment charter school, each in an amount in excess of \$500,000, that evidence one or more loans from a national or regional bank, nonprofit corporation, or foundation that customarily makes loans to charter schools, the proceeds of which loans were used for a purpose described in subparagraph (A) of this paragraph; or
 - (C) both.
- (18) Open-enrollment charter--this term has the meaning assigned in §100.1001 of this title (relating to Definitions).
- (19) Open-enrollment charter holder--this term has the meaning assigned to the term "charter holder" in TEC, §12.1012.
- (20) Open-enrollment charter school--this term has the meaning assigned to the term "charter school" in §100.1001 of this title.
- (21) Open-enrollment charter school campus--this term has the meaning assigned to the term "charter school campus" in §100.1001 of this title.
- (22) Refunding issue--an issuance of bonds under TEC, Chapter 53, for the purpose of refunding:

- (A) bonds that have previously been issued under that chapter and have previously been approved by the attorney general; or
- (B) bonds that have previously been issued for the benefit of an open-enrollment charter school under Vernon's Civil Statutes, Article 1528m, and have previously been approved by the attorney general.

(c) Bond eligibility.

- (1) Only those combination, new money, and refunding issues as defined in subsection (b)(9), (17), and (22), respectively, of this section are eligible to receive the guarantee. The bonds must, without the guarantee, be rated as investment grade by a nationally recognized investment rating firm and must be issued on or after September 28, 2011.
- (2) Refunding issues must comply with the following requirements to retain eligibility for the guarantee for the refunding bonds.
 - (A) As with any open-enrollment charter holder applying for approval for the guarantee, the charter holder for which the refunding bonds are being issued must meet the requirements for charter district designation specified in subsection (e)(2) of this section and the requirements for initial approval specified in subsection (f)(3)(A) of this section.
 - (B) The charter holder must demonstrate that issuing the refunding bond(s) will result in a present value savings to the charter holder. Present value savings is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. Present value savings must be computed at the true interest cost of the refunding bonds. If the commissioner approves refunding bonds for the guarantee based on evidence of present value savings but at the time of the sale of the refunding bonds a present value savings is not realized, the commissioner may revoke the approval of the bonds for the guarantee.
 - (C) For issues that refund bonds previously guaranteed by the BGP, the charter holder must demonstrate that the refunding bond or bonds will not have a maturity date later than the final maturity date of the bonds being refunded.
 - (D) The refunding transaction must comply with the provisions of subsection (f)(5)(A)-(C) and (E) of this section.
- (3) If an open-enrollment charter holder files an application for a combination issue, the application will be treated as an application for a single issue for the purposes of eligibility for the guarantee. A guarantee for the combination issue will be awarded only if both the new money portion and the refunding portion meet all of the applicable eligibility requirements described in this section. As part of its application, the charter holder making the application must present data that demonstrate compliance for both the new money portion of the issue and the refunding portion of the issue.
- (4) If the commissioner determines that an applicant has deliberately misrepresented information related to a bond issue to secure a guarantee, the commissioner must revoke the approval of the bonds for the guarantee.

(d) Determination of Permanent School Fund (PSF) capacity to guarantee bonds for charter districts.

- (1) Each month the commissioner will estimate the available capacity of the PSF to guarantee bonds for charter districts. This capacity is determined by multiplying the net capacity determined under §33.6 of this title (relating to Bond Guarantee Program for School Districts) by the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner. The commissioner's determination of the number of students enrolled in open-enrollment charter schools in this state and the number of students enrolled in all public schools in this state is based on the enrollment data submitted by school districts and charter schools to the Public Education Information Management System (PEIMS) during the most recent fall PEIMS submission. Annually, the commissioner will post the applicable student enrollment numbers and

the percentage of students enrolled in open-enrollment charter schools on the Texas Education Agency (TEA) web page related to the BGP. The commissioner shall hold ~~the percentage established by the State Board of Education (SBOE) under §33.6(e)(2) of this title~~ ~~[up to 5.0%]~~ of the charter school available capacity in reserve each month.

- (2) Up to half of the total capacity of the PSF to guarantee bonds for charter districts may be used to guarantee charter district refunding bonds.
- (e) Application process and application processing. An open-enrollment charter holder must apply to the commissioner for the guarantee of eligible bonds by submitting an application electronically through the website of the MAC of Texas or its successor. Before an application for the guarantee will be considered, a charter holder must first be determined by the commissioner to meet criteria for designation as a charter district for purposes of this section. The application submitted through the website of the MAC of Texas or its successor will serve as both a charter holder's application for designation as a charter district and its application for the guarantee.
- (1) Application submission and fee. As part of its application, an open-enrollment charter holder must submit the information required under TEC, §45.055(b), and this section and any additional information the commissioner may require. The application and all additional information required by the commissioner must be received before the application will be processed. The open-enrollment charter holder may not submit an application for a guarantee before the governing body of the charter holder adopts a board resolution as defined in subsection (b)(4) of this section.
- (A) The amount of the application fee is the amount specified in §33.6 of this title.
- (B) The fee is due at the time the application for charter district designation and the guarantee is submitted. An application will not be processed until the fee has been remitted according to the directions provided on the website of the MAC of Texas or its successor and received by TEA.
- (C) The fee will not be refunded to an applicant that:
- (i) is designated a charter district but is not approved for the guarantee; or
- (ii) receives approval for the guarantee but does not sell its bonds before the expiration of its approval for the guarantee.
- (D) The fee may be transferred to a subsequent application for the guarantee by a charter district that has been approved for the guarantee if the charter district withdraws its application and submits the subsequent application before the expiration of its approval for the guarantee.
- (2) Eligibility to be designated a charter district.
- (A) To be designated a charter district and have its application for the guarantee considered by the commissioner, an open-enrollment charter holder must:
- (i) have operated at least one open-enrollment charter school in the state of Texas for at least three years and have had students enrolled in the school for those three years;
- (ii) identify in its application for which open-enrollment charter school and, if applicable, for which open-enrollment charter school campus the bond funds will be used;
- (iii) in its application, agree that the bonded indebtedness for which the guarantee is sought will be undertaken as an obligation of all entities under common control of the open-enrollment charter holder and agree that all such entities will be liable for the obligation if the open-enrollment charter holder defaults on the bonded indebtedness, provided that an entity that does not operate a charter school in Texas is subject to this subparagraph only to the extent that it has received state funds from the open-enrollment charter holder;

- (iv) not have an unresolved corrective action that is more than one year old, unless the open-enrollment charter holder has taken appropriate steps, as determined by the commissioner, to begin resolving the action;
 - (v) have had, for the past three years, an audit as required by §100.1047 of this title (relating to Accounting for State and Federal Funds) that was completed with unqualified or unmodified opinions;
 - (vi) have received an investment grade credit rating from a nationally recognized investment rating firm as defined in subsection (b)(16) of this section as specified by TEC, §45.0541, within the last year; and
 - (vii) not have materially violated a covenant relating to debt obligation in the immediately preceding three years.
- (B) For an open-enrollment charter holder to be designated a charter district and have its application for the guarantee considered by the commissioner, each open-enrollment charter school operated under the charter must not have an accreditation rating of Not Accredited-Revoked and must have a rating of met standard or met alternative standard as its most recent state academic accountability rating. However, if an open-enrollment charter school operated under the charter is not yet rated because the school is in its first year of operation, that fact will not impact the charter holder's eligibility to be designated a charter district and apply for the guarantee.
- (3) Application processing. All applications received during a calendar month that were submitted by open-enrollment charter holders determined to meet the criteria in paragraph (2) of this subsection will be held until the 15th business day of the subsequent month. On the 15th business day of each month, the commissioner will announce the results of the pro rata allocation of available capacity, if pro rata allocation is necessary, and process applications for initial approval for the guarantee, up to the available capacity as of the application deadline, subject to the requirements of this section.
- (A) If the available capacity is insufficient to guarantee the total value of the bonds for all applicant charter districts, the commissioner will allocate the available capacity on a pro rata basis to each applicant charter district. For each applicant, the commissioner will determine the percentage of the total amount of all applicants' proposed bonds that the applicant's proposed bonds represent. The commissioner will then allocate to that applicant the same percentage of the available capacity, but in no event will an allocation be equal to an amount less than \$500,000.
- (B) The actual guarantee of the bonds is subject to the approval process prescribed in subsection (f) of this section.
- (C) An applicant charter district is ineligible for consideration for the guarantee if its lowest credit rating from any nationally recognized investment rating firm as defined in subsection (b)(16) of this section is the same as or higher than that of the PSF.
- (4) Late application. An application received after the application deadline will be considered a valid application for the subsequent month, unless withdrawn by the submitting open-enrollment charter holder before the end of the subsequent month.
- (5) Notice of application status. Each open-enrollment charter holder that submits a valid application will be notified of the application status within 15 business days of the application deadline.
- (6) Reapplication. If an open-enrollment charter holder does not receive designation as a charter district, does not receive approval for the guarantee, or for any reason does not receive approval of the bonds from the attorney general within the time period specified in subsection (f)(5) of this section, the charter holder may reapply in a subsequent month. An application that was denied approval for the guarantee or that was submitted by a charter holder that the commissioner determined did not meet the criteria for charter district designation will not be retained for

consideration in subsequent months. A reapplication fee will be required unless the conditions described in subsection (e)(1)(D) of this section apply to the charter holder.

(f) Approval for the guarantee; charter district responsibilities on receipt of approval.

(1) Approval for the guarantee and charter renewal or amendment.

(A) If an open-enrollment charter holder applies for the guarantee within the 12 months before the charter holder's charter is due to expire, application approval will be contingent on successful renewal of the charter, and the bonds for which the open-enrollment charter holder is applying for the guarantee may not be issued before the successful renewal of the charter.

(B) If an open-enrollment charter holder proposes to use the proceeds of the bonds for which it is applying for the guarantee for an expansion that requires a charter amendment, application approval will be contingent on approval of the amendment, and the bonds may not be issued before approval of the amendment.

(2) Initial and final approval provisions.

