



AGENDA

State Board of Education

September 2, 2022

STATE BOARD OF EDUCATION
(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

GEORGINA PÉREZ, El Paso
Secretary of the State Board of Education
District 1

Board Members

RUBEN CORTEZ, Jr., Brownsville
District 2

AUDREY YOUNG, Trinity
District 8

MARISA PEREZ-DIAZ, Converse
District 3

TOM MAYNARD, Florence
District 10

LAWRENCE ALLEN, Jr., Houston
District 4

PATRICIA HARDY, Fort Worth
District 11

REBECCA BELL-METEREAU
San Marcos, District 5

AICHA DAVIS, Dallas
District 13

WILL HICKMAN, Houston
District 6

SUE MELTON-MALONE
Robinson, District 14

MATT ROBINSON, Friendswood
District 7

JAY JOHNSON, Pampa
District 15

Committees of the State Board of Education
(updated January 26, 2021)

INSTRUCTION

Sue Melton-Malone, chair
Audrey Young, vice chair
Rebecca Bell-Metereau
Pam Little
Georgina Pérez

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard, chair
Lawrence Allen, Jr., vice chair
Keven Ellis
Pat Hardy
Marisa Perez-Diaz

SCHOOL INITIATIVES

Matt Robinson, chair
Aicha Davis, vice chair
Ruben Cortez, Jr.
Will Hickman
Jay Johnson

August 30, 2022

State Board of Education
Austin, Texas

I certify that this is the official agenda of the State Board of Education for its meeting on August 30-September 2, 2022. 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 stylized, sweeping flourish at the end.

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 August 30-September 2, 2022	
<u>Tuesday, August 30, 2022</u>	
9:00 a.m.	Committee of the Full Board (Room 1-104)
<u>Wednesday, August 31, 2022</u>	
9:00 a.m.	Committee of the Full Board (Room 1-104)
<u>Thursday, September 1, 2022</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)
<u>Friday, September 2, 2022</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
August 30, 2022

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 registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules> or in the information section of the agenda.

- 1. Update on Texas Essential Knowledge and Skills (TEKS) Review**
(Board agenda page I-1)

COMMITTEE - ACTION
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 for the board to provide additional guidance to TEKS review work groups, as necessary. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), and (c), and 28.025(a).

- 2. Discussion of 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.33, Additional Requirements for Social Studies Classes for Grades 3 - 12**
(Board agenda page I-3)

COMMITTEE - DISCUSSION
SBOE – NO ACTION

This item provides the opportunity for the board to discuss possible amendments to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.33, Additional Requirements for Social Studies Classes for Grades 3 - 12. This item would allow the board to determine if updates to the current rule are needed. Statutory authority is the Texas Education Code (TEC), §7.102(c)(4) and §29.907.

COMMITTEE OF THE FULL BOARD (continued)

3. **Proposed Amendment to 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020 (First Reading and Filing Authorization) (Board agenda page I-5)**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020. The proposed amendment would update the rule to move the implementation year for the Texas Essential Knowledge and Skills (TEKS) for Biology, Chemistry, Integrated Physics and Chemistry, and Physics to the beginning of the 2024-2025 school year to align with the instructional materials timeline. The proposed amendment would also align with the implementation timeline for the Kindergarten-Grade 8 science TEKS and the TEKS for all other high school science courses. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

4. **Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts (Second Reading and Final Adoption) (Board agenda page I-9)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for second reading and final adoption a proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts. The proposed amendment would update the rules related to local operations and certification requirements from school districts. Statutory authority is the Texas Education Code (TEC), §§7.102, 31.003, 31.004, 31.005, 31.0211, and 31.101; SB 1, Article III, 87th Texas Legislature, Regular Session, 2021; and 47 USC §254(h)(5)(B) and (C).

**WEDNESDAY
August 31, 2022**

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 registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules> or in the information section of the agenda.

**1. Commissioner's Comments
(Board agenda page I-14)**

**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. Decision on the Percentage Distribution of the Permanent School Fund for Fiscal Years 2024 and 2025 and Related Fund Transfers
(Board agenda page I-15)**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the board to evaluate and approve the Permanent School Fund percentage distribution rate for fiscal years 2024 and 2025. The board will consider various factors associated with the distribution rate such as expected returns, inflation, student growth, current economic conditions. The board may also consider and approve any transfers in the current biennium that could impact the distribution in the best interest of the Permanent School Fund. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

COMMITTEE OF THE FULL BOARD (continued)

3. **Amendments to *Proclamation 2024* of the State Board of Education Advertising for Bids on Instructional Materials**
(Board agenda page I-17)

COMMITTEE - ACTION
SBOE - ACTION

This item provides an opportunity for the State Board of Education to approve amendments to the schedule of adoption procedures in *Proclamation 2024*, amending the deadline for submitting preliminary and final correlations, pre-adoption samples, and related deliverables. *Proclamation 2024* calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. Statutory authority is the Texas Education Code (TEC), §31.022.

4. **Approval of *Proclamation 2024* Questions and Answers**
(Board agenda page I-18)

COMMITTEE - ACTION
SBOE - ACTION

Proclamation 2024, issued by the State Board of Education (SBOE) in April 2022, calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. Publishers and other stakeholders were given an opportunity to ask questions at a *Proclamation 2024* introduction meeting held in June 2022 and subject-specific meetings held in July and August 2022 and encouraged to submit additional questions through email. Questions from publishers were added to existing questions common to all proclamations, and the resulting question and answer document for *Proclamation 2024* is presented for SBOE approval. Statutory authority is the Texas Education Code (TEC), §31.022.

5. **Ratification of Texas Essential Knowledge and Skills Coverage in Materials Selected for the Texas Resource Review**
(Board agenda page I-19)

COMMITTEE - ACTION
SBOE - ACTION

This item provides the opportunity for the State Board of Education (SBOE) to ratify the report from the Texas Essential Knowledge and Skills (TEKS) review committees regarding coverage of the TEKS in materials that were selected for the Texas Resource Review (TRR). This item presents the final report from the commissioner of education regarding the coverage of the TEKS. Statutory authority is the Texas Education Code (TEC), §31.081 and §31.082.

COMMITTEE OF THE FULL BOARD (continued)

**6. Approval of Long-Range Plan for Technology
(Board agenda page I-20)**

**COMMITTEE - ACTION
SBOE - ACTION**

This item provides the opportunity for the board to approve the updated Long-Range Plan for Technology (LRPT) 2018-2025. Upon approval, staff will post the updated LRPT on the Texas Education Agency (TEA) website for use as guidance to Local Education Agencies (LEAs) when planning technology needs for the upcoming school year. Statutory authority is the Texas Education Code (TEC), §32.001.

**7. Discussion of Pending Litigation
(Board agenda page I-21)**

**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 this item.

Cases to be discussed may include:

Student v. Conroe ISD, Texas Education Agency and State Board of Education, Civil Cause No. 1:21-CV-01048-LY (U.S. District Court – Western District of Texas (Austin)); and

any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.

**THURSDAY
September 1, 2022**

9:00 a.m.

COMMITTEE ON INSTRUCTION – Room 1-100

Members: Sue Melton-Malone, chair; Audrey Young, vice chair; Rebecca Bell-Metereau; Pam Little; and Georgina C. Pérez. 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 registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules> or in the information section of the agenda.

- 1. One-Time Procedural Action to Correct the Effective Date of Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.761 and §127.764
(Board agenda page II-1)**

**COMMITTEE - ACTION
SBOE - CONSENT**

At the June 17, 2022, meeting, the State Board of Education (SBOE) approved for second reading and final adoption proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022, and §127.791, Computer Science III (One Credit), Adopted 2022. The SBOE voted to establish an implementation date of the 2023-2024 school year for the Texas Essential Knowledge and Skills (TEKS) for the two courses. Also at the June 17, 2022, meeting, the board approved the repeal of the current TEKS for 19 TAC §127.761, Fundamentals of Computer Science (One Credit), and §127.764, Computer Science III (One Credit), with an effective date of August 1, 2022. The result of these actions means that the current TEKS for the two courses would be repealed before the new TEKS are implemented. This item requests that the SBOE take one-time action to amend the motion made at the June 17, 2022, meeting to specify an August 1, 2023, effective date for the proposed repeal of 19 TAC §127.761 and §127.764 in order for the repeal to take effect at the same time that the new TEKS for the two courses are implemented. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a), (c-1)(1), and (c-10).

COMMITTEE ON INSTRUCTION (continued)

2. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs (First Reading and Filing Authorization)**
(Board agenda page II-3)

**COMMITTEE - ACTION
SBOE - ACTION**

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs. The amendment would update the rule to require that applicants for innovative courses must have piloted the proposed course in a Texas public school prior to seeking approval. Statutory authority is the Texas Education Code (TEC), §28.002(f).

3. **Approval of Updates and Substitutions to Adopted Instructional Materials**
(Board agenda page II-7)

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides the opportunity for the committee and board to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority is the Texas Education Code (TEC), §31.003 and §31.022.

4. **Discussion 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 Precalculus**
(Board agenda page II-9)

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item presents the opportunity for the board to discuss proposed new 19 Texas Administrative Code (TAC) Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56 Advanced Placement Precalculus. The proposal would add a new Advanced Placement (AP) mathematics course to align with current offerings from the College Board. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a) and (b-1)(2).

COMMITTEE ON INSTRUCTION (continued)

5. **Discussion 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 (Board agenda page II-10)**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

This item provides an opportunity for the board to discuss 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 and the add a new middle school course. Statutory authority is §§7.102(c)(4) and 28.002(a) and (c), and 28.016.

THURSDAY
September 1, 2022
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; Lawrence A. Allen, Jr., vice chair; Keven Ellis; Patricia Hardy; Marisa Perez-Diaz. 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 registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules> or in the information section of the agenda.

1. **Discussion of Proposed Repeal of 19 TAC Chapter 129, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting (Board agenda page III-1)**

COMMITTEE - DISCUSSION
SBOE – NO ACTION

This item provides an opportunity for the committee to discuss the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 129, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting. The proposed repeal would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to student attendance. Statutory authority is the Texas Education Code (TEC), §48.004, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019.

2. **Per Capita Apportionment Rate for the 2022-23 School Year (Board agenda page III-4)**

COMMITTEE - DISCUSSION
SBOE – NO ACTION

A per capita apportionment rate for each school year is set by the commissioner of education based on an estimate of the amount available for expenditure from the Available School Fund (ASF). Agency staff will propose a recommended rate for the 2022-23 school year at the September 2022 meeting of the Committee on School Finance/Permanent School Fund. Statutory authority is the Texas Education Code (TEC), §§48.004, 48.251(c), and 43.001(b).

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

- 3. Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of May and June 2022**
(Board agenda page III-5)

COMMITTEE – ACTION
SBOE - CONSENT

This item provides an opportunity for the committee and board to receive a report on Permanent School Fund (PSF) Securities Transactions and the Investment Portfolio and consider ratification of purchases and sales of investments executed in the portfolio of the PSF for the months of May and June 2022. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

- 4. Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of May and June 2022**
(Board agenda page III-6)

COMMITTEE - ACTION
SBOE - CONSENT

This item provides an opportunity for the committee and board to receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2022. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Texas Natural Resources Code (NRC), §51.414, as repealed by SB 1232, 87th Legislature, Regular Session, 2021; and 19 Texas Administrative Code (TAC) Chapter 33.

- 5. Second Quarter 2022 Permanent School Fund Performance Report**
(Board agenda page III-7)

COMMITTEE - DISCUSSION
SBOE – NO ACTION

The performance measurement consultant to the Permanent School Fund (PSF), BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter 2022 and cumulative investment performance of the various portfolios of the PSF. This item provides the opportunity for the committee to discuss in depth, various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

6. Determination Regarding Whether Transfers May be Made from the Permanent School Fund to the Available School Fund

(Board agenda page III-8)

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2023. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

7. Discussion of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules

(Board agenda page III-9)

**COMMITTEE - DISCUSSION
SBOE – NO ACTION**

This item provides the opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules. Statutory authority is the Texas Constitution, Article VII, §5(a) and (f).

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND (continued)

**8. Report of the Permanent School Fund Executive
Administrator and Chief Investment Officer
(Board agenda page III-58)**

**COMMITTEE - DISCUSSION
SBOE - NO ACTION**

The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF and the Charter District Reserve Fund. The report may present information on historical and current status of Fund holdings, current and proposed investment policies and procedures, and historical and current Fund performance and compliance. The administrator may update the board on the bond guarantee program, the status of requests for proposal, or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the PSF. Statutory authority is the Texas Constitution, Article VII, §2 and §5; and 19 Texas Administrative Code (TAC), Chapter 33.

**THURSDAY
September 1, 2022**

9:00 a.m.

COMMITTEE ON SCHOOL INITIATIVES – Room 1-111

Members: Matt Robinson, chair; Aicha Davis, vice chair; Ruben Cortez, Jr; Will Hickman; Jay Johnson. 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 registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/sboe-operating-rules> or in the information section of the agenda.

- 1. Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees
(Board agenda page IV-1)**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352.

- 2. Recommendation for Reappointments to the Lackland Independent School District Board of Trustees
(Board agenda page IV-7)**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the board to consider two reappointments to the board of trustees of Lackland Independent School District (ISD). The reappointments are necessary due to the expiration of the terms of office of two board members. Statutory authority is the Texas Education Code (TEC), §11.352.