(A) The commissioner may require an applicant charter district to obtain final approval for the guarantee as described in paragraph (4) of this subsection if:

(i) during the monthly estimation of PSF capacity described in §33.6 of this title, the commissioner determines that the available capacity of the PSF as described in §33.6 of this title is 10% or less; or

(ii) during the monthly estimation of the available capacity of the PSF to guarantee bonds for charter districts described in subsection (d) of this section, the commissioner determines that the available capacity of the PSF to guarantee bonds for charter districts is 10% or less.

(B) If the commissioner has not made such a determination:

(i) the commissioner will consider the initial approval described in paragraph (3) of this subsection as both the initial and final approval; and

(ii) an applicant charter district that has received notification of initial approval for the guarantee, as described in paragraph (3) of this subsection, may consider that notification as notification of initial and final approval for the guarantee and may complete the sale of the applicable bonds.

(3) Initial approval.

(A) The following provisions apply to all applications for the guarantee, regardless of whether an application is for a new money, refunding, or combination issue. Under TEC, §45.056, the commissioner will investigate the financial status of the applicant charter district and the accreditation status of all open-enrollment charter schools operated under the charter. For the charter district's application to be eligible for initial approval by the commissioner, each open-enrollment charter school operated under the charter must be accredited, and the charter district must be financially sound. The commissioner's review will include review of the following:

(i) the purpose of the bond issue;

(ii) the accreditation status, as defined by §97.1055 of this title (relating to Accreditation Status), of all open-enrollment charter schools operated under the charter in accordance with the following, except that, if an open-enrollment charter school operated under the charter has not yet received an accreditation rating because it is in its first year of operation, that fact will not impact the charter district's eligibility for consideration for the guarantee:

- (I) if the accreditation status of all open-enrollment charter schools operated under the charter is Accredited, the charter district will be eligible for consideration for the guarantee;
- (II) if the accreditation status of any open-enrollment charter school operated under the charter is Accredited-Warned or Accredited-Probation, the commissioner will investigate the underlying reason for the accreditation rating to determine whether the accreditation rating is related to the open-enrollment charter school's financial soundness. If the accreditation rating is related to the open-enrollment charter school's financial soundness, the charter district will not be eligible for consideration for the guarantee; or
- (III) if the accreditation status of any open-enrollment charter school operated under the charter is Not Accredited-Revoked, the charter district will not be eligible for consideration for the guarantee;
- (iii) the charter district's financial status and stability, regardless of each open-enrollment charter school's accreditation rating, including approval of the bonds by the attorney general under the provisions of TEC, §53.40;
- (iv) whether TEA has required the charter district to submit a financial plan under §109.1101 of this title (relating to Financial Solvency Review) in the last three years;
- (v) the audit history of the charter district and of all open-enrollment charter schools operated under the charter;
- (vi) the charter district's compliance with statutes and rules of TEA and with applicable state and federal program requirements and the compliance of all open-enrollment charter schools operated under the charter with these statutes, rules, and requirements;
- (vii) any interventions and sanctions to which the charter district has been subject; to which any of the open-enrollment charter schools operated under the charter has been subject; and, if applicable, to which any of the open-enrollment charter school campuses operated under the charter has been subject;
- (viii) formal complaints received by TEA that have been made against the charter district, against any of the open-enrollment charter schools operated under the charter, or against any of the open-enrollment charter school campuses operated under the charter;
- (ix) the state academic accountability rating of all open-enrollment charter schools operated under the charter and the campus ratings of all open-enrollment charter school campuses operated under the charter;
- (x) any unresolved corrective actions that are less than one year old; and
- (xi) whether the charter district is considered a high-risk grantee by the TEA office responsible for planning, grants, and evaluation.
- (B) The commissioner will limit approval for the guarantee to a charter district with a historical debt service coverage ratio, based on annual debt service, of at least 1.1 for the most recently completed fiscal year and a projected debt service coverage ratio, based on projected revenues and expenses and maximum annual debt service, of at least 1.2. If the bond issuance for which an application has been submitted is the charter district's first bond issuance, the commissioner will evaluate only projected debt service coverage. Projections of revenues and expenses are subject to approval by the commissioner.
- (C) The commissioner will grant or deny initial approval for the guarantee based on the review described in subparagraph (A) of this paragraph and the limitation described in

subparagraph (B) of this paragraph and will provide an applicant charter district whose application has received initial approval for the guarantee written notice of initial approval.

(4) Final approval. The provisions of this paragraph apply only as described in paragraph (2) of this subsection. A charter district must receive final approval before completing the sale of the bonds for which the charter district has received notification of initial approval.

(A) A charter district that has received initial approval must provide a written notice to TEA two business days before issuing a preliminary official statement (POS) for the bonds that are eligible for the guarantee or two business days before soliciting investment offers, if the bonds will be privately placed without the use of a POS.

(i) The charter district must receive written confirmation from TEA that the capacity continues to be available and must continue to meet the requirements of subsection (e)(2) of this section before proceeding with the public or private offer to sell bonds.

(ii) TEA will provide this notification within one business day of receiving the notice of the POS or notice of other solicitation offers to sell the bonds.

(B) A charter district that received confirmation from TEA in accordance with subparagraph (A) of this paragraph must provide written notice to TEA of the placement of an item to approve the bond sale on the agenda of a meeting of the bond issuer's board of directors no later than two business days before the meeting. If the bond sale is completed pursuant to a delegation by the issuer to a pricing officer or committee, notice must be given to TEA no later than two business days before the execution of a bond purchase agreement by such pricing officer or committee.

(i) The charter district must receive written confirmation from TEA that the capacity continues to be available for the bond sale before the approval of the sale by the bond issuer or by the pricing officer or committee.

(ii) TEA will provide this notification within one business day before the date that the bond issuer expects to complete the sale by official action of the bond issuer or of a pricing officer or committee.

(C) TEA will process requests for final approval from charter districts that have received initial approval on a first come, first served basis. Requests for final approval must be received before the expiration of the initial approval.

(D) A charter district may provide written notification as required by this paragraph by facsimile transmission, by email, or in another manner prescribed by the commissioner.

(5) Charter district responsibilities on receipt of approval.

(A) Once a charter district is awarded initial approval for the guarantee, each issuance of the bonds must be approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee. The initial approval for the guarantee will expire at the end of the 180-day period. The commissioner may extend the 180-day period, based on extraordinary circumstances, on receiving a written request from the charter district or the attorney general before the expiration of the 180-day period.

(B) If applicable, the charter district must comply with the provisions for final approval described in paragraph (4) of this subsection to maintain approval for the guarantee.

(C) If the bonds are not approved by the attorney general within 180 days of the date of the letter granting the approval for the guarantee, the commissioner will consider the application withdrawn, and the charter district must reapply for a guarantee.

(D) A charter district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee.

- (E) The charter district must provide evidence of the final investment grade rating of the bonds to TEA after receiving initial approval but before the distribution of the preliminary official statement for the bonds or, if the bonds are offered in a private placement, before approval of the bond sale by the governing body of the charter district.
- (F) A charter district must identify by legal description any educational facility purchased or improved with bond proceeds no later than 30 days after entering into a binding commitment to expend bond proceeds for that purpose. The charter district must identify at that time whether and to what extent debt service will be paid with any source of revenue other than state funds.
- (g) Allocation of specific holdings. If necessary to successfully operate the BGP, the commissioner may allocate specific holdings of the PSF to specific bond issues guaranteed under this section. This allocation will not prejudice the right of the SBOE [State Board of Education (SBOE)] to dispose of the holdings according to law and requirements applicable to the fund; however, the SBOE will ensure that holdings of the PSF are available for a substitute allocation sufficient to meet the purposes of the initial allocation. This allocation will not affect any rights of the bond holders under law.
- (h) Defeasance. The guarantee will be completely removed when bonds guaranteed by the BGP are defeased, and such a provision must be specifically stated in the bond resolution. If bonds guaranteed by the BGP are defeased, the charter district must notify the commissioner in writing within ten calendar days of the action.
- (i) Payments. For purposes of the provisions of TEC, Chapter 45, Subchapter C, matured principal and interest payments are limited to amounts due on guaranteed bonds at scheduled maturity, at scheduled interest payment dates, and at dates when bonds are subject to mandatory redemption, including extraordinary mandatory redemption, in accordance with their terms. All such payment dates, including mandatory redemption dates, must be specified in the bond order or other document pursuant to which the bonds initially are issued. Without limiting the provisions of this subsection, payments attributable to an optional redemption or a right granted to a bondholder to demand payment on a tender of such bonds according to the terms of the bonds do not constitute matured principal and interest payments.
- (j) Guarantee restrictions. The guarantee provided for eligible bonds under the provisions of TEC, Chapter 45, Subchapter C, is restricted to matured bond principal and interest. The guarantee applies to all matured interest on eligible bonds, whether the bonds were issued with a fixed or variable interest rate and whether the interest rate changes as a result of an interest reset provision or other bond resolution provision requiring an interest rate change. The guarantee does not extend to any obligation of a charter district under any agreement with a third party relating to bonds that is defined or described in state law as a "bond enhancement agreement" or a "credit agreement," unless the right to payment of such third party is directly as a result of such third party being a bondholder.
- (k) Notice of default. A charter district that has determined that it is or will be unable to pay maturing or matured principal or interest on a guaranteed bond must immediately, but not later than the fifth business day before the maturing or matured principal or interest becomes due, notify the commissioner.
- (l) Charter District Bond Guarantee Reserve Fund. The Charter District Bond Guarantee Reserve Fund is a special fund in the state treasury outside the general revenue fund and is managed by the SBOE in the same manner that the PSF is managed by the SBOE.
- (m) Payment from Charter District Bond Guarantee Reserve Fund and PSF.
- (1) Immediately after the commissioner receives the notice described in subsection (k) of this section, the commissioner will notify the Texas PSF Corporation [TEA division responsible for administering the PSF] of the notice of default and instruct the comptroller to transfer from the Charter District Bond Guarantee Reserve Fund established under TEC, §45.0571, to the charter district's paying agent the amount necessary to pay the maturing or matured principal or interest.
- (2) If money in the reserve fund is insufficient to pay the amount due on a bond under paragraph (1) of this subsection, the commissioner will instruct the comptroller to transfer from the appropriate account in the PSF to the charter district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.

- (3) Immediately after receipt of the funds for payment of the principal or interest, the paying agent must pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller will hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.
- (4) To ensure that the charter district reimburses the reserve fund and the PSF, if applicable, the commissioner will withhold from state funds otherwise payable to the charter district the amount that the charter district owes in reimbursement.
- (5) Funds intercepted for reimbursement under paragraph (4) of this subsection will be used to fully reimburse the PSF before any funds reimburse the reserve fund. If the funds intercepted under paragraph (4) of this subsection are insufficient to fully reimburse the PSF with interest, subsequent payments into the reserve fund will first be applied to any outstanding obligation to the PSF.
- (6) Following full reimbursement to the reserve fund and the PSF, if applicable, with interest, the comptroller will further cancel the bond or coupon and forward it to the charter district for which payment was made. Interest will be charged at the rate determined under the Texas Government Code (TGC), §2251.025(b). Interest will accrue as specified in the TGC, §2251.025(a) and (c). For purposes of this section, the "date the payment becomes overdue" that is referred to in the TGC, §2251.025(a), is the date that the comptroller makes the payment to the charter district's paying agent.
- (n) Bonds not accelerated on default. If a charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the charter district's default.
- (o) Reimbursement of Charter District Bond Guarantee Reserve Fund or PSF. If payment from the Charter District Bond Guarantee Reserve Fund or the PSF is made on behalf of a charter district, the charter district must reimburse the amount of the payment, plus interest, in accordance with the requirements of TEC, §45.061.
- (p) Repeated failure to pay. If a total of two or more payments are made under the BGP on the bonds of a charter district, the commissioner may take action in accordance with the provisions of TEC, §45.062.
- (q) Report on the use of funds and confirmation of use of funds by independent auditor. A charter district that issues bonds approved for the guarantee must report to TEA annually in a form prescribed by the commissioner on the use of the bond funds until all bond proceeds have been spent. The charter district's independent auditor must confirm in the charter district's annual financial report that bond funds have been used in accordance with the purpose specified in the application for the guarantee.
- (r) Failure to comply with statute or this section. An open-enrollment charter holder's failure to comply with the requirements of TEC, Chapter 45, Subchapter C, or with the requirements of this section, including by making any material misrepresentations in the charter holder's application for charter district designation and the guarantee, constitutes a material violation of the open-enrollment charter holder's charter.

§33.8. Compliance with Securities and Exchange Commission (SEC) Rule 15c2-12 Pertaining to Disclosure of Information Relating to the Bond Guarantee Program.

- (a) Definitions. As used in this section, the following terms have the meanings ascribed to such terms below.
 - (1) Agency means the Texas Education Agency and any successors or assigns thereto with respect to the management and administration of the Program or the investment of the Permanent School Fund.
 - (2) Financial Obligation means, with respect to the Program, a:
 - (A) debt obligation;
 - (B) derivative instrument entered into in connection with, or pledged as security or a source of a payment for, an existing or planned debt obligation; or

(C) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

- (3) Guaranteed Bonds means obligations for which application is made and granted for a guarantee under the Program.
- (4) Issuing District means a school district or charter district which issues Guaranteed Bonds.
- (5) MSRB means the Municipal Securities Rulemaking Board or any successor to its functions under the Rule.
- (6) Official Statement means each offering document of an Issuing District used in the offering and/or sale of Guaranteed Bonds.
- (7) Order means the resolution, order, ordinance or other instrument or instruments of an Issuing District pursuant to which Guaranteed Bonds are issued and the rights of the holders and beneficial owners thereof are established.
- (8) Permanent School Fund means the perpetual school fund established by Article VII, Section 2 of the Texas Constitution.
- (9) Program means the program of bond guarantee by the Permanent School Fund, which program has been established by Article VII, Sections 2 and 5 of the Texas Constitution, and is administered in accordance with Subchapter C, Chapter 45, Texas Education Code, as amended, and the rules and regulations of the Agency. The term Program shall also include the rules, regulations and policies of the Agency with respect to the administration of such program of guarantee of school district bonds, as well as the rules, regulations, policies of the Agency with respect to the administration, and the operational and financial results, of the Permanent School Fund.
- (10) Program Regulation means this rule of the Agency which is promulgated for the purpose of establishing and undertaking with respect to the Program which satisfies the requirements of the Rule.
- (11) PSF Corporation means the Permanent School Fund Corporation created by the State Board of Education pursuant to, and having the powers set forth in, Subchapter B of Chapter 43, Texas Education Code, as amended.
- (12) Rule means SEC Rule 15c2-12, as amended from time to time.
- (13) SEC means the United States Securities and Exchange Commission.

(b) Annual Reports.

- (1) The Agency shall provide annually to the MSRB, within six months after the end of each fiscal year, financial information and operating data with respect to Program of the general type which describes the Program and which is included in an Official Statement for Guaranteed Bonds, which is prepared by the PSF Corporation. Any financial statements to be provided need not be audited. Such information shall be transmitted electronically to the MSRB, in such format and accompanied by such identifying information as prescribed by the MSRB.
- (2) If the Agency changes its fiscal year from the year ending August 31, it will file notice with the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Agency otherwise would be required to provide financial information and data pursuant to this section.
- (3) The financial information and operating data to be provided pursuant to this section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to either the MSRB or filed with the SEC.

(c) Event Notices.

- (1) The Agency shall notify the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event), of any of the following events with respect to the Program:
- (A) Principal and interest payment delinquencies;
 - (B) Non-payment related defaults if such event is material within the meaning of the federal securities laws;
 - (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
 - (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
 - (E) Substitution of credit or liquidity providers, or their failure to perform;
 - (F) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Program, or other material events affecting the tax status of the Program;
 - (G) Modifications to rights of holders of the Bonds, if such event is material within the meaning of the federal securities laws;
 - (H) Bond calls, if such event is material within the meaning of the federal securities laws, and tender offers;
 - (I) Defeasances;
 - (J) Release, substitution, or sale of property securing repayment of Guaranteed Bonds, if such event is material within the meaning of the federal securities laws;
 - (K) Rating changes of the Program;
 - (L) Bankruptcy, insolvency, receivership, or similar event of the Program, which shall occur as described below;
 - (M) The consummation of a merger, consolidation, or acquisition involving the Program or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if such event is material within the meaning of the federal securities laws;
 - (N) Appointment of a successor or additional trustee with respect to the Program or the change of name of a trustee, if such event is material within the meaning of the federal securities laws;
 - (O) The incurrence of a financial obligation of the Program, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Program, any of which affect security holders, if material; and
 - (P) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Program, any of which reflect financial difficulties.
- (2) For these purposes, any event described in the immediately preceding paragraph (L) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Program in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Program, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Program.

- (3) The Agency shall notify the MSRB, in a timely manner, of any failure by the Agency to provide financial information or operating data in accordance with Section 1 of this Program Regulation by the time required by such Section.
- (4) Nothing in this Program Regulation shall obligate the Agency to make any filings or disclosures with respect to Guaranteed Bonds, as the obligations of the Agency hereunder pertain solely to the Program.
- (d) Limitations, Disclaimers, and Amendments.
- (1) With respect to a series of Guaranteed Bonds, the Agency shall be obligated to observe and perform the covenants specified in this Program Regulation for so long as, but only for so long as, the Agency remains an "obligated person" with respect to the Guaranteed Bonds within the meaning of the Rule.
- (2) The provisions of this Program Regulation are for the sole benefit of each Issuing District, as well as holders and beneficial owners of the Guaranteed Bonds; nothing in this Program Regulation, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Agency undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Program Regulation and does not hereby undertake to provide any other information, even if such information may be relevant or material to a complete presentation of the Program's financial results, condition, or prospects. The Agency does not undertake to update any information provided in accordance with this Program Regulation or otherwise, except as expressly provided herein. The Agency does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Guaranteed Bonds at any time.
- (3) Under no circumstances shall the Agency or the Program be liable to the holder or beneficial owner of any Guaranteed Bond, the Issuing District or any other person or entity, in contract or tort, for damages resulting in whole or in part from any breach by the Agency, whether negligent or without fault on its part, of any covenant specified in this Program Regulation, but every right and remedy of any such person, in contract or tort, for or on account of any such breach shall be limited to an action for mandamus or specific performance.
- (4) No default by the Agency in observing or performing its obligations under this Program Regulation shall comprise a breach of or default under the Order for purposes of any other provision of the Order. Nothing in this Program Regulation is intended or shall act to disclaim, waive, or otherwise limit the duties of the Agency under federal and state securities laws.
- (5) The provisions of this Program Regulation may be amended by the Agency from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Agency, but only if:
- (A) the provisions of this Program Regulation, as so amended, would have permitted an underwriter to purchase or sell Guaranteed Bonds in the primary offering of the Guaranteed Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances; and
- (B) either:
- (i) the holders of a majority in aggregate principal amount of the outstanding Guaranteed Bonds consent to such amendment, or
- (ii) a person that is unaffiliated with the Agency (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Guaranteed Bonds.
- (6) If the Agency so amends the provisions of this Program Regulation, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this section (relating to Compliance with SEC Rule 15c2-12 Pertaining to Disclosure of Information Relating to the Bond Guarantee Program) an explanation, in narrative form, of the

reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Agency may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Guaranteed Bonds in the primary offering of the Guaranteed Bonds.

Subchapter B. Texas Permanent School Fund Corporation Rules

§33.21. Texas Permanent School Fund Corporation.

Terms of directors. Any State Board of Education (SBOE) member who is appointed to the Texas Permanent School Fund (PSF) Corporation board of directors pursuant to SBOE policy under Texas Education Code, §43.053(a)(1), shall cease to be a Texas PSF Corporation director upon the expiration of his or her term of service on or upon other separation from the SBOE Committee on School Finance/Permanent School Fund in accordance with the SBOE's rules and policies.