- 3. Recommendation for Reappointment to the Randolph Field Independent School District Board of Trustees
(Board agenda page IV-15)**

**COMMITTEE - ACTION
SBOE - CONSENT**

This item provides an opportunity for the board to consider one reappointment to the board of trustees of Randolph Field Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352.

COMMITTEE ON SCHOOL INITIATIVES (continued)

- 4. Open-Enrollment Charter School Generation 28 Application Updates**
(Board agenda page IV-22)

COMMITTEE - DISCUSSION
SBOE – NO ACTION

The director of the Division of Charter School Authorizing and Administration will discuss updates regarding the Generation 28 Open-Enrollment Charter Application cycle. Statutory authority is the Texas Education Code (TEC), §12.101.

- 5. Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I**
(Board agenda page IV-23)

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 E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I. The proposed amendment would update requirements for issuance of the Educational Aide I certificate to high school students who qualify for industry-based certification. The proposed amendment would also provide technical cross-reference and State Board of Education (SBOE) action updates. Statutory authority for 19 TAC Chapter 230, §230.55, is the Texas Education Code (TEC), §21.041(a) and (b)(1)-(4).

COMMITTEE ON SCHOOL INITIATIVES (continued)

6. **Review of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal (Board agenda page IV-27)**

**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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal. The proposed amendment would require that to renew an educator's certificate, the educator must be in compliance with the terms of any SBEC order resulting from an educator discipline case against the educator. This requirement would allow the SBEC to enforce its disciplinary orders more efficiently and consistently, particularly when the order requires an educator to take training or continuing education but does not suspend the educator's certificate. Statutory authority for 19 TAC Chapter 232, Subchapter A, §232.7, is the Texas Education Code (TEC), §§21.003(a); 21.0031(f); 21.031; 21.041(b)(1)-(4) and (7)-(9); 21.054; 21.0541; and 21.0543; and Texas Occupations Code (TOC), §55.002 and §55.003.

Information Materials

1. **State Board of Education Operating Rules (amended January 26, 2021)**
Public testimony information begins on page V-8.
(Board agenda page V-1)

2. **Current Status of the Permanent School Fund**
(Board agenda page V-26)

3. **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.

4. **State Board of Education Meeting Schedule for 2023**
(Board agenda page V-35)

According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2023.

**CONSENT AGENDA
STATE BOARD OF EDUCATION
September 2, 2022**

- (1) **Proposed Amendment to 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020**
(First Reading and Filing Authorization)

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020. The proposed amendment would update the rule to move the implementation year for the Texas Essential Knowledge and Skills (TEKS) for Biology, Chemistry, Integrated Physics and Chemistry, and Physics to the beginning of the 2024-2025 school year to align with the instructional materials timeline. The proposed amendment would also align with the implementation timeline for the Kindergarten-Grade 8 science TEKS and the TEKS for all other high school science courses. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a).

(Agenda Exhibit) I-5

- (2) **Decision on the Percentage Distribution of the Permanent School Fund for Fiscal Years 2024 and 2025 and Related Fund Transfers**

This item provides an opportunity for the board to evaluate and approve the Permanent School Fund percentage distribution rate for fiscal years 2024 and 2025. The board will consider various factors associated with the distribution rate such as expected returns, inflation, student growth, current economic conditions. The board may also consider and approve any transfers in the current biennium that could impact the distribution in the best interest of the Permanent School Fund. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

(Agenda Exhibit) I-15

(3) **One-Time Procedural Action to Correct the Effective Date of Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.761 and §127.764**

At the June 17, 2022, meeting, the State Board of Education (SBOE) approved for second reading and final adoption proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022, and §127.791, Computer Science III (One Credit), Adopted 2022. The SBOE voted to establish an implementation date of the 2023-2024 school year for the Texas Essential Knowledge and Skills (TEKS) for the two courses. Also at the June 17, 2022, meeting, the board approved the repeal of the current TEKS for 19 TAC §127.761, Fundamentals of Computer Science (One Credit), and §127.764, Computer Science III (One Credit), with an effective date of August 1, 2022. The result of these actions means that the current TEKS for the two courses would be repealed before the new TEKS are implemented. This item requests that the SBOE take one-time action to amend the motion made at the June 17, 2022, meeting to specify an August 1, 2023, effective date for the proposed repeal of 19 TAC §127.761 and §127.764 in order for the repeal to take effect at the same time that the new TEKS for the two courses are implemented. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a), (c-1)(1), and (c-10).

(Agenda Exhibit) II-1

(4) **Approval of Updates and Substitutions to Adopted Instructional Materials**

This item provides the opportunity for the committee and board to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel. Statutory authority is the Texas Education Code (TEC), §31.003 and §31.022.

(Agenda Exhibit) II-7

(5) **Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of May and June 2022**

This item provides an opportunity for the committee and board to receive a report on Permanent School Fund (PSF) Securities Transactions and the Investment Portfolio and consider ratification of purchases and sales of investments executed in the portfolio of the PSF for the months of May and June 2022. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

(Agenda Exhibit) III-5

(6) Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of May and June 2022

This item provides an opportunity for the committee and board to receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2022. Statutory authority is the Texas Constitution, Article VII, §2 and §5; Texas Natural Resources Code (NRC), §51.414, as repealed by SB 1232, 87th Legislature, Regular Session, 2021; and 19 Texas Administrative Code (TAC) Chapter 33.

[\(Agenda Exhibit\)](#) III-6

(7) Determination Regarding Whether Transfers May be Made from the Permanent School Fund to the Available School Fund

This item provides an opportunity for the committee and board to review the requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2023. Statutory authority is the Texas Constitution, Article VII, §2 and §5, and 19 Texas Administrative Code (TAC) Chapter 33.

[\(Agenda Exhibit\)](#) III-8

(8) Recommendation for Reappointment to the Boys Ranch Independent School District Board of Trustees

This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352.

[\(Agenda Exhibit\)](#) IV-1

(9) Recommendation for Reappointments to the Lackland Independent School District Board of Trustees

This item provides an opportunity for the board to consider two reappointments to the board of trustees of Lackland Independent School District (ISD). The reappointments are necessary due to the expiration of the terms of office of two board members. Statutory authority is the Texas Education Code (TEC), §11.352.

[\(Agenda Exhibit\)](#) IV-7

(10) Recommendation for Reappointment to the Randolph Field Independent School District Board of Trustees

This item provides an opportunity for the board to consider one reappointment to the board of trustees of Randolph Field Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member. Statutory authority is the Texas Education Code (TEC), §11.352.

[\(Agenda Exhibit\)](#) IV-15

OFFICIAL AGENDA

**STATE BOARD OF EDUCATION
AUSTIN, TEXAS**

**September 2, 2022
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, June 17, 2022

1. Resolution

Resolution honoring the 2022 Heroes for Children Award Recipients

Public testimony – Individual testimony will be taken at the time the related item comes up for Committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <https://tea.texas.gov/about-tea/leadership/state-board-of-education/sboe-meetings/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) 18

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 for the board to provide additional guidance to TEKS review work groups, as necessary. Statutory authority is the Texas Education Code (TEC), §§7.102(c)(4); 28.002(a), and (c), and 28.025(a).

(Agenda Exhibit) I-1

4. Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts (Second Reading and Final Adoption)

This item presents for second reading and final adoption a proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts. The proposed amendment would update the rules related to local operations and certification requirements from school districts. Statutory authority is the Texas Education Code (TEC), §§7.102, 31.003, 31.004, 31.005, 31.0211, and 31.101; SB 1, Article III, 87th Texas Legislature, Regular Session, 2021; and 47 USC §254(h)(5)(B) and (C).

(Agenda Exhibit) I-9

5. Amendments to *Proclamation 2024* of the State Board of Education Advertising for Bids on Instructional Materials

This item provides an opportunity for the State Board of Education to approve amendments to the schedule of adoption procedures in *Proclamation 2024*, amending the deadline for submitting preliminary and final correlations, pre-adoption samples, and related deliverables. *Proclamation 2024* calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. Statutory authority is the Texas Education Code (TEC), §31.022.

(Agenda Exhibit) I-17

COMMITTEE OF THE FULL BOARD

6. Approval of *Proclamation 2024* Questions and Answers

Proclamation 2024, issued by the State Board of Education (SBOE) in April 2022, calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. Publishers and other stakeholders were given an opportunity to ask questions at a *Proclamation 2024* introduction meeting held in June 2022 and subject-specific meetings held in July and August 2022 and encouraged to submit additional questions through email. Questions from publishers were added to existing questions common to all proclamations, and the resulting question and answer document for *Proclamation 2024* is presented for SBOE approval. Statutory authority is the Texas Education Code (TEC), §31.022.

(Agenda Exhibit) I-18

7. Ratification of Texas Essential Knowledge and Skills Coverage in Materials Selected for the Texas Resource Review

This item provides the opportunity for the State Board of Education (SBOE) to ratify the report from the Texas Essential Knowledge and Skills (TEKS) review committees regarding coverage of the TEKS in materials that were selected for the Texas Resource Review (TRR). This item presents the final report from the commissioner of education regarding the coverage of the TEKS. Statutory authority is the Texas Education Code (TEC), §31.081 and §31.082.

(Agenda Exhibit) I-19

8. Approval of Long Range Plan for Technology

This item provides the opportunity for the board to approve the updated Long-Range Plan for Technology (LRPT) 2018-2025. Upon approval, staff will post the updated LRPT on the Texas Education Agency (TEA) website for use as guidance to Local Education Agencies (LEAs) when planning technology needs for the upcoming school year. Statutory authority is the Texas Education Code (TEC), §32.001.

(Agenda Exhibit) I-20

COMMITTEE ON INSTRUCTION

9. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs (First Reading and Filing Authorization)

This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs. The amendment would update the rule to require that applicants for innovative courses must have piloted the proposed course in a Texas public school prior to seeking approval. Statutory authority is the Texas Education Code (TEC), §28.002(f).

(Agenda Exhibit) II-3

COMMITTEE ON SCHOOL INITIATIVES

10. Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I

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 E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I. The proposed amendment would update requirements for issuance of the Educational Aide I certificate to high school students who qualify for industry-based certification. The proposed amendment would also provide technical cross-reference and State Board of Education (SBOE) action updates. Statutory authority for 19 TAC Chapter 230, §230.55, is the Texas Education Code (TEC), §21.041(a) and (b)(1)-(4).

(Agenda Exhibit) IV-23

11. Review of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal

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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal. The proposed amendment would require that to renew an educator's certificate, the educator must be in compliance with the terms of any SBEC order resulting from an educator discipline case against the educator. This requirement would allow the SBEC to enforce its disciplinary orders more efficiently and consistently, particularly when the order requires an educator to take training or continuing education but does not suspend the educator's certificate. Statutory authority for 19 TAC Chapter 232, Subchapter A, §232.7, is the Texas Education Code (TEC), §§21.003(a); 21.0031(f); 21.031; 21.041(b)(1)-(4) and (7)-(9); 21.054; 21.0541; and 21.0543; and Texas Occupations Code (TOC), §55.002 and §55.003.

(Agenda Exhibit) IV-27

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 January 26, 2021)**
Public testimony information begins on page V-8.
(Board agenda page V-1)

2. **Current Status of the Permanent School Fund**
(Board agenda page V-26)

3. **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.

4. **State Board of Education Meeting Schedule for 2023**
(Board agenda page V-35)

According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce SBOE meeting dates in 2023.

COMMITTEE OF THE FULL BOARD

Update on Texas Essential Knowledge and Skills (TEKS) Review

August 30, 2022

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 for the board to provide additional guidance to TEKS review work groups, as necessary.

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. At the November 2020 meeting, the board gave final approval to the health education TEKS and the physical education TEKS, which are scheduled to be effective August 1, 2022. The board also gave final approval in November 2020 to TEKS for four high school science courses to be implemented beginning with the 2023-2024 school year. At the June 2021 meeting, the SBOE gave final approval to TEKS for five additional high school science courses. At the December 2021 SBOE meeting, the board gave final approval to the TEKS for Kindergarten-Grade 8 science.

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.

The TEKS for K-12 social studies are currently under review by the SBOE.

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.

At the June and November 2021 SBOE meetings, the board discussed the review of the social studies TEKS. Board members designated content advisors for the social studies TEKS review in August 2021. An application to serve on work groups was posted on the TEA website in September 2021. Additionally, in September 2021, a survey was posted on the TEA website to ask for feedback on the current TEKS for social studies. TEA staff provided SBOE members applications for approval to serve on the social studies work groups in September, October, and November 2021 and January and April 2022. The content advisors convened to discuss consensus recommendations in December 2021 and January 2022. 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.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Discussion of 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.33, Additional Requirements for Social Studies Classes for Grades 3-12

August 31, 2022

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

SUMMARY: This item provides the opportunity for the board to discuss possible amendments to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.33, Additional Requirements for Social Studies Classes for Grades 3-12. This item would allow the board to determine if updates to the current rule are needed.

STATUTORY AUTHORITY: Texas Education Code (TEC), §7.102(c)(4) and §29.907.

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

TEC, §29.907, designates the week in which September 17 falls as Celebrate Freedom Week in public schools.

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

BACKGROUND INFORMATION AND JUSTIFICATION: In 2001, the 77th Texas Legislature enacted TEC, §29.907, establishing the week in which September 17 falls as Celebrate Freedom Week. September 17 is recognized as Constitution Day by the federal government. The statute permits the Texas Education Agency and other state agencies to cooperate in the promotion of Celebrate Freedom Week.