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ATTACHMENT
Text of Proposed Repeal of 19 TAC

Chapter 129. Student Attendance

[Subchapter A. Student Attendance Allowed]

§129.1. Free Attendance in General.

- ~~(a) Definitions. Identification is required within 30 days of a child's enrollment in a Texas school, in accordance with the Texas Education Code, §25.002. For the purposes of identification, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:~~
- ~~(1) Documents that are suitable for identification. Shall be defined by the commissioner of education.~~
- ~~(2) The child's records. Include a minimum set of data and documentation established by the commissioner of education. The minimum set of data will include the child's social security number or a state approved alternative identification number as assigned by the Public Education Information Management System (PEIMS).~~
- ~~(b) Children shall not be denied enrollment or be removed solely because they fail to meet the requirements of subsection (a) of this section.~~
- ~~(c) Students in this country under a bona fide exchange program are eligible to attend school in the designated district of residence.~~

[Subchapter B. Student Attendance Accounting]

§129.21. Requirements for Student Attendance Accounting for State Funding Purposes.

- ~~(a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.~~
- ~~(b) The commissioner of education is responsible for providing guidelines and procedures for attendance accounting in accordance with state law.~~
- ~~(c) The commissioner must provide for special circumstances regarding attendance accounting in accordance with the provisions of law.~~
- ~~(d) The superintendent of schools is responsible for the safekeeping of all attendance records and reports. The superintendent of schools may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses of the district, or at another secure location. Regardless of where such records are stored, they must be readily available for audit by the TEA division responsible for performing school financial audits.~~
- ~~(e) Districts must maintain records and make reports concerning student attendance and participation in special programs as required by the commissioner.~~
- ~~(f) If a school district chooses to use a locally developed record or automated system, the record or automated system must contain the minimum information required by the commissioner.~~
- ~~(g) A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.~~
- ~~(h) Attendance for all grades must be determined by the absences recorded at the official attendance taking time during the campus's instructional day, unless the local school board adopts a district policy, or delegates to the superintendent the authority to establish procedures, for recording absences in an~~

~~alternative hour, or unless the students for which attendance is being taken are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.~~

- ~~(1) — Students enrolled on a half day basis may earn only one half day of attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day that they are scheduled to be present. Students enrolled on a full day basis may earn one full day of attendance each school day.~~
 - ~~(2) — Students who are enrolled in and participating in an alternative attendance accounting program approved by the commissioner will earn attendance according to the statutory and rule provisions applicable to that program.~~
 - ~~(3) — The established period in which absences are recorded may not be changed during the school year.~~
 - ~~(4) — Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.~~
- ~~(i) — A student who is not actually in school at the time attendance is taken must not be counted in attendance for FSP funding purposes, unless the student is participating in an activity that meets the conditions set out in subsection (j) of this section, or unless the student is enrolled in and participating in an alternative attendance accounting program approved by the commissioner.~~
- ~~(j) — A student not actually on campus at the time attendance is taken may be considered in attendance for FSP funding purposes under the following conditions:~~
- ~~(1) — The student is participating in an activity that is approved by the local board of school trustees and is under the direction of a member of the professional or paraprofessional staff of the school district, or an adjunct staff member who:
 - ~~(A) — has a minimum of a bachelor's degree; and~~
 - ~~(B) — is eligible for participation in the Teacher Retirement System of Texas.~~~~
 - ~~(2) — The student is participating in a mentorship approved by district personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement Program outlined in Chapter 74 of this title (relating to Curriculum Requirements).~~
 - ~~(3) — The student is absent for one of the purposes specified in the Texas Education Code (TEC), §25.087(b), (b 1), (b 2), (b 4), (b 5), or (c). Excused days for travel under the TEC, §25.087(b)(1), are limited to not more than one day for travel to and one day for travel from the applicable site. A temporary absence excused under the TEC, §25.087(b)(2), must be supported by a document such as a note from the health care professional.~~
- ~~(k) — A student not actually on campus at the time attendance is taken also may be considered in attendance for FSP funding purposes under other conditions described in the handbook adopted under §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook) related to off campus instruction.~~
- ~~(l) — Before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the local school board or governing body must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus, and the district or charter school must distribute the policy or procedures to staff and to all parents of students in the district or charter school.~~

Adoption Cycle—April 2021February 2023		
2020-2021 Biennium School Years 2019–20 and 2020–21	Budget Year 2020	Budget Year 2021
	Proclamation 2019 State Adoption, Fall 2018 Materials Ordered, Spring 2019 Implementation, 2019–20 School Year English and Spanish Language Arts and Reading, K–8 English Learners Language Arts, 7–8 Handwriting, K–5 (English and Spanish) Spelling, 1–6 (English and Spanish) Personal Financial Literacy	Proclamation 2020 State Adoption, Fall 2019 Materials Ordered, Spring 2020 Implementation, 2020–21 School Year English Language Arts and Reading, English I–IV Reading I, II, III English for Speakers of Other Languages, English I, II English Learners Language Arts, 7–8
2022-2023 Biennium School Years 2021–22 and 2022–23	Budget Year 2022	Budget Year 2023
	Proclamation 2021 State Adoption, Fall 2020 Materials Ordered, Spring 2021 Implementation, 2021–22 School Year Pre-Kindergarten Systems	Proclamation 2022 State Adoption, Fall 2021 Materials Ordered, Spring 2022 Implementation, 2022–23 School Year Health and PE
2024-2025 Biennium School Years 2023–24 and 2024–25	Budget Year 2024	Budget Year 2025
	Proclamation 2023 State Adoption, Fall 2022 Materials Ordered, Spring 2023 Implementation, 2023–24 School Year Not Issued	Proclamation 2024 State Adoption, Fall 2023 Materials Ordered, Spring 2024 Implementation, 2024–25 School Year Science, K–12 Technology Applications, K–8 <u>CTE: See Proclamation</u> Personal Financial Literacy and Economics
2026-2027 Biennium School Years 2025–26 and 2026–27	Budget Year 2026	Budget Year 2027
	Proclamation 2025 State Adoption, Fall 2024 Materials Ordered, Spring 2025 Implementation, 2025–26 School Year <u>Social Studies, K–12 Not Issued</u> <u>CTE: TBD</u>	Proclamation 2026 State Adoption, Fall 2025 Materials Ordered, Spring 2026 Implementation, 2026–27 School Year Mathematics, K–12 CTE: <u>TBD Subchapter A. Agriculture, Food, and Natural Resources</u>

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ATTACHMENT
Text of Proposed New 19 TAC

Chapter 111. Texas Essential Knowledge and Skills for Mathematics

Subchapter D. Other High School Mathematics Courses

§111.56. Advanced Placement (AP) Precalculus (One Credit).

- (a) General requirements. Students shall be awarded one credit for successful completion of this course. Recommended prerequisites: Algebra II and Geometry.
- (b) Content requirements. Content requirements for Advanced Placement (AP) Precalculus are prescribed in the College Board Publication *Advanced Placement Course Description Mathematics: Precalculus*, published by The College Board. This publication may be obtained from the College Board Advanced Placement Program.

Minutes

State Board of Education

February 2, 2023

Minutes
State Board of Education
Thursday, February 2, 2023

The State Board of Education met at 10:10 a.m. on Thursday, February 2, 2023, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Rebecca Bell-Metereau; Evelyn Brooks; Staci Childs; Aicha Davis; LJ Francis; Patricia Hardy; Will Hickman; Aaron Kinsey; Pam Little; Tom Maynard; Melissa Ortega (virtual); Marisa B. Perez-Diaz; Julie Pickren; Audrey Young

Pledge of Allegiance

Invocation

Roll Call

1. Swearing-in Ceremony for Members of the State Board of Education
(Board agenda page SBOE-1)

This item was postponed to Friday, February 3, 2023.

2. Drawing for Terms of Office
(Board agenda page SBOE-2)

Pursuant to the provisions of the Texas Education Code (TEC), §7.104, seven members of the board elected at each general election following redistricting shall serve two-year terms and eight members shall serve four-year terms and members shall draw lots to determine who serves which terms.

All members drew lots and the results were as follows:

<u>District</u>	<u>Member</u>	<u>Term</u>	<u>Expiration</u>
1	Dr. Ortega	2 years	January 1, 2025
2	Mr. Francis	4 years	January 1, 2027
3	Ms. Perez-Diaz	2 years	January 1, 2025
4	Ms. Childs	2 years	January 1, 2025
5	Dr. Bell-Metereau	4 years	January 1, 2027
6	Mr. Hickman	4 years	January 1, 2027
7	Ms. Pickren	4 years	January 1, 2027
8	Dr. Young	4 years	January 1, 2027
9	Dr. Ellis	4 years	January 1, 2027
10	Mr. Maynard	2 years	January 1, 2025
11	Ms. Hardy	2 years	January 1, 2025
12	Mrs. Little	2 years	January 1, 2025
13	Aicha Davis	4 years	January 1, 2027
14	Mrs. Brooks	4 years	January 1, 2027
15	Mr. Kinsey	2 years	January 1, 2025

3. Review and Adoption of State Board of Education Operating Rules

(Board agenda page SBOE-3)

Monica Martinez, associate commissioner for standards and programs, reviewed the non-substantive changes recommended by staff to the State Board of Education Operating Rules.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried that the State Board of Education use the staff recommendations as the base document for consideration of operating rules.*

MOTION AND VOTE: *It was moved by Dr. Ellis and carried that the State Board of Education strike “public testimony” from §1.2(a) under Committee of the Full Board.*

MOTION AND VOTE: *It was moved by Mr. Maynard and carried that the State Board of Education amend §1.2(a)(6) under Committee on School Finance/Permanent School Fund to read:*

“6. Oversight of the Bond Guarantee Program, including coordination with the TEA and the Texas Permanent School Fund Corporation (Texas PSF)”

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried that the State Board of Education amend §1.2(a)(7) under Committee on School Finance/Permanent School Fund to read:*

“7. Oversight of the Texas PSF, including receipt of required reports Permanent School Fund management oversight, including audit responsibility, investment objectives, and investment decisions”

MOTION: *It was moved by Dr. Ellis, seconded by Ms. Hardy, and carried that the State Board of Education amend §1.2(a)(3) under Committee on School Initiatives to read “Updates regarding open-enrollment application cycles.”*

MOTION AND VOTE: *It was moved by Ms. Pickren, seconded by Mr. Hickman, and carried that the State Board of Education amend the motion to add “and processes.”*

VOTE: *A vote was taken on the original motion that the State Board of Education amend §1.2(a)(3) under Committee on School Initiatives to read “Updates regarding open-enrollment application cycles and processes,” as amended.*

MOTION: *It was moved by Mr. Francis, seconded by Mr. Kinsey, and carried that the State Board of Education amend §1.2(a) under Committee of the Full Board add new (4) to read “School safety and items pertaining to the Texas school safety center and recommendations from the chief of school safety and security.”*

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Ms. Davis, and carried that the State Board of Education replace “Committee of the Full Board” with “Committee on School Initiatives.”*

VOTE: *A vote was taken on the motion that the State Board of Education amend §1.2(a) under Committee on School Initiatives add new (4) to read “School safety and items pertaining to the Texas*

school safety center and recommendations from the chief of school safety and security,” as amended. The motion carried.