The SBOE adopted §74.33 effective December 7, 2003. The rule requires that during Celebrate Freedom week, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, be provided in each social studies class in Grades 3-12.

The SBOE is currently considering proposed revisions to the Texas Essential Knowledge and Skills (TEKS) for social studies. The board may determine that an amendment to §74.33 to align with revisions to the social studies TEKS is needed.

Staff Members Responsible:

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

Attachment:

Text of 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.33, Additional Requirements for Social Studies Classes for Grades 3-12

ATTACHMENT
Text of 19 TAC

Chapter 74. Curriculum Requirements

Subchapter C. Other Provisions

§74.33. Additional Requirements for Social Studies Classes for Grades 3-12.

- (a) Instruction during Celebrate Freedom Week. Each social studies class shall include, during Celebrate Freedom Week as provided under Texas Education Code, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.
- (b) Recitation during Celebrate Freedom Week.
 - (1) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subsection (a) of this section, students in Grades 3-12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."
 - (2) Each school district shall excuse from the recitation a student:
 - (A) whose parent or guardian submits to the district a written request that the student be excused;
 - (B) who, as determined by the district, has a conscientious objection to the recitation; or
 - (C) who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

Proposed Amendment to 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020
(First Reading and Filing Authorization)

September 2, 2022

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

SUMMARY: This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020. The proposed amendment would update the rule to move the implementation year for the Texas Essential Knowledge and Skills (TEKS) for Biology, Chemistry, Integrated Physics and Chemistry, and Physics to the beginning of the 2024-2025 school year to align with the instructional materials timeline. The proposed amendment would also align with the implementation timeline for the Kindergarten-Grade 8 science TEKS and the TEKS for all other high school science courses.

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 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 clarify that the science TEKS will be implemented at the same time.

PREVIOUS BOARD ACTION: The SBOE originally adopted the TEKS for science effective September 1, 1998. The SBOE adopted revisions to the science TEKS for high school effective August 4, 2009; August 27, 2018; and April 28, 2021.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statutory requirements that the SBOE identify by rule the essential knowledge and skills of each subject in the

required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject. In late 2019, the SBOE began the process to review and revise the TEKS for Kindergarten-Grade 12 science. At the recommendation of Work Group A, the SBOE directed the work groups to follow a backwards-by-design approach to the revisions to the Kindergarten-Grade 12 science TEKS. Consequently, work groups started first with recommendations for revisions to the high school science TEKS. In June and July 2020, Work Group B was convened virtually to develop recommendations for four high school science courses: Biology, Chemistry, Physics, and Integrated Physics and Chemistry. At the November 2020 SBOE meeting, the SBOE approved for second reading and final adoption proposed new 19 TAC §§112.41-112.45. The proposed new sections revised standards for Biology, Chemistry, Physics, and Integrated Physics and Chemistry as well as related implementation language. The new rules included an implementation date of the 2023-2024 school year.

At the June 2021 SBOE meeting, the board approved for second reading and final adoption new TEKS for Specialized Topics in Science and revised standards for Aquatic Science, Astronomy, Earth Science Systems (formerly titled Earth and Space Science), and Environmental Systems. At that time, the SBOE discussed the timeline for future instructional materials adoptions and made the determination to move the implementation of the new Kindergarten-Grade 12 science TEKS to the 2024-2025 school year. The board indicated that it would change the implementation date for the high school science courses that were adopted in 2020 at a future meeting.

At the November 2021 SBOE meeting, the board approved for second reading and final adoption new science TEKS for Kindergarten-Grade 8 with an implementation date of the 2024-2025 school year.

The attachment to this item reflects the text of the proposed amendment to 19 TAC §112.41 for consideration by the SBOE for first reading and filing authorization. The proposed amendment would update §112.41(a), (b), and (c) to reflect the revised implementation date for the high school science courses.

The proposed amendment 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 avoid confusion and ensure that the implementation of the science standards will be aligned.

FISCAL IMPACT: The Texas Education Agency (TEA) has determined that there are no additional costs to state or local government 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 limit an existing regulation by delaying implementation of 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 create a new regulation; would not expand 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 proposal would align the implementation of the TEKS for science so that the science TEKS for Kindergarten through high school would be implemented at the same time. 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 September 30, 2022, and ends at 5:00 p.m. on November 14, 2022. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2022 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 September 30, 2022.

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 proposed amendment to 19 TAC Chapter 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020.

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 112, Texas Essential Knowledge and Skills for Science, Subchapter C, High School, §112.41, Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 112. Texas Essential Knowledge and Skills for Science

Subchapter C. High School

§112.41. Implementation of Texas Essential Knowledge and Skills for Science, High School, Adopted 2020.

- (a) The provisions of §§112.42-112.45 of this subchapter shall be implemented by school districts beginning with the 2024-2025 school year .
- (b) No later than July 31, 2023 [~~2022~~] , 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 science as adopted in §§112.42-112.45 of this subchapter.
- (c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§112.42-112.45 of this subchapter shall be implemented beginning with the 2024-2025 [~~2023-2024~~] school year and apply to the 2024-2025 [~~2023-2024~~] 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 July 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 §§112.42-112.45 of this subchapter shall be implemented for the following school year.
- (e) Sections 112.34, 112.35, 112.38, and 112.39 of this subchapter shall be superseded by the implementation of §§112.42-112.45 of this subchapter.

**Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts
(Second Reading and Final Adoption)**

September 2, 2022

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

SUMMARY: This item presents for second reading and final adoption a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts. The proposed amendment would add a certification requirement to align with Senate Bill (SB) 1, 87th Texas Legislature, Regular Session, 2021. No changes are recommended since approved for first reading.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102, 31.003, 31.004, 31.005, 31.0211, and 31.101; SB 1, Article III, 87th Texas Legislature, Regular Session, 2021; and 47 USC §254(h)(5)(B) and (C).

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

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

TEC, §31.004, requires annual certification to the SBOE and commissioner that the district or open-enrollment charter provides instructional materials to cover the Texas Essential Knowledge and Skills (TEKS).

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, §31.0211, authorizes school districts to receive a biennial allotment from the state instructional materials and technology fund and for the commissioner to adopt rules related to the allotment.

TEC, §31.101, requires a school district board of trustees or a governing body of an open-enrollment charter school to notify the SBOE of instructional materials selected.

SB 1, Article III, 87th Texas Legislature, Regular Session, 2021, directed the SBOE to ensure that recipients of funds from the state instructional materials and technology fund meet the requirements for certification under the Children's Internet Protection Act when using those funds to purchase instructional materials or technology.

47 USC §254(h)(5)(B) and (C), Children's Internet Protection Act, requires school districts and open-enrollment charter schools to certify with respect to minors and adults that it is enforcing a policy of internet safety that protects against access to visual depictions that are obscene or child pornography.

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 would allow the SBOE to comply with the requirements in Rider 8 of the General Appropriations Act.

PREVIOUS BOARD ACTION: At the April 2022 SBOE meeting, the Committee of the Full Board discussed possible amendments to Chapter 66 related to requiring certification by school districts and open-enrollment charter schools regarding protection against access to obscene or harmful content in online instructional materials. The board approved the proposed amendment to §66.105 for first reading and filing authorization at the June 2022 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 66.105 addresses local education agency certification for providing each student with instructional materials covering of all elements of the essential knowledge and skills adopted by the SBOE for each subject and each grade level, other than physical education.

SB 1, 87th Texas Legislature, Regular Session, 2021, directed the SBOE to ensure that recipients of funds from the state instructional materials and technology fund meet the requirements for certification under 47 USC §254(h)(5)(B) and (C), Children's Internet Protection Act, when using those funds to purchase instructional materials or technology. The proposed amendment to §66.105 would add new subsection (b) to clarify the instructional materials certification requirements for school districts and open-enrollment charter schools regarding children's internet safety in accordance with SB 1.

The attachment to this item reflects the text of the proposed amendment to §66.105 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.

The Texas Education Agency (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: 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 adding a requirement for school districts and open-enrollment charter schools to certify that the district or charter school protects against access to obscene or harmful content in compliance with the requirements for certification under the Children's Internet Protection Act, 47 USC §254(h)(5)(B) and (C).

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 ensure that districts are aware of the requirement to protect students from harmful or inappropriate content on the internet. 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 June 2022 SBOE meeting, notice of proposed amendment to 19 TAC §66.105 was filed with the Texas Register, initiating the public comment period. No comments had been received at the time this item was prepared. A summary of public comments received will be provided to the SBOE during the August-September 2022 meeting. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in August-September 2022 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 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts; and

Make an affirmative finding that immediate adoption of the proposed amendment 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts, 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 Member Responsible:

Amie Williams, Director, Instructional Materials Review and Procurement

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter C. Local Operations

§66.105. Certification by School Districts.

- (a) Prior to the beginning of each school year, each school district and open-enrollment charter school shall submit to the State Board of Education (SBOE) and commissioner of education certification that for each subject in the required curriculum under the Texas Education Code, §28.002, other than physical education, and each grade level, the district or charter school provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE. The certification shall be submitted in a format approved by the commissioner [of education] and can be based on both state-adopted and non-state-adopted materials.
- (b) Each school district or open-enrollment charter school shall certify, in a format approved by the commissioner, that the district or charter school protects against access to obscene or harmful content in compliance with the requirements for certification under the Children's Internet Protection Act, 47 USC §254(h)(5)(B) and (C).
- (c) ~~(b)~~ The certifications shall be ratified by local school boards of trustees or governing bodies in public, noticed meetings.

Commissioner's Comments

August 31, 2022

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

**Decision on the Percentage Distribution of the Permanent School Fund
for Fiscal Years 2024 and 2025 and Related Fund Transfers**

September 2, 2022

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

SUMMARY: This item provides an opportunity for the board to evaluate and approve the Permanent School Fund (PSF) percentage distribution rate for fiscal years 2024 and 2025. The board will consider various factors associated with the distribution rate such as expected returns, inflation, student growth, and current economic conditions. The board may also consider and approve any transfers in the current biennium that could impact the distribution in the best interest of the PSF.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); and 19 Texas Administrative Code (TAC) Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

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

PREVIOUS BOARD ACTION: At the June 2022 meeting, the board approved a recommended range for the percentage distribution rate to the Available School Fund (ASF) from the PSF for fiscal years 2024 and 2025 to be between 2.50% and 3.33%.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: The amendment to Article 7 of the Constitution changed the PSF distribution from an income-based policy to a total return policy. This distribution rate is to be determined by a vote of two-thirds of the total membership of the SBOE taken before the regular session of the legislature convenes. If the SBOE does not adopt a rate, then the legislature will adopt a rate by general law or appropriation. The current rate is 4.18% of the average market value for the trailing 16 state fiscal quarters ending November 30, 2020.

According to the General Appropriations Act (SB 1): Permanent School Fund Distribution Rate, at least 45 days prior to the adoption of the distribution rate from the PSF to the ASF by the SBOE, the Texas Education Agency shall report to the Legislative Budget Board and the Governor on the following:

1. The distribution rate or rates under consideration
2. The assumptions and methodology used in determining the rate or rates under consideration
3. The annual amount the distribution rate or rates under consideration are estimated to provide, and the difference between them and the annual distribution amounts for the preceding three biennia
4. The optimal distribution amount for the preceding biennium, based on an analysis of intergenerational equity, and the difference between it and the actual distribution amount

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer of the Texas Permanent School Fund

Amendments to *Proclamation 2024* of the State Board of Education Advertising for Bids on Instructional Materials

September 2, 2022

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

SUMMARY: This item provides an opportunity for the State Board of Education (SBOE) to approve amendments to the schedule of adoption procedures in *Proclamation 2024*, amending the deadline for submitting preliminary and final correlations, pre-adoption samples, and related deliverables. *Proclamation 2024* calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics.

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

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

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

PREVIOUS BOARD ACTION: *Proclamation 2024* was issued by the SBOE in April 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: Publishers have requested additional time to develop Spanish translations of science materials. Additionally, due to the time needed to finalize the science rubric for the Texas Resource Review, amending the schedule of adoption procedures will allow publishers more time to create new materials.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve amendments to the schedule of adoption procedures in *Proclamation 2024* of the State Board of Education Advertising for Bids for Instructional Materials.

Staff Member Responsible:

Amie Williams, Director, Instructional Materials Review and Procurement

Separate Exhibit:

Proposed Amendments to *Proclamation 2024*
(to be provided at the September 2022 SBOE meeting)

Approval of *Proclamation 2024* Questions and Answers

September 2, 2022

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

SUMMARY: *Proclamation 2024*, issued by the State Board of Education (SBOE) in April 2022, calls for instructional materials for science, technology applications, specified courses in career and technical education, and Personal Financial Literacy and Economics. Publishers and other stakeholders were given an opportunity to ask questions at a *Proclamation 2024* introduction meeting held in June 2022 and subject-specific meetings held in July and August 2022 and encouraged to submit additional questions through email. Questions from publishers were added to existing questions common to all proclamations, and the resulting question and answer document for *Proclamation 2024* is presented for SBOE approval.

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

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

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

PREVIOUS BOARD ACTION: The SBOE issued *Proclamation 2024* in April 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: Following the adoption of instructional materials in November 1999 under *Proclamation 1997*, the SBOE requested that staff responses to publishers' questions related to interpretation of Texas Essential Knowledge and Skills (TEKS) and the proclamation in general be presented to the SBOE for approval. Subsequently, the SBOE has approved staff responses to publishers' questions for each proclamation beginning with *Proclamation 1998*.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve *Proclamation 2024* Questions and Answers

Staff Member Responsible:

Amie Williams, Director, Instructional Materials Review and Procurement

Separate Exhibit:

Proclamation 2024 Questions and Answers

(to be provided at the September 2022 SBOE meeting)

**Ratification of Texas Essential Knowledge and Skills Coverage in
Materials Selected for the Texas Resource Review**

September 2, 2022

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

SUMMARY: This item provides the opportunity for the State Board of Education (SBOE) to ratify the report from the Texas Essential Knowledge and Skills (TEKS) review committees regarding coverage of the TEKS in materials that were selected for the Texas Resource Review (TRR). This item presents the final report from the commissioner of education regarding the coverage of the TEKS.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§31.081](#) and [§31.082](#).

TEC, §31.081(a) requires the commissioner to develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials.

TEC, §31.082(a) requires the commissioner to contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under §31.081.

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

PREVIOUS BOARD ACTION: The SBOE received an update at the April 2021 meeting and ratified the report of the commissioner of education on the TEKS and Texas Prekindergarten Guidelines (TPG) alignment reports from the state review panels for instructional materials submitted to the TRR.

BACKGROUND INFORMATION AND JUSTIFICATION: The commissioner of education is required to develop and maintain a web portal that includes general information for each material submitted for review, evaluation of the quality of the material and the extent to which it covers the TEKS or TPG, and a repository of open educational resources, including state-developed materials; create procedures for submitting materials to the web portal; use a competitive process to contract for the development of the portal; and contract with a private entity to conduct an independent analysis of materials submitted for review.

MOTION TO BE CONSIDERED: The State Board of Education:

Ratify the report of the commissioner of education regarding TEKS alignment in instructional materials selected for the Texas Resource Review.

Staff Member Responsible:

Amie Williams, Director, Review and Adoption

Separate Exhibit:

Report of the commissioner of education regarding TEKS alignment in instructional materials selected for Texas Resource Review
(to be provided at the September 2022 SBOE meeting)

Approval of Long-Range Plan for Technology

September 2, 2022

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

SUMMARY: This item provides the opportunity for the board to approve the updated Long-Range Plan for Technology (LRPT) 2018-2025. Upon approval, staff will post the updated LRPT on the Texas Education Agency (TEA) website for use as guidance to Local Education Agencies (LEAs) when planning technology needs for the upcoming school year.

STATUTORY AUTHORITY: Texas Education Code, [\(TEC\) §32.001](#).

TEC, §32.001 requires the State Board of Education (SBOE) to develop a long-range plan for technology and update the plan at least every five years.

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

PREVIOUS BOARD ACTION: The SBOE approved the Long-Range Plan for Technology 2018-2023 in November 2018.

BACKGROUND INFORMATION AND JUSTIFICATION: Over the last 3 years since approval of the 2018-2023 LRPT, perception of the role of technology in education has been transformed; the definition and scope of educational technology itself has fundamentally changed. In accordance with the statutory requirement to update the plan at least every five years, the Texas Education Agency reconvened the original 2018-2023 LRPT Advisory Committee and a number of additional subject matter experts to evaluate, revise and add to the 2018 plan to accurately reflect the needs of LEAs today. At the June 2022 SBOE meeting, staff presented to the board a draft of the updated plan.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the updated *Revised and Extended Long-Range Plan for Technology 2018-2025*.

Staff Members Responsible:

Melody Parrish, Deputy Commissioner of Technology/CIO, Office of Information Technology
Julia Schacherl, Director of Strategic Projects, Office of Information Technology

Discussion of Pending Litigation

August 31, 2022

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 this item.

Cases to be discussed may include:

Student v. Conroe ISD, Texas Education Agency and State Board of Education, Civil Cause No. 1:21-CV-01048-LY (U.S. District Court – Western District of Texas (Austin); and

any other 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

One-Time Procedural Action to Correct the Effective Date of the Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.761 and §127.764

September 2, 2022

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

SUMMARY: At the June 17, 2022, meeting, the State Board of Education (SBOE) approved for second reading and final adoption proposed new 19 Texas Administrative Code (TAC) Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022, and §127.791, Computer Science III (One Credit), Adopted 2022. The SBOE voted to establish an implementation date of the 2023-2024 school year for the Texas Essential Knowledge and Skills (TEKS) for the two courses. Also at the June 17, 2022, meeting, the board approved the repeal of the current TEKS for 19 TAC §127.761, Fundamentals of Computer Science (One Credit), and §127.764, Computer Science III (One Credit), with an effective date of August 1, 2022. The result of these actions means that the current TEKS for the two courses would be repealed before the new TEKS are implemented. This item requests that the SBOE take one-time action to amend the motion made at the June 17, 2022, meeting to specify an August 1, 2023, effective date for the proposed repeal of 19 TAC §127.761 and §127.764 in order for the repeal to take effect at the same time that the new TEKS for the two courses are implemented.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a), (c-1)(1), and (c-10).

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.

TEC, §28.025(c-1)(1), establishes that an endorsement may be earned in science, technology, engineering, and mathematics (STEM), which includes courses related to science, including environmental science; technology, including computer science, cybersecurity, and computer coding; engineering; and advanced mathematics.

TEC, §28.025(c-10), requires the SBOE to adopt or select five technology applications courses on cybersecurity to be included in a cybersecurity pathway for the STEM endorsement.

BACKGROUND INFORMATION AND JUSTIFICATION: In 2020, the SBOE approved the consolidation of the high school technology applications courses, which included courses in computer

science, into the career and technical education (CTE) TEKS. The CTE TEKS are codified in 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 STEM career clusters. Two additional courses eligible to satisfy a graduation requirement in science were also part of the review. At the June 2021 SBOE meeting, a discussion item for proposed revisions to CTE courses in 19 TAC Chapter 130 was presented to the board.

The SBOE postponed first reading and filing authorization for certain courses, including four courses in computer science, to allow additional time to review and finalize recommendations. The SBOE approved the proposed new computer science courses for first reading and filing authorization at the April 2022 meeting. At the June 17, 2022 meeting, the board approved the proposed new computer science courses for second reading and final adoption. The SBOE voted to establish an implementation date of the 2023-2024 school year for §127.788, Fundamentals of Computer Science (One Credit), and §127.791, Computer Science III (One Credit). Also at the June 17, 2022 meeting, the board approved the repeal of the current TEKS for 19 TAC §127.761, Fundamentals of Computer Science (One Credit), and §127.764, Computer Science III (One Credit), with an effective date of August 1, 2022. However, the result of these actions means that the repeal of the current TEKS for the two courses would be effective for the 2022-2023 school year, before the new TEKS are scheduled to be implemented in the 2023-2024 school year.

This one-time procedural action provides the opportunity for the board to specify an August 1, 2023 effective date for the proposed repeal of 19 TAC §127.761, Fundamentals of Computer Science (One Credit), Adopted 2022, and §127.764, Computer Science III (One Credit), Adopted 2022, in order for the repeal to take effect at the same time that the new TEKS for the two courses are implemented.

MOTION TO BE CONSIDERED: The State Board of Education:

Amend the motion from the June 17, 2022 minutes of the State Board of Education to specify an August 1, 2023 effective date for the proposed repeal of 19 TAC §127.761, Fundamentals of Computer Science (One Credit), and §127.764, Computer Science III (One Credit).

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

**Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements,
Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs
(First Reading and Filing Authorization)**

September 2, 2022

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

SUMMARY: This item presents for first reading and filing authorization a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs. The amendment would update the rule to require that applicants for innovative courses must have piloted the proposed course in a Texas public school prior to seeking approval.

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.

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 would update the requirements for the submission of innovative course applications for the 2022-2023 school year.

PREVIOUS BOARD ACTION: The SBOE adopted 19 TAC §74.27 effective September 1, 1996, with amendments effective September 1, 1998, and September 1, 2001. In November 2007, the SBOE adopted an additional amendment to 19 TAC §74.27 effective December 25, 2007. In November 2019, the SBOE adopted an additional amendment to 19 TAC §74.27 effective December 25, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: After the SBOE adopted new rules concerning graduation requirements, the experimental courses previously approved were phased out as of August 31, 1998. As a result of the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit new requests for innovative course approval for courses that do not have TEKS. The process outlined in §74.27 provides authority for the commissioner of education to approve discipline-based courses but reserves for SBOE review and approval those courses that do not fall within any of the subject areas of the foundation or enrichment curriculum.

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

The attachment to this item reflects the text of the proposed amendment to 19 TAC §74.27 for consideration by the SBOE. The proposed amendment would specify that innovative courses cannot be approved unless they have been piloted in a Texas public school prior to seeking approval.

The proposed amendment 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 update the requirements for the submission of innovative course applications beginning with the 2022-2023 school year.

FISCAL IMPACT: TEA has determined that there are no additional costs to state or local government 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. The proposed rulemaking would expand an existing regulation by modifying the requirements for approval of innovative courses to require that an applicant for an innovative course pilot the proposed course in a Texas public school prior to seeking approval from the SBOE.

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: The proposal would provide districts and entities that submit applications for innovative courses clearer guidance regarding requirements for approval. 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 new 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 October 7, 2022, and ends at 5:00 p.m. on November 14, 2022. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2022 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 October 7, 2022.

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 amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions, §74.27, Innovative Courses and Programs.

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 C, Other Provisions, §74.27, Innovative Courses and Programs

ATTACHMENT
Text of Proposed Amendment to 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 ~~implementation or~~ 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 at least one school in the state of Texas.
 - ~~(7)~~ ~~(6)~~ With the approval of the local board of trustees, a school district may offer, without modifications, any state-approved innovative course.
- (b) (No change.)

Approval of Updates and Substitutions to Adopted Instructional Materials

September 2, 2022

COMMITTEE ON INSTRUCTION: ACTION STATE BOARD OF EDUCATION: CONSENT

SUMMARY: This item provides the opportunity for the committee and board to approve update and/or substitution requests received since the last board meeting. The updated content has been reviewed by subject-area specialists and determined to address the pertinent student expectations in a manner equal to the content initially reviewed and approved by the state review panel.

STATUTORY AUTHORITY: Texas Education Code (TEC), [§31.003](#) and [§31.022](#).

TEC, §31.003, permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

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 and for each subject in the enrichment curriculum.

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

PREVIOUS BOARD ACTION: In February 2015, the SBOE approved a substitution request for three science products, kindergarten–grade 2, from Discovery Education. In April 2016, the SBOE approved an update request for two math products, grades 6–8, from Texas State University. In April 2019, the Committee on Instruction (COI) postponed a vote on an update request for three English language arts and reading products, grades 6–8, from ThinkCERCA. The board approved the update request from ThinkCERCA at the June 2019 meeting. At the September 2019 meeting, the SBOE postponed a vote on an update request from EDUSPARK, Inc. for four Spanish language arts and reading products, kindergarten, and grades 1, 4, and 5. The request from EDUSPARK, Inc. was approved by the SBOE at the November 2019 meeting. In January 2020, a substitution request from Origo Education for English and Spanish math, kindergarten–grade 5, was submitted to the COI but no action was taken. In April 2020, the SBOE approved the substitution request from Origo Education for English and Spanish math, kindergarten–grade 5. In September 2020, the SBOE approved an update request from Learning A–Z for six English language arts and reading products, kindergarten–grade 2. In November 2020, the SBOE approved an update request from Learning A–Z for three English language arts and reading products, grades 2–4. In January 2021, the SBOE approved an update request from Learning A–Z for English language arts and reading, grade 5 and a substitution request from QuaverEd for their prekindergarten product. In April 2021, the SBOE approved an update request from EDUSPARK, Inc. for English and Spanish prekindergarten products and a substitution request from Cheng & Tsui Co. Inc. for their Chinese Level I languages other than English product. In June 2021, the SBOE approved an update request from Learning A–Z for English language arts and reading, grades 2–4. In September 2021, the SBOE approved update requests from The Children’s Learning Institute at UT Health Science Center for prekindergarten English and Spanish. In November 2021, the SBOE approved a substitution request from Cheng & Tsui and an update request from Learning A–Z, grades 1–5. In January 2022, the SBOE approved update requests from Learning A–Z, English language arts and reading, grades 2 and 3. In April 2022, the SBOE approved a substitution request from Learning Without Tears for kindergarten handwriting, and an update request from Learning A–Z for English language arts and reading, grades K–4. In June 2022, the SBOE approved an update request from Learning A–Z for English language arts and reading, grades 2–5.

BACKGROUND INFORMATION AND JUSTIFICATION: Rules in 19 TAC §66.75 permit a publisher to submit a request for approval to substitute an updated edition of state-adopted instructional materials. The rule also requires that all requests for updates involving content in state-adopted instructional materials be approved by the SBOE prior to their introduction into state-adopted instructional materials.

Rules in 19 TAC §66.76 permit a publisher to submit a request for approval to substitute a new edition of state-adopted instructional materials. The rule also requires that all requests for updates involving content used in determining the product's eligibility for adoption must be approved by the SBOE prior to their introduction into state-adopted instructional materials.

MOTION TO BE CONSIDERED: The State Board of Education:

Approve the request from Learning A–Z to update content in its product *Raz Plus ELL Texas Edition*, grades 2–5, adopted under *Proclamation 2019*.