MOTION AND VOTE: *It was moved by Mr. Hickman and carried that the State Board of Education strike “seniority (total years of service), ethnicity balance, gender balance, racial diversity, geographic balance, and” from §1.2(e).*

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy and carried that the State Board of Education move the last sentence of current (e) to a new (f) to read:*

“Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as the chair of a standing committee. Should the committee chair be unable or unwilling to continue to serve as chair, the chairman of the board shall declare a vacancy and a new election shall be held by the committee.”

MOTION: *It was moved by Ms. Davis and seconded by Ms. Perez-Diaz, that the State Board of Education amend §1.2(e) to read:*

“(e) The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments in the public view for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board may also consider seniority (total years of service), ethnicity balance, gender balance, racial diversity, geographic balance, and relevant qualifications for the Committee on Instruction and the Committee on School Initiatives. For the Committee on School Finance/Permanent School Fund the officers shall consider relevant qualifications specific to a committee assignment in making committee assignments.”

MOTION AND VOTE: *It was moved by Dr. Bell-Metereau and carried to add “in accordance with statutory provisions.”*

VOTE: *A vote was taken on the original motion that the State Board of Education amend §1.2(e) as amended. The motion failed.*

(Mrs. Brooks was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy and carried that the State Board of Education add new §1.2(j) to read:*

“The members appointed to the Committee on School Finance/Permanent School Fund will serve as the members of the board of directors of the Texas PSF that are appointed by the SBOE as provided under Texas Education Code §43.053(a)(1) and will cease to serve as a director upon the expiration of his or her term of service or other separation from such committee in accordance with these rules as provided under 19 TAC Chapter 33, Texas Permanent School Fund Corporation, §33.21.”

MOTION AND VOTE: *It was moved by Mr. Francis, seconded by Mr. Hickman, that the State Board of Education strike “The chair may limit in-person attendance at a meeting to ensure health and safety of board members and members of the public. In such instances, governor’s orders shall*

be followed, and members of the public shall be given access to view all portions of the meetings virtually” from §2.3. The motion failed.

(Mr. Maynard was absent for the vote.)

MOTION: *It was moved by Mr. Hickman to amend §2.5 to read as follows:*

(e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item. Materials supplementing the agenda may be included. Official agendas and supplementary materials will be available at least one week before ~~the day of~~ the board meeting. Any items submitted after this deadline may be considered at the next board meeting.

MOTION AND VOTE: *It was moved by Dr. Ellis and carried that the State Board of Education amend the amendment to read:*

“(e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item. Materials supplementing the agenda may be included.

(f) Official agendas and agenda attachments will be available at least one week before ~~the day of~~ the board meeting. Any items submitted after this deadline may be considered at the next board meeting.”

VOTE: *A vote was taken on the original motion that the State Board of Education amend §2.5 as amended. The motion carried.*

The motion failed with 8 members voting Aye, 5 members voting No, and 1 member Abstaining as follows:

<u>Aye:</u>	Ms. Brooks	Mr. Kinsey
	Mr. Francis	Mrs. Little
	Ms. Hardy	Ms. Pickren
	Mr. Hickman	Dr. Young
<u>No:</u>	Dr. Bell-Metereau	Dr. Ortega
	Ms. Childs	Ms. Perez-Diaz
	Ms. Davis	
<u>Abstain:</u>	Mr. Maynard	

MOTION AND VOTE: *It was moved by Mr. Hickman and seconded by Mrs. Little that the State Board of Education amend §2.5(e) to read:*

“(e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item. Materials supplementing the agenda may be included as attachments.”

MOTION AND VOTE: *It was moved by Mr. Francis and seconded by Mr. Kinsey that the State Board of Education amend §2.5(a) to read:*

“(a) The chair has the primary responsibility for creating the SBOE meeting agendas. This includes the SBOE agenda, the Committee of the Full Board agenda, and all committee agendas. Other than as provided in this subsection and subsections (b) and (c) of this section, all agenda items are subject to the approval of the chair. If a member wishes an item to be placed on the agenda of the Committee of the Full Board, the member should request in writing and via a verbal conversation that the chair place the item on the agenda. The chair will respond in writing within two business days to approve or decline the requested agenda item. If the chair fails to reply within the two business days timeline, the item will be considered approved and placed on the upcoming Board meeting agenda. If the chair declines in writing within 48 hours to approve or decline the requested to place the item on the agenda, the member may make a motion during a board meeting to include the item on the agenda. If the board approves the request, it is placed on the agenda of the Committee of the Full Board for the next meeting.”

The motion failed.

(Mr. Maynard, Mr. Hickman were absent for the vote.)

MOTION: *It was moved by Dr. Ellis, seconded Mr. Hickman that the State Board of Education amend §2.6(d) to read:*

“(d) If a board member participates in a meeting virtually, the board member must be visible by video and must have capabilities to be heard by other board members and members of the public. A member who is not present on camera during a vote of the board will be noted as absent for the vote. In the event of an emergency, every effort will be made to accommodate the board member.”

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Ms. Davis, and carried to add the “In the event of an emergency, every effort will be made to accommodate the board member” to §2.6(d).*

VOTE: *A vote was taken on the motion that the State Board of Education amend §2.6(d) as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Dr. Young, seconded by Ms. Perez-Diaz, and carried that the State Board of Education amend §2.6(f) to read:*

“The presiding chair shall designate the area inside the velvet ropes as the bar of the meeting (the only place where discussion and votes may take place). Members of the public shall not to enter areas of the bar of the meeting space designated for SBOE members only and shall not impede or interfere with the movement of SBOE members to or from designated areas. At the start of each meeting, the presiding chair shall inform members of the public that the bar has been established, that they are not permitted inside the bar, and that they may not limit members’ movements to or from the bar.”

MOTION AND VOTE: *It was moved by Dr. Young and seconded by Ms. Hardy that the State Board of Education add new §2.6(g) to read:*

“For the sake of expediency, each board member shall be limited to 10 minutes of questions and discussion on each agenda item.”

The motion carried with 9 members voting Aye and 5 members voting No as follows:

<u>Aye:</u>	Dr. Bell-Metereau	Mrs. Little
	Ms. Childs	Dr. Ortega
	Ms. Davis	Ms. Perez-Diaz
	Ms. Hardy	Dr. Young
	Mr. Hickman	

<u>No:</u>	Ms. Brooks	Mr. Maynard
	Mr. Francis	Ms. Pickren
	Mr. Kinsey	

MOTION AND VOTE: It was moved by Mr. Francis and seconded by Mr. Kinsey to strike “applause” and add “disruptive” to read:

“(d) ~~No applause, disruptive~~ outburst or other demonstration by any spectator shall be permitted during the public testimony, public hearing or debate portion of any State Board of Education meeting. After warnings to the audience to refrain from such demonstrations, the presiding chair may direct that disruptive individuals in the gallery area be removed as necessary to preserve decorum during meetings.

The motion failed.

MOTION AND VOTE: It was moved by Dr. Young, seconded by Ms. Hardy, and carried that the State Board of Education amend §2.7 to read:

- (b) The presiding chair shall preserve order and decorum during meetings by informing all individuals in attendance of the rules of decorum and providing notice that written rules are posted at the entrance to the room and in the room. The presiding chair shall also provide notice that an individual who does not comply with the rules of decorum may be removed from the meeting. In case of disturbance or disorderly conduct in the public gallery, the chair may order that any disruptive individuals be cleared from the area.
- (c) Members in the audience shall not distract or disrupt SBOE members or others in the audience during a meeting. Anyone needing to engage in a conversation should quietly exit the meeting room to a public space. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.
- (d) ~~(e)~~ No signs, placards, flags, noisemakers, or other objects of a similar nature shall be permitted in the audience gallery area.
- (e) ~~(d)~~ No applause, outburst ~~or~~ other demonstration, or disruption by any spectator shall be permitted during ~~the public testimony, public hearing or debate~~ any portion of any State Board of Education meeting. After warnings to the audience to refrain from such demonstrations, the presiding chair may direct that disruptive individuals in the gallery area be removed as necessary to preserve decorum during meetings. If, after at least one warning from the presiding officer, any individual continues to disrupt a meeting by his or her words or actions, the presiding officer may direct that the individual be removed as necessary to preserve decorum during meetings.

- (f) (e) Supporters of a testifier may not gather behind the podiums used for testimony. Testifiers are free to use a portion of their testimony time to acknowledge supporters seated in the audience.

(Mr. Francis was absent for the vote.)