Staff Member Responsible:

Amie Williams, Director, Instructional Materials Review and Procurement

Attachment I:

[Learning A–Z English language arts and reading, grade 2](#)

Attachment II:

[Learning A–Z English language arts and reading, grade 3](#)

Attachment III:

[Learning A–Z English language arts and reading, grade 4](#)

Attachment IV:

[Learning A–Z English language arts and reading, grade 5](#)

Separate Exhibit:

Additional Updates and/or Substitutions Submitted for Approval
(to be provided at the September 2022 SBOE meeting)

Discussion 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 Precalculus

September 1, 2022

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

SUMMARY: This item provides an opportunity for the board to discuss proposed new 19 Texas Administrative Code (TAC) Chapter 111, Texas Essential Knowledge and Skills for Mathematics, Subchapter D, Other High School Mathematics Courses, §111.56 Advanced Placement Precalculus. The proposal would add a new Advanced Placement (AP) mathematics course to align with current offerings from the College Board.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§7.102(c)(4); 28.002(a) and (c); and 28.025(a) and (b-1)(2).

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.

TEC, §28.025(b-1)(2), requires the SBOE to require by rule that students earning mathematics credits for the foundation high school program earn one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics credit.

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

BACKGROUND INFORMATION AND JUSTIFICATION: For students to earn state credit toward specific graduation requirements, a course must be approved by the SBOE and included in SBOE administrative rule. In September 2023, the College Board will add a new mathematics course to its AP course catalog. The proposed new rule would add a new AP course to the mathematics TEKS so that school districts and charter schools may offer the new AP Precalculus course for state credit toward mathematics graduation requirements.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Discussion 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

September 1, 2022

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

SUMMARY: This item provides an opportunity for the board to discuss 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 and the add a new middle school course.

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.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE adopted §127.2, Investigating Careers, Adopted 2015, and §127.3, College and Career Readiness, Adopted 2015, effective August 28, 2017.

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. The new course would be available for districts to use in meeting the requirements of TEC, §28.016.

Staff Members Responsible:

Monica Martinez, Associate Commissioner, Standards and Programs

Shelly Ramos, Senior Director, Curriculum Standards and Student Support

Separate Exhibit:

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
(to be provided in advance of the September 2022 SBOE meeting)

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

Discussion of Proposed Repeal of 19 TAC Chapter 129, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting

September 1, 2022

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

SUMMARY: This item provides an opportunity for the committee to discuss the proposed repeal of 19 Texas Administrative Code (TAC) Chapter 129, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting. The proposed repeal would implement House Bill (HB) 3, 86th Texas Legislature, 2019, which removed the State Board of Education's (SBOE's) rulemaking authority related to student attendance.

STATUTORY AUTHORITY: Texas Education Code ([TEC](#)), [§48.004](#), as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019.

TEC, §48.004, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, requires the commissioner to adopt rules, take actions, and require reports necessary to implement and administer student attendance.

FUTURE ACTION EXPECTED: The proposed repeal of 19 TAC Chapter 129, Subchapters A and B, will be presented for first reading and filing authorization at the September 2022 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 129, Subchapter A, defines the student attendance allowed in Texas schools. The subchapter was adopted effective September 1, 1996. Chapter 129, Subchapter B, defines the requirements for student attendance accounting for state funding purposes. The subchapter was adopted effective September 1, 1996, and was last amended effective December 25, 2019.

HB 3, 86th Texas Legislature, 2019, renumbered TEC, §42.004, to §48.004. The renumbered statute was amended to transfer rulemaking authority related to the implementation and administration of student attendance from the SBOE to the commissioner of education. The repeal of the rule is necessary since statutory authority no longer exists.

Staff Member Responsible:

David Marx, Senior Director, Financial Compliance

[Attachment:](#)

Text of Proposed Repeal of 19 TAC Chapter 129, Subchapter A, Student Attendance Allowed, and Subchapter B, Student Attendance Accounting

ATTACHMENT
Text 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.

Per Capita Apportionment Rate for the 2022-23 School Year

September 1, 2022

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

SUMMARY: A per capita apportionment rate for each school year is set by the commissioner of education based on an estimate of the amount available for expenditure from the Available School Fund (ASF). Agency staff will propose a recommended rate for the 2022-23 school year at the September 2022 meeting of the Committee on School Finance/Permanent School Fund.

STATUTORY AUTHORITY: Texas Education Code (TEC), §§48.004, 48.251(c), and 43.001(b).

TEC, §48.004, requires the commissioner of education to implement and administer the Foundation School Program (FSP).

TEC, §48.251(c), requires the FSP to be financed with state available school funds distributed in accordance with the law.

TEC, §43.001(b), describes the appropriations that make up the ASF.

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

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill 1, the General Appropriations Bill enacted by the 87th Texas Legislature, 2021, Regular Session, contains an estimate of the amount that will be available for expenditures from the ASF for the 2022-23 school year. The per capita apportionment will include distributions from the Permanent School Fund and funds from state occupation taxes and from the Motor Fuels Tax. The preliminary per capita apportionment rate set by the commissioner of education is based on an estimate of the funds available for expenditure. A final rate is established later in the school year based on actual funds available for expenditure.

The per capita apportionment rate finances part of the cost of the FSP. State aid comes from the ASF and the Foundation School Fund. The per capita apportionment rate determines how much of each district's total state aid is paid from the ASF. The part that is not financed by the ASF must be paid from the Foundation School Fund.

Staff Members Responsible:

Amy Copeland, Interim Associate Commissioner, School Finance
Sara Kohn, Forecasting and Fiscal Analysis, Director

Separate Exhibit:

Preliminary Per Capita Apportionment Rate for School Year 2022-23
(to be provided at the September 2022 SBOE meeting)

**Report on Permanent School Fund Securities Transactions and the Investment Portfolio and
Ratification of Purchases and Sales for the Months of May and June 2022**

September 2, 2022

**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 receive a report on Permanent School Fund (PSF) Securities Transactions and the Investment Portfolio and consider ratification of purchases and sales of investments executed in the portfolio of the PSF for the months of May and June 2022.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

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

PREVIOUS BOARD ACTION: At the June 2022 meeting, the board approved purchases in the amount of \$1,302,927,099 and sales in the amount of \$1,390,151,025 conducted in the investment portfolio of the PSF for the months of February through April 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: The purchases and sales of the investment portfolio are reviewed by the staff to ensure compliance with the Investment Guidelines, Policies, and Objectives of the PSF. The specific amounts of the purchases and sales for the reporting period will be recommended to the board for ratification upon approval by the Committee on School Finance/Permanent School Fund.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

**Report on Permanent School Fund Liquid Account and Ratification of
Purchases and Sales for the Months of May and June 2022**

September 2, 2022

**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 receive a status update report on the liquid account and consider approval of the purchases and sales of investments executed in the liquid account for the months of May and June 2022.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); Texas Natural Resources Code ([NRC](#)), [§51.414](#), as repealed by SB 1232, 87th Legislature, Regular Session, 2021; and 19 Texas Administrative Code (TAC) Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

NRC, §51.414, created the Liquid Account within the Permanent School Fund (PSF) to be managed by the SBOE.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas PSF and Bond Guarantee Program as adopted by the SBOE.

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

PREVIOUS BOARD ACTION: At the June 2022 meeting, the board approved purchases in the amount of \$263,734,813 and sales in the amount of \$56,014,234 for the PSF Liquid Account for the period February 1, 2022, through April 30, 2022.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Second Quarter 2022 Permanent School Fund Performance Report

September 1, 2022

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

SUMMARY: The performance measurement consultant to the Permanent School Fund (PSF), BNY Mellon Asset Servicing, will report on the investment performance during the second calendar quarter 2022 and the cumulative investment performance of the various portfolios of the PSF. This item provides the opportunity for the committee to discuss in depth, various issues related to portfolio management such as risk characteristics of portfolios and portfolio attributes.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); 19 Texas Administrative Code (TAC), Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

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

BACKGROUND INFORMATION AND JUSTIFICATION: An in-depth performance review at the committee level is intended to allow committee members to review not only total return information for each managed portfolio, but to gain a more thorough understanding of the risk characteristics, portfolio attributes, and portfolio structures of each portfolio that all contribute to return.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

**Determination Regarding Whether Transfers May be Made from the
Permanent School Fund to the Available School Fund**

September 2, 2022

**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 requirement in Article VII, §5(a)(2) that states, the total amount distributed over ten years cannot exceed the total return on all investment assets of the Permanent School Fund (PSF) over the same ten-year period. The board will determine whether transfers may be made from the PSF to the Available School Fund (ASF) in fiscal year 2023.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#); 19 Texas Administrative Code (TAC) Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted by the SBOE.

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

PREVIOUS BOARD ACTION: At the September 2021 meeting, the board determined that a distribution for fiscal year 2022 is permitted under Texas Constitution Article VII, Subsection 5(a)(2).

BACKGROUND INFORMATION AND JUSTIFICATION: On November 4, 2008, the chair of the SBOE sought an opinion from the Attorney General regarding the implementation of Texas Constitution, Article VII, §5(a)(2) in limiting transfers from the PSF to the ASF. A supplementary request was made on January 14, 2009. On April 13, 2009, the Attorney General responded to the requests, noting that Article VII, §5(a)(1) and §5(a)(2) require distinct calculations using different methodologies and covering different time periods.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

Discussion of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules

September 1, 2022

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

SUMMARY: This item provides the opportunity for the committee to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules.

STATUTORY AUTHORITY: The Texas Constitution, [Article VII, §5\(a\) and \(f\)](#).

Texas Constitution, Article VII, §5(a), authorizes the State Board of Education (SBOE) to make distributions from the Permanent School Fund (PSF) to the available school fund with certain limits.

Texas Constitution, Article VII, §5(f), authorizes the SBOE to manage and invest the PSF according to the prudent investor standard and make investments it deems appropriate.

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

FUTURE ACTION EXPECTED: Proposed amendments to 19 TAC Chapter 33, Subchapter A, may be presented for first reading and filing authorization at the November 2022 SBOE meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with statute, the rules in 19 TAC Chapter 33 establish investment objectives, policies, and guidelines for the PSF.

Staff Member Responsible:

Holland Timmins, Executive Administrator and Chief Investment Officer of the Texas Permanent School Fund

[Attachment:](#)

Text of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, Subchapter A, State Board of Education Rules, including Figure: 19 TAC §33.5(i)(2)

ATTACHMENT
Text of 19 TAC

Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

Subchapter A. State Board of Education Rules

Statutory Authority: The provisions of this Subchapter A issued under the Texas Education Code, §§7.102(c)(31) and (33), 43.001, 43.0031, 43.0033, 43.004, and 43.0052; Texas Government Code, §2263.004; Texas Natural Resources Code, §§32.012, 32.0161, 32.068, and 51.414; and Texas Constitution, Article VII, §5(a), (d), and (f), unless otherwise noted.

§33.1. Constitutional Authority and Constitutional Restrictions.

- (a) The Texas Permanent School Fund (PSF) is comprised of the principal of investment assets and the principal arising from the sale of the lands set apart for the PSF, including dividends and other income to the fund. The total amount distributed from the permanent school fund to the available school fund:
 - (1) must be an amount that is not more than 6.0% 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 the Texas Constitution, Article VII, §4, 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 subparagraph (A) of this paragraph; 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) In managing the assets of the PSF, the State Board of Education (SBOE) 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 the Texas Constitution, Article XVI, §70, 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.

Source: The provisions of this §33.1 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.2. Distributions to the Available School Fund.

Each year, the State Board of Education (SBOE) shall determine whether a distribution to the Available School Fund (ASF) shall be made for the current state fiscal year. The SBOE shall determine whether such distribution is permitted under the Texas Constitution, Article VII, §5(a)(2). The annual determination for the current fiscal year shall include a projection of the expected total return of the Permanent School Fund (PSF) at the end of the current fiscal year and the realized returns during the nine preceding state fiscal years. Any one-year distribution to the ASF shall not exceed 6.0% of the average market value of the PSF, excluding real property managed, sold, or acquired under the Texas Constitution, Article VII, §4, as determined under the Texas Constitution, Article VII, §5(a)(1).

Statutory Authority: The provisions of this §33.2 issued under the Texas Constitution, Article VII, §5(a)(2) and (f).

Source: The provisions of this §33.2 adopted to be effective April 21, 2010, 35 TexReg 3027.

§33.5. Code of Ethics.

- (a) General principles. The Texas Permanent School Fund (PSF) is held in public trust for the benefit of the schoolchildren of Texas. All those charged with the management of the PSF will aspire to the highest standards of ethical conduct. The purpose of the PSF code of ethics is to assist and help guide all such persons in the proper discharge of their duties and to assist them in avoiding even the appearance of impropriety.
- (b) Fiduciary responsibility. The members of the State Board of Education (SBOE) serve as fiduciaries of the PSF and are responsible for prudently investing its assets. The SBOE members or anyone acting on their behalf 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) Compliance with constitution and code of ethics. The SBOE members are public officials governed by the provisions of the Texas Government Ethics Act, as stated in the Texas Government Code, Chapter 572.
- (d) Definitions. For purposes of this chapter, the following terms shall have the following meanings.
 - (1) SBOE Member, for the purposes of the PSF code of ethics, means a member of the SBOE, and shall be deemed to include the SBOE Member or a person related to the member within the second degree of affinity or consanguinity.
 - (2) Person means any individual, corporation, firm, limited liability company, limited partnership, trust, association, or other legal entity.
 - (3) Investment manager or manager means a Person who manages and invests PSF assets and may be either an internal investment manager or an external investment manager.
 - (4) PSF Service Providers are the following Persons:
 - (A) any Person who is an external investment manager, as described in §33.20(c)(1) of this title (relating to Responsible Parties and Their Duties), or who is responsible by contract for providing legal advice regarding the PSF, executing PSF brokerage transactions, or acting as a custodian of the PSF;
 - (B) a member of the Committee of Investment Advisors;
 - (C) any Person who is Investment Counsel as described in §33.20(c)(4) of this title or provides consultant services for compensation regarding the management and investment of the PSF;
 - (D) any Person who provides investment and management advice to an SBOE Member, with or without compensation, if an SBOE Member:
 - (i) gives the Person access to PSF records or information that are identified as confidential; or
 - (ii) asks the Person to interview, meet with, or otherwise confer with a PSF Service Provider, Fund Manager, or TEA staff;
 - (E) any Person who is a member of the PSF staff who is responsible for managing or investing assets of the PSF, executing brokerage transactions, acting as a custodian of the PSF, or providing investment or management advice regarding the investment or management of the PSF to an SBOE Member or PSF staff;
 - (F) any Person who is a member of TEA legal staff who is responsible for providing legal advice regarding the investment or management of the PSF; or
 - (G) any Person who submits a response to a Request for Proposal (RFP) or Request for Qualifications (RFQ), or similar types of solicitations, while such response is pending. An applicant is not required to file reports under this section except as required in the RFP or RFQ process.

- (5) Expenditure, for purposes of this section, means any expenditure other than an expenditure made on behalf of an employee acting in the scope of their employment.
- (6) Fund Manager means the Person, except the Texas Education Agency (TEA) or a member of the PSF staff, who controls a non-publicly traded investment fund or other investment vehicle (which, by way of example but without limitation, may include a partnership, a limited liability company, trust, association, or other entity) in which the PSF is invested, such as the Person who acts as the vehicle's sponsor, general partner, managing member, manager, or adviser. For purposes of this chapter, Fund Managers are not considered to be PSF Service Providers, external investment managers, consultants, or Investment Counsel.
- (e) Assets affected by this section. The provisions of this section apply to all PSF assets, both publicly and nonpublicly traded investments.
- (f) General ethical standards.
 - (1) SBOE Members and PSF Service Providers must comply with all laws applicable to them, which may include one or more of the following statutes: Texas Government Code, Chapter 2263 (Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers), §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), and Chapter 305 (Registration of Lobbyists); Texas Penal Code, Chapter 36 (Bribery and Corrupt Influence) and Chapter 39 (Abuse of Office); and Texas Education Code, §43.0031 (Permanent School Fund Ethics Policy), §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. Fund Managers must comply with all applicable laws, including laws governing the investment vehicle, as provided in the governing documents of the investment vehicle.
 - (2) SBOE Members and PSF Service Providers must be honest in the exercise of their duties and must not take actions that will discredit the PSF.
 - (3) SBOE Members and PSF Service Providers shall be loyal to the interests of the PSF to the extent that such loyalty is not in conflict with other duties, which legally have priority. SBOE Members and PSF Service Providers shall avoid personal, employment, or business relationships that create conflicts of interest as defined in subsection (i)(1) of this section. Should an SBOE Member or a PSF Service Provider become aware of any conflict of interest involving himself or herself or another SBOE Member, PSF Service Provider, or Fund Manager, he or she has an affirmative duty to disclose the conflict to the SBOE chair and vice chair and the commissioner within seven days of discovering the conflict and, in the case of a conflict involving himself or herself, to cure the conflict in a manner provided for under this section prior to the next SBOE or committee meeting and such SBOE Member shall take no action nor participate in the RFP or RFQ process, or similar types of solicitations, that concerns the conflict.
 - (4) SBOE Members and PSF Service Providers 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) An SBOE Member shall report in writing the name and address of any PSF Service Provider, as defined by subsection (d)(4)(D) of this section, who provides investment and management advice to that SBOE Member. The SBOE Member shall submit the report to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider first providing investment and management advice to that SBOE Member.

- (6) SBOE Members and PSF Service Providers shall report in writing any action described by the Texas Education Code, §7.108, to the commissioner of education for distribution to the SBOE within seven days of discovering the violation.
- (7) A PSF Service Provider or Fund Manager shall not make any gift or donation to a school or other charitable interest on behalf of, at the request of, or in coordination with an SBOE Member. Any PSF Service Provider, Fund Manager, or SBOE Member shall disclose in writing to the commissioner of education any information regarding such a donation.
- (8) A PSF Service Provider or Fund Manager shall disclose in writing to the commissioner of education for dissemination to all SBOE Members any business or financial transaction greater than \$50 in value with an SBOE Member, the commissioner of education, or any member of PSF staff or TEA legal staff who is a PSF Service Provider within 30 days of the transaction. Excluded from this subsection are checking accounts, savings accounts, credit cards, brokerage accounts, mutual funds, or other financial accounts that are provided to the SBOE Member or to a member of the PSF staff or TEA legal staff under the same terms and conditions as they are provided to members of the general public.
- (9) An SBOE Member shall disclose in writing to the commissioner of education on a quarterly basis any business or financial transaction greater than \$50 in value between the SBOE Member, or a business entity in which the SBOE Member has a significant ownership interest, and a PSF Service Provider or Fund Manager. A report shall be filed even if there has not been a business or financial transaction greater than \$50 in value between the SBOE Member, or a business entity in which the SBOE Member has a significant ownership interest, and a PSF Service Provider or Fund Manager. Excluded from this subsection are checking accounts, savings accounts, credit cards, brokerage accounts, mutual funds, or other financial accounts that are provided to an SBOE Member under the same terms and conditions as they are provided to members of the general public. The reports shall be filed on or before January 15, April 15, July 15, and October 15 and shall cover the preceding three calendar months. The first report filed for each SBOE Member shall cover the preceding one-year period. Subsection (u) of this section does not apply to the first report filed. The commissioner of education shall communicate the information included in the disclosure to all SBOE Members.
- (g) Notification of disclosure. In order to preserve the integrity and public trust in the PSF, it is deemed necessary and appropriate to allow all SBOE Members a reasonable time to promptly review and respond to any disclosures or written inquiries made by applicants or made by PSF Service Providers as provided in SBOE operating procedures. In compliance with Texas Government Code, §2156.123, no SBOE Member or PSF Service Provider should publicly disclose any submission materials prior to completion of the RFP or RFQ process. For purposes of this subsection, an RFP or RFQ is completed upon final award of an RFP, or selection of qualified bidders for an RFQ, or closure without any selection. This subsection does not allow an SBOE Member to refrain from publicly disclosing a conflict of interest as required by subsections (f)(3) and (i)(4) of this section and Texas Government Code, §572.058.
- (h) Disclosure.
 - (1) If an SBOE Member solicited a specific investment action by the PSF staff or a PSF Service Provider or a Fund Manager, the SBOE Member shall publicly disclose the fact to the SBOE in a public meeting. The disclosure shall be entered into the minutes of the meeting. For purposes of this section, a matter is a prospective directive to the PSF staff or a PSF Service Provider or a Fund Manager to undertake a specific investment or divestiture of securities for the PSF. This term does not include ratification of prior securities transactions performed by the PSF staff or a PSF Service Provider and does not include an action to allocate classes of assets within the PSF.
 - (2) In addition, an SBOE Member shall fully disclose any substantial interest in any publicly or nonpublicly traded PSF investment (business entity) on the SBOE Member's annual financial report filed with the Texas Ethics Commission pursuant to Texas Government Code, §572.021. An SBOE Member has a substantial interest if the SBOE Member:
 - (A) has a controlling interest in the business entity;

- (B) owns more than 10% of the voting interest in the business entity;
- (C) owns more than \$25,000 of the fair market value of the business entity;
- (D) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10% of the profits, proceeds, or capital gains of the business entity;
- (E) is a member of the board of directors or other governing board of the business entity;
- (F) serves as an elected officer of the business entity; or
- (G) is an employee of the business entity.

(i) Conflicts of interest.

- (1) A conflict of interest exists whenever SBOE Members or PSF Service Providers 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. For example, a person's independence of judgment is diminished when the person is in a position to take action or not take action with respect to PSF and such act or failure to act is, may be, or reasonably appears to be influenced by considerations of personal gain or benefit rather than motivated by the interests of the PSF. Conflicts include, but are not limited to, beneficial interests in securities, corporate directorships, trustee positions, familial relationships, or other special relationships that could reasonably be considered a conflict of interest with the duties to the PSF. Further, Texas Education Code, §43.0032, requires disclosure and no participation, unless a waiver is granted, when an SBOE Member or a PSF Service Provider 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 management or investment of 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 SBOE Member or PSF Service Provider who has a possible conflict of interest as defined in paragraph (1) of this subsection shall disclose the possible conflict to the commissioner of education and the chair and vice chair of the SBOE on the disclosure form. The disclosure form is provided in this paragraph entitled "Potential Conflict of Interest Disclosure Form."

Figure: 19 TAC §33.5(i)(2)

- (3) A person who files a statement under paragraph (2) of this subsection disclosing a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the SBOE, after consultation with the general counsel of the TEA, expressly waives this prohibition. The SBOE may delegate the authority to waive this prohibition. If a waiver is not granted by the SBOE or its delegate to an SBOE Member or a PSF Service Provider for a possible conflict of interest, the SBOE Member or PSF Service Provider may request an opinion from the Texas Ethics Commission as to a determination of whether a conflict of interest exists. An SBOE Member will be given the assistance of the TEA ethics advisor to help draft a request for an opinion, if such assistance is requested. When the SBOE Member or PSF Service Provider receives the opinion of the Texas Ethics Commission and if a waiver is still sought, the SBOE Member or PSF Service Provider shall forward the opinion to the SBOE chair and vice chair and the commissioner. An opinion of the Texas Ethics Commission that determines a conflict exists is final and the SBOE may not waive the conflict of interest. An opinion of the Texas Ethics Commission that determines that no conflict exists will automatically result in an SBOE waiver.
- (4) If an SBOE Member believes he or she has a conflict of interest based on the existence of certain relationships described in Texas Government Code, §572.058, the SBOE Member shall publicly disclose the conflict at an SBOE meeting or committee meeting and the SBOE Member shall not

vote or otherwise participate in any decision involving the conflict. In accordance with Texas Government Code, §572.058, the SBOE may not waive the prohibition under this paragraph. This requirement is in addition to the requirement of filing a disclosure under paragraph (2) of this subsection.

- (5) Texas Government Code, §572.051, establishes standards of conduct for state officers and employees. SBOE Members and TEA employees shall abide by these standards.

(j) Prohibited transactions and interests.

- (1) For purposes of this section, the term "direct placement" (with respect to investments that are not publicly traded) is defined as a direct sale of fixed income securities, generally to institutional investors, with or without the use of brokers or underwriters, primarily offered to Qualified Institutional Buyers (QIBs) and not registered by the Securities and Exchange Commission. The term does not include offerings or sales of interests in investment funds or investment vehicles.
- (2) For the purposes of this section, the term "placement agent" is defined as any third party, whether or not affiliated with a PSF Service Provider or Fund Manager, that is a party to an agreement or arrangement (whether written or oral) with a PSF Service Provider or Fund Manager for direct or indirect payment of a fee in connection with a PSF investment.
- (3) No SBOE Member or PSF Service Provider shall:
 - (A) have a financial interest in a direct placement investment of the PSF;
 - (B) serve as an officer, director, or employee of an entity in which a direct placement investment is made by the PSF; or
 - (C) serve as a consultant to, or receive any fee, commission or payment from, an entity in which a direct placement investment is made by the PSF.
- (4) No SBOE Member shall:
 - (A) act as a representative or agent of a third party in dealing with a PSF investment manager, Investment Counsel, or consultant in connection with a PSF investment; or
 - (B) be employed for two years after the end of his or her term on the SBOE with an organization in which the PSF invested, unless the organization's stock or other evidence of ownership is traded on the public stock or bond exchanges.
- (5) A PSF Service Provider shall
 - not act as a representative or agent of a third party in dealing with a PSF investment manager, Investment Counsel, or consultant in connection with a PSF investment.
- (6) A PSF Service Provider or Fund Manager shall, except as approved by the SBOE, not use a placement agent in connection with a PSF investment unless:
 - (A) the relationship of the PSF Service Provider or Fund Manager with the placement agent, any compensation, and a description of the services provided by the placement agent in connection with a PSF investment are disclosed in writing to PSF staff;
 - (B) the placement agent is registered with the Securities and Exchange Commission (SEC) or the Financial Industry Regulatory Authority (FINRA) or, if not required to register with the SEC or FINRA, is registered with an applicable regulatory body;
 - (C) such placement agent does not share any fees with a non-registered person or entity; and
 - (D) in executed closing documents for the PSF investment, the PSF Service Provider or Fund Manager contractually represents and warrants that the information provided about the placement agent is true, correct, and complete in all material respects, provided that information provided by the placement agent is, to the knowledge of the PSF Service Provider or Fund Manager, true, correct, and complete in all material respects.