MOTION AND VOTE: *It was moved by Ms. Hardy, seconded by Mr. Kinsey, and carried that the State Board of Education amend §2.9(c)(4)(A) and (B) to read:*

- (4) The board may adopt a resolution expressing an opinion related to instructional materials based on the following criteria:
- (A) Instructional materials should present the most current factual information accurately and objectively without editorial opinion or bias by the authors. Theories should be clearly distinguished from fact and presented in an objective educational manner. Materials should focus on scientific processes and recognize the ongoing process of scientific discovery and change over time in the natural world.
- (B) Instructional materials should promote citizenship, patriotism, democracy, understanding of the essentials and benefits of the free enterprise system, respect for recognized authority, and respect for individual rights. The materials should not include selections or works that encourage or condone civil disorder, social strife, or disregard of the law. Violence, if it appears, should be treated in the context of its cause and consequence. It should not appear for reasons of unwholesome excitement or sensationalism.
- (i) Instructional materials should present positive aspects of the United States and Texas and its heritage and abundant natural resources.
- (ii) When significant political or social movements in history generate no clear consensus, instructional materials should present balanced and factual treatment of the positions.
- (iii) Free enterprise means an economic system characterized by private or corporate ownership of capital goods; investments that are determined by private decision rather than by state control; and prices, production, and the distribution of goods that are determined in a free market.

(Mr. Francis and Dr. Young were absent for the vote.)

MOTION AND VOTE: *It was moved by Ms. Childs and seconded by Dr. Ortega §2.9(4)(B)(i) that the State Board of Education replace “positive” with “factual.” The motion failed.*

MOTION AND VOTE: *It was moved by Mr. Kinsey, seconded by Ms. Hardy, and carried that the State Board of Education amend §2.9(4)(D)(i) that the State Board of Education add “Texas” before “society.”*

MOTION AND VOTE: *It was moved by Mr. Kinsey and seconded by Mr. Francis that the State Board of Education amend §2.9(A) to change “four weeks” to “two weeks.”*

The motion failed.

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Mr. Maynard, and carried that the State Board of Education strike §2.10(b)(3).*

MOTION AND VOTE: *It was moved by Dr. Young that the State Board of Education add new §2.10(a)(5) to read:*

“For the sake of expediency, each board member shall be limited to five minutes of (specific to the testimony) rebuttal and questions for each testifier. A board member’s comments shall be limited to questions that elicit clarification on information presented by a testifier, or to verbatim recite law or SBOE policy to refute incorrect or non-factual information presented by the testifier. The presiding chair shall stop the rebuttal and questions of a board member who fails to adhere to this procedure.”

The motion failed.

MOTION AND VOTE: *It was moved by Dr. Young and carried that the State Board of Education add new §2.10(a)(8) to read:*

“At the start of public testimony or a public hearing, the presiding chair shall announce that testimony will be heard for a maximum of two consecutive hours at which time a recess of at least 15 minutes will be observed. Testimony will continue in this manner until such time as all registered testifiers have been permitted to speak. The presiding chair shall also announce that reasonable lunch and dinner breaks will be observed.”

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Ms. Childs that the State Board of Education amend 2.10(b)(1) to replace “Thursday” with “Monday.”*

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Dr. Bell-Metereau, and carried that the State Board of Education amend §2.10(b)(8) strike “twenty (20) collated or stapled copies” and replace with “electronic copy.”*

MOTION AND VOTE: *It was moved by Ms. Pickren and carried that the State Board of Education amend §2.10 to change “shall” to “may.”*

MOTION AND VOTE: *It was moved by Mr. Francis that the that the State Board of Education amend §2.10(c)(2) to strike “two” and add “three.”*

The motion failed.

(Mrs. Little was absent for the vote.)

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Ms. Hardy, and carried that the State Board of Education strike “three” and add “two” to be consistent with vote just taken.*

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Mr. Maynard, and carried that the State Board of Education make conforming amendments to change references to physical copies to an electronic copy.*

MOTION AND VOTE: *It was moved by Mr. Francis and seconded by Ms. Brooks that the State Board of Education amend §2.12(c)(1) to read:*

“(c) The presiding chair shall establish the procedures for conducting the public hearing. These procedures shall include, but are not limited to, the following:

(1) Prioritizing parents, providing for presentations from invited persons or an introduction from staff;”

The motion failed.

MOTION AND VOTE: *It was moved by Ellis, seconded by Maynard, and carried that the State Board of Education adopt the staff recommendation to amend §2.13 as follows:*

“All interested persons have a reasonable opportunity to submit data, views and arguments, prior to the board adoption of any rule. Public comments regarding proposed board rules may be submitted as provided in the notice of proposed rulemaking published in the Texas Register. The deadline for submitting public comments is ~~5:00 p.m. on Friday the week prior to the start of the board meeting~~ will be noted in the Texas Register posting for each item. A minimum of 30 days will be allotted for public comment on a rule item. The board will also take registered oral and written comments on proposed rulemaking at the appropriate committee meeting.”

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Ms. Hardy, and carried that the State Board of Education amend §3.3(b)(3) to add “charter schools.”*

MOTION: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried that the State Board of Education amend §4.1(a) to read:*

“(a) Personal interest in board actions. Whenever a board member has a private or personal interest, including financial interest in any matter to be voted upon by the board, such a member shall state at an open meeting that he or she has such an interest in the matter and shall abstain from voting and discussion concerning the matter. (See Sec. 572.058 for further information.)”

MOTION AND VOTE: *It was moved by Ms. Pickren, seconded by Mr. Kinsey and carried, that the State Board of Education add the statutory citation.*

VOTE: *A vote was taken on the motion as amended. The motion carried.*

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Perez-Diaz, and carried that the State Board of Education amend §4.1B to read:*

“~~The ethical standards that Permanent School Fund ethics policy governs~~ govern the conduct of State Board of Education members with respect to their duties as to the investment and management of the Permanent School Fund are as provided under 19 TAC Chapter 33, Ethical Standards for Members of the State Board of Education, §33.4.”

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried that the State Board of Education amend §4.3(c)(2) to read:*

(2)“contract, grant, or charter” means any application to enter into a direct contractual relationship with or otherwise receive funding from the State Board of Education, including without limitation ~~contracts for investment advisors, consultants, or investment managers for the Permanent School Fund~~ and applicants for charters to operate open enrollment charter schools.”

MOTION AND VOTE: *It was moved by Ms. Davis and carried that the State Board of Education amend §4.3(a) to read:*

“(a) Any person, corporation, or other legal entity which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose whether, at any time in the preceding four years, the person, corporation, or other legal entity has made a campaign contribution to a candidate for or member of the State Board of Education. Disclosure shall be made in writing to the commissioner of education and distributed to board members 14 calendar days prior to consideration by the board or any committee of a contract, grant, or charter.”

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Hickman and carried that the State Board of Education amend §5.2 to strike “can” and insert “may.”*

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mrs. Little, and carried that the State Board of Education amend §6.1 to strike (a) and (b).*

MOTION AND VOTE: *It was moved by Dr. Ellis, seconded by Ms. Hardy that the State Board of Education amend §7.2 to read:*

“The Chair and/or his or her designee shall work collaboratively with staff and the Governor’s Appointments Office to establish appropriate timelines for the placement on the agenda to meet appointment timelines and ensure that proper criteria is are applied by the State Board of Education.”

VOTE: *The operating rules were adopted as amended.*

4. Election of State Board of Education Officers (Board agenda page SBOE-4)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the first regular meeting after the election and qualification of new SBOE members, the board shall elect by separate votes a vice chair and a secretary. The vice chair and secretary of the board will be elected to serve for terms of two years and until their successors are elected.

NOMINATION: Ms. Hardy nominated Mrs. Little for vice chair of the State Board of Education for a two-year term.

Mrs. Little was elected vice chair of the State Board of Education.

NOMINATIONS: Mr. Francis nominated Ms. Hardy for secretary of the State Board of Education for a two-year term.

Ms. Davis nominated Ms. Perez-Diaz for secretary of the State Board of Education for a two-year term.

Ms. Hardy was elected secretary of the State Board of Education.

5. Announcement of Membership of Committees

(Board agenda page SBOE-5)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the board's first regular meeting after the election and qualification of new members, the board shall organize.

Dr. Ellis announced the membership of the committees of the board, as follows:

Committee on Instruction

Evelyn Brooks

Aicha Davis

Pam Little

Melissa Ortega

Audrey Young

Committee on School Finance/Permanent School Fund

Keven Ellis

Pat Hardy

Aaron Kinsey

Tom Maynard

Marisa Perez-Diaz

Committee on School Initiatives

Rebecca Bell-Metereau

Staci Childs

LJ Francis

Will Hickman

Julie Pickren

Dr. Ellis adjourned the meeting at 4:36 p.m.

Pat Hardy, Secretary

Minutes

State Board of Education Committees

February 2, 2023

**Report of the State Board of Education
Committee of the Full Board
Thursday, February 2, 2023**

The State Board of Education Committee of the Full Board met at 5:29 p.m. on Thursday, February 2, 2023, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Keven Ellis, chair; Rebecca Bell-Metereau; Evelyn Brooks; Staci Childs; Aicha Davis; L.J. Francis; Patricia Hardy; Will Hickman; Aaron Kinsey; Pam Little; Tom Maynard; Melissa Ortega (virtual); Marisa B. Perez-Diaz; Julie Pickren; Audrey Young

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #3, #6, and #7. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEM

1. Ethics Training

(Board agenda page I-1)

This item was postponed to a future State Board of Education meeting as a result of scheduling changes resulting from inclement weather.

ACTION ITEMS

2. Consideration of Texas Certificate of High School Equivalency Test Fee Changes

(Board agenda page I-22)

[Official agenda item #3]

Monica Martinez, associate commissioner for standards and programs, explained the price adjustments that GED Testing Services requested. She explained that GED Testing Services also requested a reduction in the number of discounted retests that are available to the students from two to one retest. Jonna Forsythe, representative for GED Testing Services, answered questions from board members.