- (7) A placement agent shall file campaign contribution reports in the same manner as does a PSF Service Provider under subsection (o)(1) of this section for the period during which the placement agent provides services in connection with a PSF investment.
- (k) Solicitation of support. No SBOE Member shall solicit or receive a campaign contribution on behalf of any political candidate, political party, or political committee from a PSF Service Provider or Fund Manager. The PSF Service Provider or Fund Manager shall report any such incident in writing to the commissioner of education for distribution to the SBOE.
- (l) Hiring external professionals. The SBOE may contract with investment managers to make or assist with PSF investments. The SBOE has the authority and responsibility to hire other external professionals, including custodians, Investment Counsel, or consultants. The SBOE shall select each professional based on merit and cost and subject to the provisions of §33.55 of this title (relating to Standards for Selecting Consultants, Investment Managers, Custodians, and Other Professionals To Provide Outside Expertise for the Fund).
- (m) Responsibilities of PSF Service Providers and Fund Managers. The PSF Service Providers and Fund Managers shall be notified in writing of the code of ethics contained in this section. Any existing contracts for investment and any future investment shall strictly conform to this code of ethics. The PSF Service Provider or Fund Manager shall report in writing any suggestion or offer by an SBOE Member to deviate from the provisions of this section to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider or Fund Manager discovering the violation. The PSF Service Provider or Fund Manager shall report in writing any violation of this code of ethics committed by another PSF Service Provider or Fund Manager to the commissioner of education for distribution to the SBOE within 30 days of the PSF Service Provider or Fund Manager discovering the violation. A PSF Service Provider or other person retained in a fiduciary capacity must comply with the provisions of this section.
- (n) Gifts and entertainment.
 - (1) Bribery. SBOE Members are prohibited from soliciting, offering, or accepting gifts, payments, and other items of value in exchange for an official act, including a vote, recommendation, or any other exercise of official discretion pursuant to Texas Penal Code, §36.02.
 - (2) Acceptance of gifts.
 - (A) An SBOE Member may not accept gifts, favors, services, or benefits that may reasonably tend to influence the SBOE Member's official conduct or that the SBOE Member knows or should know are intended to influence the SBOE Member's official conduct. For purposes of this paragraph, a gift does not include an item with a value of less than \$50, excluding cash, checks, loans, direct deposit, or negotiable instruments.
 - (B) An SBOE Member may not accept a gift, favor, service, or benefit from a Person that the SBOE Member knows is interested or is likely to become interested in a charter, contract, purchase, payment, claim, or other pecuniary transaction over which the SBOE has discretion.
 - (C) An SBOE Member may not accept a gift, favor, service, or benefit from a Person that the SBOE Member knows to be subject to the regulation, inspection, or investigation of the SBOE or the TEA.
 - (D) An SBOE Member may not solicit, accept, or agree to accept a gift, favor, service, or benefit from a Person with whom the SBOE Member knows that civil or criminal litigation is pending or contemplated by the SBOE or the TEA.
 - (E) Except as prohibited in subparagraphs (A)-(D) of this paragraph and subject to the requirements for PSF Service Providers, Fund Managers, and lobbyists in subparagraph (F) of this paragraph, an SBOE Member may accept a gift, favor, service, or benefit if it fits into one of the following categories:
 - (i) items worth less than \$50, but may not be cash, checks, loans, or negotiable instruments;

- (ii) item is given in the context of a relationship, such as kinship, or a personal, professional, or business relationship that is independent of the SBOE Member's official capacity;
 - (iii) fees for services rendered outside the SBOE Member's official capacity;
 - (iv) government property issued by a governmental entity that allows the use of the property; or
 - (v) food, lodging, entertainment, and transportation, if accepted as a guest and the donor is present.
- (F) In addition to the requirements of subparagraph (E) of this paragraph, the following provisions govern the disposition of an individual who is a PSF Service Provider or Fund Manager or who is both a lobbyist registered with the Texas Ethics Commission and who represents a person subject to the SBOE's or the TEA's regulation, inspection, or investigation. A gift, favor, service, or benefit from a PSF Service Provider or Fund Manager or lobbyist will not be considered a violation of the prohibition set forth in subparagraph (C) of this paragraph.
 - (i) An SBOE Member may not accept the following from a PSF Service Provider or Fund Manager or lobbyist, even if otherwise permitted under subparagraph (E) of this paragraph:
 - (I) loans, cash, checks, direct deposits, or negotiable instruments;
 - (II) transportation or lodging for a pleasure trip;
 - (III) transportation or lodging in connection with a fact-finding trip or to a seminar or conference at which the SBOE Member does not provide services;
 - (IV) entertainment worth more than \$250 in a calendar year;
 - (V) gifts, other than awards and mementos, that combined are worth more than \$250 in value for a calendar year. Gifts do not include food, entertainment, lodging, and transportation if accepted as a guest and the PSF Service Provider or Fund Manager or lobbyist is present; or
 - (VI) individual awards and mementos worth more than \$250 each if from a lobbyist or worth \$50 or more each if from a PSF Service Provider or Fund Manager.
 - (ii) An SBOE Member may accept food and beverages as a guest if the PSF Service Provider or Fund Manager or lobbyist is present.
- (G) An SBOE Member may not solicit, agree to accept, or accept an honorarium in consideration for services that the SBOE Member would not have been asked to provide but for the SBOE Member's official position. An SBOE Member may accept food, transportation, and lodging in connection with a speech performed as a result of the SBOE Member's position in accordance with the rulings with the Texas Ethics Commission, which may place limitations on the type of entity that may fund such travel. An SBOE Member must report the food, lodging, or transportation accepted under this subparagraph in the SBOE Member's annual personal financial statement.
- (H) Under no circumstances shall an SBOE Member accept a prohibited gift if the source of the gift is not identified or if the SBOE Member knows or has reason to know that the gift is being offered through an intermediary.
- (I) If an unsolicited prohibited gift is received by an SBOE Member, he or she should return the gift to its source. If that is not possible or feasible, the gift should be donated to charity. The SBOE Member shall report the return of the gift or the donation of the gift to the commissioner of education.

- (J) A PSF Service Provider or Fund Manager shall file a report annually with the TEA's PSF office, in the format specified by the PSF staff, on or before January 31 of each year. The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. The expenditure report must describe in detail any expenditure of more than \$50 made by the Person on behalf of:
 - (i) an SBOE Member;
 - (ii) the commissioner of education; or
 - (iii) an employee of the TEA or of a nonprofit corporation created under the Texas Education Code, §43.006.
- (K) A PSF Service Provider or Fund Manager shall file a report annually with the TEA's PSF office, in the format specified by the PSF staff, on or before January 31 of each year. The report will be deemed to be filed when it is actually received. The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. It shall list any individuals who served in any of the following capacities at any time during the reporting period:
 - (i) all members of the governing body of the PSF Service Provider or Fund Manager;
 - (ii) the officers of the PSF Service Provider or Fund Manager;
 - (iii) any broker who conducts transactions with PSF funds;
 - (iv) all members of the governing body of the firm of a broker who conducts transactions with PSF funds; and
 - (v) all officers of the firm of a broker who conducts transactions with PSF funds.
- (L) This subsection does not apply to campaign contributions.
- (M) Each SBOE Member and each PSF Service Provider and Fund Manager shall, no later than April 15, file an annual report affirmatively disclosing any violation of this code of ethics known to that Person during the time period beginning January 1 and ending December 31 of the previous year which has not previously been disclosed in writing to the commissioner of education for distribution to all board members, or affirmatively state that the Person has no knowledge of any such violation. For purposes of this subparagraph only, "SBOE Member" means only the individual elected official.
- (o) Campaign contributions.
 - (1) A PSF Service Provider or Fund Manager shall, no later than January 31 and July 31, file a semi-annual report of each political contribution that the PSF Service Provider or Fund Manager has made to an SBOE Member or a candidate seeking election to the SBOE in writing to the commissioner of education. The report shall be for the six-month time period preceding the reporting dates and include the name of each SBOE Member or candidate seeking election to the SBOE who received a contribution, the amount of each contribution, and date of each contribution. Subsection (u) of this section does not apply to the first report filed. A report shall be filed even if the PSF Service Provider or Fund Manager made no reportable contribution during the reporting period to an SBOE Member or a candidate seeking election to the SBOE. The commissioner of education shall communicate the information included in the disclosure to all SBOE Members.
 - (2) Any person or firm filing a response to an RFP or RFQ relating to the management and investments of the PSF shall disclose in the response whether at any time in the preceding four years from the due date of the response to the RFP or RFQ the person or firm has made a campaign contribution to a candidate for or member of the SBOE.
- (p) Compliance with professional standards.

- (1) SBOE Members and PSF Service Providers who are members of professional organizations which promulgate standards of conduct must comply with those standards.
 - (2) To the extent applicable to them, PSF Service Providers must comply with the Code of Ethics and Standards of Professional Conduct of the Chartered Financial Analyst Institute.
- (q) Transactions involving PSF Service Providers or Fund Managers.
 - (1) A PSF Service Provider or Fund Manager other than a PSF executing broker shall not engage in any transaction involving the assets of the PSF with a Person who is an SBOE Member, Investment Counsel, a consultant to the SBOE or to an SBOE Member, or a member of the PSF staff or TEA legal staff who is responsible for managing or investing assets of the PSF or providing investment or management advice or legal advice regarding the investment or management of the PSF.
 - (2) A PSF Service Provider or Fund Manager other than a PSF executing broker shall report to the SBOE on a quarterly basis all investment transactions or trades and any fees or compensation paid or received in connection with the transactions or trades with a Person who is an SBOE Member, Investment Counsel, a consultant to the SBOE or an SBOE Member, or a member of the PSF staff or TEA legal staff who is responsible for managing or investing assets of the PSF or providing investment or management advice or legal advice regarding the investment or management of the PSF.
- (r) Compliance and enforcement.
 - (1) The SBOE will enforce this section through its chair or vice chair or the commissioner of education.
 - (2) Any violation of this section will be reported to the chair and vice chair of the SBOE and the commissioner of education and a recommended action will be presented to the SBOE by the chair or the commissioner. A violation of this section may result in the termination of the contract or a lesser sanction. Repeated minor violations may also result in the termination of the contract. With respect to Fund Managers, the recommended action, if any, shall be limited to a withdrawal or other disposition of the PSF's interest in the investment vehicle, each in accordance with the governing documents of the investment vehicle and laws applicable thereto.
 - (3) The PSF compliance officer under the direction of the TEA confidentiality officer shall act as custodian of all statements, waivers, and reports required under this section for purposes of public disclosure requirements.
 - (4) The ethics advisor of the TEA shall respond to inquiries from the SBOE Members and PSF Service Providers concerning the provisions of this section. The ethics advisor may confer with the general counsel and the executive administrator of the PSF.
 - (5) No payment shall be made to a PSF Service Provider who has failed to timely file a completed report as described by subsection (m) of this section, until a completed report is filed.
- (s) Ethics training. The SBOE shall receive annual training regarding state ethics laws through the Texas Ethics Commission and the TEA's ethics advisor.
- (t) TEA general ethical standards. The commissioner of education and PSF staff shall comply with the General Ethical Standards for the Staff of the Permanent School Fund and the Commissioner of Education.
- (u) Reporting period. A new report required by an amendment to the code of ethics need only concern events after the effective date of the amendment. An amendment to a rule that presently requires a report does not affect the reporting period unless the amendment explicitly changes the reporting period.
- (v) Statutory statement.
 - (1) A "statutory financial advisor or service provider" as defined in this subsection shall on or before April 15 file a statement as required by Texas Government Code, §2263.005, with the commissioner of education and the state auditor, for the previous calendar year. The statement will be deemed filed when it is actually received. A statutory financial advisor or service provider shall

promptly file a new or amended statement with the commissioner of education and the state auditor whenever there is new information required to be reported under Texas Government Code, §2263.005(a).

- (2) A "statutory financial advisor or service provider" is a member of the Committee of Investment Advisors or an individual or business entity, including a financial advisor, financial consultant, money or investment manager, or broker, who is not an employee of the TEA, but who provides financial services or advice to the TEA or the SBOE or an SBOE member in connection with the management and investment of the PSF and who may reasonably be expected to receive, directly or indirectly, more than \$5,000 in compensation from the TEA or the SBOE during a fiscal year.
- (3) An annual statement required to be filed under this subsection will be made using the form developed by the state auditor.

Statutory Authority: The provisions of this §33.5 issued under the Texas Education Code, §§7.102(c)(31) and (33), 43.0031-43.0034, and 43.004; Texas Government Code, §2263.004; and Texas Constitution, Article VII, §5.

Source: The provisions of this §33.5 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective April 2, 2000, 25 TexReg 2564; amended to be effective December 3, 2000, 25 TexReg 11648; amended to be effective December 15, 2002, 27 TexReg 11533; amended to be effective December 7, 2003, 28 TexReg 10930; amended to be effective October 10, 2004, 29 TexReg 9354; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective August 24, 2008, 33 TexReg 6586; amended to be effective July 1, 2010, 35 TexReg 5529; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective May 28, 2018, 43 TexReg 3354; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.10. Purposes of Texas Permanent School Fund Assets and the Statement of Investment Policy.