MOTION AND VOTE: *It was moved by Mr. Kinsey, seconded by Ms. Hardy and carried to recommend that the State Board of Education reject the GED Testing Service's request to increase pricing for certain Texas Certificate of High School Equivalency tests and reduce the number of discounted retests.*

3. Legislative Recommendations for the 88th Texas Legislature

(Board agenda page I-26)

[Official agenda item #4]

Public testimony was provided by the following individuals:

NAME: Mary Castle
AFFILIATION: Texas Values

NAME: Patrick Huff
AFFILIATION: Self

NAME: Deborah Simmons
AFFILIATION: Self

NAME: Lynn Davenport
AFFILIATION: Families Engaged for Effective Education

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mrs. Little, and carried to strike item (G) from the “State Board of Education - 88th Legislative Priorities” that were adopted by the State Board of Education in November 2022.*

DISCUSSION ITEMS

4. Commissioner’s Comments

(Board agenda page I-27)

This item was removed from the agenda as a result of scheduling changes resulting from inclement weather.

5. Discussion of Proposed New Occupational Safety and Health Administration (OSHA) Course

(Board agenda page I-28)

Shelly Ramos, senior director, curriculum standards and student support division, explained that the draft of the proposed new course, Occupational Safety and Health, is based upon three currently approved innovative course and the Occupational Safety and Health Administration 10-hour (OSHA 10) training on workplace safety. Ms. Ramos also stated that the course is posted for public feedback and would be reviewed by one of the upcoming career and technical education Texas Essential Knowledge and Skills work groups.

ACTION ITEMS

6. Update on Texas Essential Knowledge and Skills (TEKS) Review

(Board agenda page I-29)

[Official agenda item #5]

Public testimony was provided by the following individuals:

NAME: Alexander Harris
AFFILIATION: Network of Concerned Citizens

Amie Phillips, director, instructional materials review, presented updates to the adoption cycle for *Proclamations 2024, 2025, and 2026* to align with the board's previous action.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried to recommend that the State Board of Education approve adjustments to the instructional materials adoption cycle as presented by staff (Attachment A).*

Ms. Ramos provided an overview of the winter and summer CTE TEKS review and revision processes. She explained that the following initial steps in the CTE TEKS review process would be difficult to implement because the entrepreneurship and career preparation courses are not career specific: the gap analysis (for career preparation only), advisory group, and business and industry briefings. She also explained that staff recommended obtaining feedback from the regional education service centers when there are drafts for all courses included in the winter review. Ms. Ramos also gave an overview of upcoming steps related to the summer CTE TEKS review process for certain courses in Agriculture, Food, and Natural Resources programs of study and additional CTE courses that satisfy a science graduation requirement.

7. Consideration of Petition for Amendment of Rule Concerning 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.1, Selection Process

(Board agenda page I-31)

[Official agenda item #6]

Public testimony was provided by the following individual:

NAME: Starlee Coleman
AFFILIATION: Texas Public Charter Schools Association

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Ms. Pickren, and carried to recommend that the State Board of Education direct Texas Education Agency staff to initiate the rulemaking proceedings to present an item to amend §100.1 to end the no contact period for charter school applicants on the date the applicant passes the external review with a passing score.*

DISCUSSION ITEMS

- 8. Discussion of Proposed Amendment to 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship, 61.1 Continuing Education for School Board Members**
(Board agenda page I-37)

Steve Lecholop, deputy commissioner, governance, reviewed for the committee the separate trainings that school board trustees are required to take and who is eligible to provide each training. Mr. Lecholop also described the eligibility requirements for registered providers and authorized providers. The State Board of Education expressed intent to consider the rules again at a future meeting.

- 9. Discussion of Pending Litigation**
(Board agenda page I-44)

The committee did not discuss pending litigation; therefore, no executive session was held.

Dr. Ellis adjourned the meeting at 9:14 p.m.

Adoption Cycle— April 2021 February 2023		
2020-2021 Biennium School Years 2019–20 and 2020–21	Budget Year 2020	Budget Year 2021
	Proclamation 2019 State Adoption, Fall 2018 Materials Ordered, Spring 2019 Implementation, 2019–20 School Year English and Spanish Language Arts and Reading, K–8 English Learners Language Arts, 7–8 Handwriting, K–5 (English and Spanish) Spelling, 1–6 (English and Spanish) Personal Financial Literacy	Proclamation 2020 State Adoption, Fall 2019 Materials Ordered, Spring 2020 Implementation, 2020–21 School Year English Language Arts and Reading, English I–IV Reading I, II, III English for Speakers of Other Languages, English I, II English Learners Language Arts, 7–8
2022-2023 Biennium School Years 2021–22 and 2022–23	Budget Year 2022	Budget Year 2023
	Proclamation 2021 State Adoption, Fall 2020 Materials Ordered, Spring 2021 Implementation, 2021–22 School Year Pre-Kindergarten Systems	Proclamation 2022 State Adoption, Fall 2021 Materials Ordered, Spring 2022 Implementation, 2022–23 School Year Health and PE
2024-2025 Biennium School Years 2023–24 and 2024–25	Budget Year 2024	Budget Year 2025
	Proclamation 2023 State Adoption, Fall 2022 Materials Ordered, Spring 2023 Implementation, 2023–24 School Year Not Issued	Proclamation 2024 State Adoption, Fall 2023 Materials Ordered, Spring 2024 Implementation, 2024–25 School Year Science, K–12 Technology Applications, K–8 <u>CTE: See Proclamation</u> Personal Financial Literacy and Economics
2026-2027 Biennium School Years 2025–26 and 2026–27	Budget Year 2026	Budget Year 2027
	Proclamation 2025 State Adoption, Fall 2024 Materials Ordered, Spring 2025 Implementation, 2025–26 School Year <u>Social Studies, K–12 Not Issued</u> <u>CTE: TBD</u>	Proclamation 2026 State Adoption, Fall 2025 Materials Ordered, Spring 2026 Implementation, 2026–27 School Year Mathematics, K–12 CTE: <u>TBD Subchapter A. Agriculture, Food, and Natural Resources</u>

**Report of the State Board of Education
Committee on Instruction
Thursday, February 2, 2023**

The State Board of Education Committee on Instruction met at 9:26 a.m. on Thursday, February 2, 2023, in Room #1-100 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Audrey Young, chair; Evelyn Brooks, vice-chair; Aicha Davis; Pam Little; Melissa Ortega

Public Testimony

The Committee on Instruction received no presentations of public testimony.

1. Election of Chair

(Board agenda page II-1)

NOMINATION: Mrs. Little nominated Dr. Young for chair of the Committee on Instruction for a two-year term.

Dr. Young was elected chair of the Committee on Instruction.

Dr. Young appointed Mrs. Brooks to serve as vice-chair.

ACTION ITEMS

2. Proposed New 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, Advanced Placement Precalculus

(Second Reading and Final Adoption)

(Board agenda page II-2)

[Consent agenda item #(1)]

Jessica Snyder, director of special projects, curriculum standards and student support division, explained that this item would add a new Advanced Placement (AP) mathematics course, AP Precalculus, to the Texas Essential Knowledge and Skills for mathematics to align with current offerings from the College Board. Ms. Snyder stated that, if approved by the board, this course would be implemented beginning in the 2023-2024 school year.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Ms. Davis, and carried to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56, Advanced Placement (AP) Precalculus (One Credit).*

3. Proposed Revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School (Second Reading and Final Adoption)

(Board agenda page II-6)

Monica Martinez, associate commissioner, standards and programs, explained that the proposed revisions would repeal two existing middle school career and technical education courses, add a new middle school course, Flight Plans, that would combine elements from the two existing courses, and repeal implementation language that will no longer be relevant. Ms. Martinez also summarized the steps that had been taken in the development of the proposed course.

MOTION AND VOTE: *It was moved by Mrs. Little seconded by Mrs. Brooks, and carried to recommend that the State Board of Education postpone action on the proposed revisions to 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter A, Middle School, to the April SBOE meeting.*

4. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript) (First Reading and Filing Authorization)

(Board agenda page II-16)

Ms. Snyder explained that this item would add a new requirement that school districts and charter schools must indicate on the academic achievement record, or transcript, when a student earns a diploma by satisfying the requirements of the Texas First Early High School Completion Program.

MOTION AND VOTE: *It was moved by Dr. Ortega, seconded by Mrs. Little, and carried to recommend that the State Board of Education suspend the board operating procedures in accordance with §5.2(a) to allow consideration at first reading and filing authorization; and*

Approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.5, Academic Achievement Record (Transcript).

5. Approval of Updates and Substitutions to Adopted Instructional Materials

(Board agenda page II-21)

[Consent agenda item #(2)]

Amie Phillips, director, instructional materials review, open education resources division, explained that Learning A-Z is requesting approval to update digital content in its adopted product, Raz Plus ELL Texas Edition, for kindergarten and grades 2–5. She explained that staff reviewed the requested changes and determined that the updated material addresses the TEKS in a manner equivalent to the original content.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Mrs. Brooks, and carried unanimously to recommend that the State Board of Education postpone action on the approval of updates and substitutions to adopted instructional materials until the April 2023 SBOE meeting.*

6. Recommendations Regarding Renewal of Instructional Materials Contracts

(Board agenda page II-23)

[Consent agenda item #(3)]

Ms. Phillips explained that contracts from *Proclamation 2015* that include K–12 social studies, high school math, and K–12 fine arts will expire at the end of this school year which will result in a few gap years where contracts have expired, and new materials have not yet been adopted. Ms. Phillips provided a list of publishers interested in renewing their contracts through the gap years and those that have opted not to renew.

MOTION AND VOTE: *It was moved by Dr. Ortega, seconded by Mrs. Little, and carried to recommend that the State Board of Education approve the request to renew Proclamation 2015 contracts for subject areas and periods indicated in the attachment.*

The meeting of the Committee on Instruction adjourned at 10:13 p.m.

**Report of the State Board of Education
Committee on School Finance/Permanent School Fund
Thursday, February 2, 2023**

The State Board of Education Committee on Committee on School Finance/Permanent School Fund met at 9:25 p.m. on Thursday, February 2, 2023, in Room #1-104 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Tom Maynard, chair; Marisa B. Perez-Diaz, vice chair; Keven Ellis; Patricia Hardy; Aaron Kinsey

Public Testimony

The Committee on School Finance/Permanent School Fund received public testimony on item #6. Information relating to the individual who presented public testimony is included in the discussion of that item.

1. Election of Chair

(Board agenda page III-1)

NOMINATION: xxx nominated Mr. Maynard for chair of the Committee on School Finance/Permanent School Fund for a two-year term.

Mr. Maynard was elected chair of the Committee on School Finance/Permanent School Fund.

Mr. Maynard appointed Ms. Perez-Diaz to serve as vice-chair.

ACTION ITEMS

2. Proposed Repeal of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting (Second Reading and Final Adoption)

(Board agenda page III-2)

David Marx, senior director, financial compliance division, explained that the proposed repeal would implement changes required by House Bill 3, 86th Texas Legislature, 2019, which removed the State Board of Education's rulemaking authority related to student attendance. Mr. Marx explained why the repeal of Subchapters A and B is necessary and offered related information.

MOTION AND VOTE: *It was moved by Ms. Perez-Diaz, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting; and*

Make an affirmative finding that immediate adoption of the proposed repeal to 19 TAC Chapter 129, Student Attendance, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register; and that the item be added to the consent agenda.

3. Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of September and October 2022

(Board agenda page III-7)

[Consent agenda item #(4)]

David Trice, senior managing director of investment finance and operations, provided a summary on the status of the Permanent School Fund (PSF) portfolio. Reports presented to the committee were for the reporting period September 1, 2022, through October 31, 2022, unless otherwise noted. Mr. Trice's report included reporting on the current fair market value of the Fund, the asset allocation mix as of October 31, 2022; PSF transaction activity occurring in the reporting period; revenues and expenditures for the fiscal period beginning September 1, 2022, through October 31, 2022; the activity in the securities lending program for the fiscal period beginning September 1, 2022, through October 31, 2022; the status of transfers from the General Land Office through October 31, 2022; current status of the Bond Guarantee Program and the available capacity in the program; broker commissions on both the internal and external equity portfolios and the internal commodities portfolio for the calendar year to date period January 1, 2022, through October 31, 2022; fixed income rating changes for the fiscal period September 1, 2022, through October 31, 2022; short-term cash investments; and ratification of purchases and sales from September 1, 2022, through October 31, 2022.

MOTION AND VOTE: *Based on the information provided by staff and the recommendation of the executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent that the State Board of Education ratify the purchases and sales for the months of September 2022 and October 2022, in the amount of \$1,649,381,704 and \$1,001,399,698, respectively (Attachment A).*

4. Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of September and October 2022

(Board agenda page III-8)

[Official agenda item #(5)]

Mr. Trice provided a summary on the status of the Permanent School Fund Liquid Account. Reports presented to the committee were for the reporting period September 1, 2022, through October 31, 2022. Mr. Trice's report included reporting on the current fair market value of the Liquid Account; the asset allocation mix as of October 31, 2022; transfer activity between the GLO and the Liquid Account; cumulative Income and Realized Gains transferred to the SBOE from the Liquid Account as of October 31, 2022; transactions occurring in the reporting period; broker commissions on equity portfolios for the calendar year to date period January 1, 2022, through October 31, 2022; and ratification of the cumulative Purchases and Sales of the Liquid Account from September 1, 2022, through October 31, 2022.

MOTION AND VOTE: *Based on the information provided by staff and the recommendation of the Executive administrator and chief investment officer and the commissioner of education, the committee recommended by unanimous consent that the State Board of Education ratify the purchases and sales of the Permanent School Fund Liquid Account for the period September 1, 2022, through October 31, 2022, in the amounts of \$636,697,756 and \$86,107,821, respectively (Attachment B).*

DISCUSSION ITEM

5. Annual Reporting of the Internally Managed Permanent School Fund Investment Portfolio
(Board agenda page III-9)

Holland Timmins, executive administrator and chief investment officer, provided the required attestation regarding compliance with 19 TAC Chapter 33 of the internally managed investment portfolios in the matters of permissible and restricted investments, trading and brokerage policy, and proxy voting policy.

ACTION ITEMS

6. Proposed Revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund
(Second Reading and Final Adoption)

(Board agenda page III-11)
[Consent agenda item #(6)]

Public testimony was provided by the following individual:

NAME: Starlee Coleman
AFFILIATION: Texas Public Charter Schools Association

Mr. Maynard and Mr. Timmins discussed the evolution of the rule language relating to the Bond Guarantee Program (BGP) and provided further historical context for the program.

John Wright, general counsel, Texas Permanent School Fund, explained the proposed amendments, including the proposed restructure of the chapter and the changes made to the rules regarding the BGP. Mr. Wright also discussed the recommended changes made since the rules were approved for first reading and discussed comments received from the public.

MOTION AND VOTE: *It was moved that the State Board of Education approve for second reading and final adoption the proposed revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules, as amended, to include language in §33.7(d)(1) to ensure that the percentage established under §33.6(e)(2) will be the percentage established for the charter reserve in §33.7(d)(1) as discussed; and*

Make an affirmative finding that immediate adoption of the proposed revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

MOTION AND VOTE: *It was moved that the State Board of Education adjust the Bond Guarantee Program amount of capacity to be held in reserve in 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, as amended, to 0.25% of the fund's capacity, contingent upon the adoption and effective date of the revisions to 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, and Subchapter B, Texas Permanent School Fund Corporation Rules, as amended, and in accordance with Texas Education Code, §45.0531(c).*

7. Review of the Bond Guarantee Program Reserve

(Board agenda page III-43)

[Consent agenda item #(7)]

The committee took no action on this item.

DISCUSSION ITEM

8. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer

(Board agenda page III-44)

The committee did not discuss this item.

The meeting of the Committee on School Finance/Permanent School Fund at 10:17 p.m.

**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
(Including External Manager's Trades)
For September 1, 2022 through October 31, 2022**

Purchases/Capital Calls:

Long Term Fixed Income	\$ 365,065,727
Public Market Equities	392,012,238
Alternative Investments	<u>892,303,739</u>
 TOTAL	 <u><u>\$ 1,649,381,704</u></u>

Sales/Distributions:

Long Term Fixed Income	\$ 311,385,132
Public Market Equities	391,835,832
Alternative Investments	<u>298,178,734</u>
 TOTAL	 <u><u>\$ 1,001,399,698</u></u>

General Land Office Contributions:

FY 2022 Cumulative August 2022	FY 2023 Cumulative October
\$0	\$0

Based on the above information provided by staff including a report that deposits to the Permanent School Fund from the General Land Office were \$0 through August 2022 for fiscal year 2022 versus \$0 through October 2023 for fiscal year 2023, and the recommendation of the Executive Administrator and Chief Investment Officer and the Commissioner of Education; it is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the months of September 2022 through October 2022 Permanent School Fund portfolio purchases of \$1,649,381,704 and sales of \$1,001,399,698.

**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
FOR PSF LIQUID ACCOUNTS
For September 1, 2022 through October 31, 2022**

<u>Purchases:</u>	
Fixed Income	\$ 251,967,292
Public Market Equities	<u>384,730,464</u>
TOTAL	<u><u>\$ 636,697,756</u></u>
<u>Sales:</u>	
Fixed Income	\$ 49,318,944
Public Market Equities	<u>36,788,877</u>
TOTAL	<u><u>\$ 86,107,821</u></u>

Based on the above information provided by staff and the recommendation of the Executive Administrator and Chief Investment officer and the Commissioner of Education: It is moved by unanimous consent that the Committee on School Finance/Permanent School Fund ratify for the period September 1, 2022 through October 31, 2022 Permanent School Fund Liquid Account purchases of \$636,697,756 and sales of \$86,107,821.

**Report of the State Board of Education
Committee on School Initiatives
Thursday, February 2, 2023**

The State Board of Education Committee on School Initiatives met at 9:24 p.m. on Thursday, February 2, 2023, in Room #1-111 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Will Hickman, chair; Rebecca Bell-Metereau; Staci Childs; L.J. Francis; Julie Pickren

Public Testimony

The Committee on School Initiatives received no presentations of public testimony.

1. Election of Chair

(Board agenda page IV-1)

NOMINATION: Dr. Bell-Metereau nominated Mr. Hickman for chair of the Committee on School Initiatives for a two-year term.

Mr. Hickman was elected chair of the Committee on School Initiatives.

ACTION ITEM

2. Recommendation for One Appointment to the Boys Ranch Independent School District Board of Trustees

(Board agenda page IV-2)

[Consent agenda item #(8)]

Christopher Lucas, director, policy, planning, and operations, governance, explained that one member of the board of trustees of Boys Ranch Independent School District (ISD) has resigned. Mr. Richard Nedelkoff, president and chief executive officer (CEO) of Boys Ranch ISD, has recommended that Mr. Tim Nation be appointed for a two-year term.

MOTION AND VOTE: *It was moved by Dr. Bell-Metereau, seconded by Ms. Pickren, and carried unanimously to recommend that the State Board of Education, based on Mr. Richard Nedelkoff's recommendation, approve the appointment of Mr. Tim Nation to serve a two-year term of office, from February 3, 2023, to February 2, 2025, on the Boys Ranch ISD Board of Trustees.*

DISCUSSION ITEMS

3. Review of 19 TAC Chapter 157, Hearings and Appeals, Subchapter D, Independent Hearing Examiners

(Board agenda page IV-8)

4. Discussion of Ongoing State Board for Educator Certification Activities

(Board agenda page IV-14)

Emily Garcia, associate commissioner for educator preparation certification and enforcement, shared updates on current and upcoming State Board for Educator Certification (SBEC) activities and proposed SBEC rules and amendments.

5. Open-Enrollment Charter School Generation 28 Application Updates

(Board agenda page IV-16)

Marian Schutte, executive director, authorizing division, presented information on the Generation 28 Open-Enrollment Charter Application process including goals, timeline, summary, and submission information. Ms. Schutte answered questions regarding the application process.

The meeting of the Committee on School Initiatives adjourned at 10:14 p.m.