- (a) The purpose of the Texas Permanent School Fund (PSF), as defined by the Texas Constitution, shall be to support and maintain an efficient system of public free schools. The State Board of Education (SBOE) views the PSF as a perpetual institution. Consistent with its perpetual nature, the PSF shall be an endowment fund with a long-term investment horizon. The SBOE shall strive to manage the PSF consistently with respect to the following: generating income for the benefit of the public free schools of Texas, the real growth of the corpus of the PSF, protecting capital, and balancing the needs of present and future generations of Texas school children. The PSF will strive to maintain intergenerational equity by attempting to pay out a constant distribution and maintain the value of assets per student after adjusting for inflation.
- (b) The purposes of the investment policy statement are to:
 - (1) specify the investment objectives, policies, and guidelines the SBOE considers appropriate and prudent, considering the needs of the PSF, and to comply with the Texas Constitution by directing PSF assets;
 - (2) establish SBOE performance criteria for an investment manager;
 - (3) communicate the investment objectives, guidelines, and performance criteria to the SBOE, PSF investment staff and managers, and all other parties;
 - (4) guide the ongoing oversight of PSF investment and test compliance with the Texas Constitution and other applicable statutes;
 - (5) document that the SBOE is fulfilling its responsibilities for managing PSF investments solely in the interests of the PSF;
 - (6) document that the SBOE is fulfilling its responsibilities under Texas law; and
 - (7) provide transparency and accountability to the citizens of Texas.

Source: The provisions of this §33.10 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective October 10, 2004, 29 TexReg 9357; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective March 15, 2020, 45 TexReg 1707.

§33.15. Objectives.

(a) Investment objectives.

- (1) Investment objectives have been formulated based on the following considerations:
 - (A) the anticipated financial needs of the Texas public free school system in light of expected future contributions to the Texas Permanent School Fund (PSF);
 - (B) the need to preserve capital;
 - (C) the risk tolerance set by the State Board of Education (SBOE) and the need for diversification;
 - (D) observations about historical rates of return on various asset classes;
 - (E) assumptions about current and projected capital market and general economic conditions and expected levels of inflation;
 - (F) the need to maintain liquidity in the PSF Liquid Account;
 - (G) the need to invest according to the prudent person rule; and
 - (H) the need to document investment objectives, guidelines, and performance standards.
- (2) Investment objectives represent desired results and are long-term in nature, covering typical market cycles of three to five years. Any shortfall in meeting the objectives should be explainable in terms of general economic and capital market conditions and asset allocation.
- (3) The investment objectives are consistent with generally accepted standards of fiduciary responsibility.
- (4) Under the provisions of this chapter, investment managers shall have discretion and authority to implement security selection and timing.

(b) Goal and objectives for the PSF.

- (1) Goal. The goal of the SBOE for the PSF shall be to invest for the benefit of current and future generations of Texans consistent with the safety of principal, considering the strategic asset allocation plan adopted. To achieve this goal, PSF investment shall always be carefully administered.
- (2) Objectives.
 - (A) The preservation and safety of principal shall be a primary consideration in PSF investment.
 - (B) Fixed income securities shall be purchased at the highest total return consistent with the preservation and safety of principal.
 - (C) To the extent possible, the PSF management shall hedge against inflation.
 - (D) Securities, except investments for cash management purposes, shall be selected for investment on the basis of long-term investment merits rather than short-term gains.

(c) Investment rate of return and risk objectives.

- (1) Because the education needs of the future generations of Texas school children are long-term in nature, the return objective of the PSF shall also be long-term and focused on fairly balancing the benefits between the current generation and future generations while preserving the real per capita value of the PSF.
- (2) Investment rates of return shall adhere to the Chartered Financial Analyst (CFA) Institute Global Investment Performance Standards (GIPS) guidelines in calculating and reporting investment performance return information.

- (3) The overall risk level of PSF assets in terms of potential for price fluctuation shall not be extreme and risk variances shall be acceptable in the context of the overall goals and objectives for the investment of the PSF assets. The primary means of achieving such a risk profile are:
 - (A) a broad diversification among asset classes that react as independently as possible through varying economic and market circumstances;
 - (B) careful control of risk level within each asset class by avoiding over-concentration and not taking extreme positions against the market indices; and
 - (C) a degree of emphasis on stable growth.
 - (4) Over time, the volatility of returns (or risk) for the total fund, as measured by standard deviation of investment returns, should be comparable to investments in market indices in the proportion in which the PSF invests.
 - (5) The rate of return objective of the total PSF fund shall be to earn, over time, an average annual total rate of return that meets or exceeds the rate of return of a composite benchmark index, consisting of representative benchmark indices for the asset classes in which the PSF is invested that are aggregated in proportion to the strategic target asset allocation of the total PSF fund as determined by the SBOE, while maintaining an acceptable risk level compared to that of the composite benchmark index.
 - (6) The rate of return objective of each asset class in which the PSF is invested, other than the short-term cash fund, shall be to earn, over time, an average annual average rate of return that meets or exceeds that of a representative benchmark index for such asset class in U.S. dollars, combining dividends, capital appreciation, income, and interest income, as applicable, while maintaining an acceptable risk level compared to that of the representative benchmark index.
 - (7) The objective of the short-term cash fund shall be to provide liquidity for the timely payment of security transactions, while earning a competitive return. The expected return, over time, shall meet or exceed that of the representative benchmark index, while maintaining an acceptable risk level compared to that of the representative benchmark index.
 - (8) The objective of the PSF Liquid Account shall be to maintain liquidity for the needs of the School Land Board while earning a competitive return. The expected return, over time, shall meet or exceed that of the representative benchmark index while maintaining an acceptable risk level compared to that of the representative benchmark index.
 - (9) Notwithstanding the risk parameters specified in paragraphs (4)-(6) of this subsection, consideration shall be given to marginal risk variances exceeding the representative benchmark indices if returns are commensurate with the risk levels of the respective portfolios.
- (d) Asset allocation policy.
- (1) The SBOE shall adopt and implement a strategic asset allocation plan based on a well-diversified, balanced investment approach that uses a broad range of asset classes indicated by the following characteristics of the PSF:
 - (A) the long-term nature of the PSF;
 - (B) the spending policy of the PSF;
 - (C) the relatively low liquidity requirements of the PSF;
 - (D) the investment preferences and risk tolerance of the SBOE;
 - (E) the liquidity mandates under the Texas Natural Resources Code, Chapter 51, Subchapter I;
 - (F) the rate of return objectives; and
 - (G) the diversification objectives of the PSF, specified in the Texas Constitution, Article VII, §5(d), the Texas Education Code, Chapter 43, and the provisions of this chapter.

- (2) The strategic asset allocation plan shall contain guideline percentages, at market value of the total fund's assets, to be invested in various asset classes. The guideline percentages will include both a target percentage and an acceptable strategic range for each asset class, recognizing that the target mix may not be attainable at a specific point in time since actual asset allocation will be dictated by current and anticipated market conditions, as well as the overall directions of the SBOE.
- (3) The SBOE Committee on School Finance/Permanent School Fund, with the advice of the PSF investment staff, shall review the provisions of this section at least annually and, as needed, rebalance the assets of the portfolio according to the asset allocation rebalancing procedure specified in the PSF Investment Procedures Manual. The SBOE Committee on School Finance/Permanent School Fund shall consider the industry diversification and the percentage allocation within the following asset classes:
 - (A) domestic equities;
 - (B) international equities;
 - (C) emerging market equities;
 - (D) domestic fixed income;
 - (E) emerging market debt local currency;
 - (F) real estate;
 - (G) private equity;
 - (H) absolute return;
 - (I) real return;
 - (J) high yield;
 - (K) cash; and
 - (L) other asset classes as approved by the SBOE.
- (4) To the extent practicable, investments shall not exceed the strategic ranges the SBOE establishes for each asset class, recognizing the inability to actively reduce allocations to certain asset classes.
- (5) Periodically, the SBOE shall allocate segments of the total fund to each investment manager and specify guidelines, investment objectives, and standards of performance that apply to those assets.

Source: The provisions of this §33.15 adopted to be effective September 1, 1997, 22 TexReg 4359; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective October 10, 2004, 29 TexReg 9357; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective September 1, 2018, 43 TexReg 3354; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.20. Responsible Parties and Their Duties.

- (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.
- (b) The Texas Natural Resources Code, Chapter 51, Subchapter I, creates the PSF Liquid Account within the PSF to be invested in liquid assets and managed by the SBOE in the same manner it manages the PSF.
- (c) The SBOE shall be responsible for overseeing all aspects of the PSF and may contract with any of the following parties, whose duties and responsibilities are as follows.

- (1) An external investment manager is a Person the SBOE retains by contract to manage and invest a portion of the PSF assets under specified guidelines.
 - (2) A custodian is an organization, normally a financial company, the SBOE retains to safe keep, and provide accurate and timely reports of, PSF assets.
 - (3) A consultant is a Person the SBOE retains to advise the SBOE on PSF matters based on professional expertise.
 - (4) Investment Counsel is a Person retained under criteria specified in the PSF Investment Procedures Manual to advise PSF investment staff and the SBOE Committee on School Finance/Permanent School Fund within the policy framework established by the SBOE. Investment Counsel may be assigned such tasks as asset allocation reviews, manager searches, performance analysis, recommendations on spending policy, performance reporting, and benchmarking and research related to the management of PSF assets, with any such assigned tasks to be performed in consultation with PSF staff.
 - (5) A performance measurement consultant is a Person retained to provide the SBOE Committee on School Finance/Permanent School Fund an analysis of the PSF portfolio performance. The outside portfolio performance measurement service firm shall perform the analysis on a quarterly or as-needed basis. Quarterly reports shall be distributed to each member of the SBOE Committee on School Finance/Permanent School Fund and Investment Counsel, and a representative of the firm shall be available as necessary to brief the committee.
 - (6) The State Auditor's Office is an independent state agency that performs an annual financial audit of the Texas Education Agency (TEA) at the direction of the Texas Legislature. The financial audit, conducted according to generally accepted auditing standards, is designed to test compliance with generally accepted accounting principles. The state auditor performs tests of the transactions of the PSF Investment Office as part of this annual audit, including compliance with governing statutes and SBOE policies and directives. The TEA Internal Audit Division will participate in the audit process by participating in entrance and exit conferences, being provided copies of all reports and management letters furnished by the external auditor, and having access to the external auditor's audit programs and working papers.
 - (7) The SBOE may retain independent external auditors to review the PSF accounts annually or on an as-needed basis. The TEA Internal Audit Division will participate in the audit process by participating in entrance and exit conferences, being provided copies of all reports and management letters furnished by the external auditor, and having access to the external auditor's audit programs and working papers.
- (d) The SBOE shall meet on a regular or as-needed basis to conduct the affairs of the PSF.
- (e) In case of emergency or urgent public necessity, the SBOE Committee on School Finance/Permanent School Fund or the SBOE, as appropriate, may hold an emergency meeting under the Texas Government Code, §551.045.
- (f) The SBOE shall have the following exclusive duties:
- (1) determining the strategic asset allocation mix between asset classes based on the attending economic conditions and the PSF goals and objectives, including determining the separate asset allocation for the PSF Liquid Account based on the specific goals and objectives for investing the PSF Liquid Account;
 - (2) ratifying all investment transactions pertaining to the purchase, sale, or reinvestment of assets by all internal and external investment managers for the current reporting period;
 - (3) appointing members to the SBOE Investment Advisory Committee;
 - (4) approving the selection of, and all contracts with, external investment managers, financial advisors, Investment Counsel, financial or other consultants, or other external professionals retained to help the SBOE invest PSF assets;

- (5) approving the selection of, and the performance measurement contract with, a well-recognized and reputable firm retained to evaluate and analyze PSF investment results. The service shall compare investment results to the written investment objectives of the SBOE and also compare the investment of the PSF with the investment of other public and private funds against market indices and by managerial style;
 - (6) setting policies, objectives, and guidelines for investing PSF assets;
 - (7) submitting a list of six nominees for any vacant position on the School Land Board to the Texas Governor for consideration; and
 - (8) representing the PSF to the state.
- (g) The SBOE may establish committees to administer the affairs of the PSF. The duties and responsibilities of any committee established shall be specified in the PSF Investment Procedures Manual.
- (h) The PSF shall have an executive administrator, with a staff to be adjusted as necessary, who functions directly with the SBOE through the SBOE Committee on School Finance/Permanent School Fund concerning investment matters, and who functions as part of the internal operation under the commissioner of education. At all times, the PSF executive administrator and staff shall invest PSF assets as directed by the SBOE according to the Texas Constitution and all other applicable Texas statutes, as amended, and SBOE rules governing the operation of the PSF. The PSF staff shall:
- (1) administer the PSF, including investing and managing assets and contracting in connection therewith, according to SBOE goals and objectives;
 - (2) execute all directives, policies, and procedures from the SBOE and the SBOE Committee on School Finance/Permanent School Fund;
 - (3) keep records and provide a continuous and accurate accounting of all PSF transactions, revenues, and expenses and provide reports on the status of the PSF portfolio;
 - (4) advise any officials, investment firms, or other interested parties about the powers, limitations, and prohibitions regarding PSF investments that have been placed on the SBOE or PSF investment staff by statutes, attorney general opinions and court decisions, or by SBOE policies and operating procedures;
 - (5) continuously research all internally managed securities held by the PSF and report to the SBOE Committee on School Finance/Permanent School Fund and the SBOE any information requested, including reports and statistics on the PSF, for the purpose of administering the PSF;
 - (6) establish and maintain a procedures manual that implements this section to be approved by the SBOE;
 - (7) make recommendations regarding investment and policy matters to the SBOE Committee on School Finance/Permanent School Fund and the SBOE, except for formal recommendations for benchmarks for internally managed PSF asset classes, which duties the Committee will assign to an appropriate third party who will present such recommendations after consultation with PSF staff; and
 - (8) establish and maintain accounting policies and internal control procedures concerning all receipts, disbursements and investments of the PSF, according to the procedures adopted by the SBOE.
- (i) The SBOE delegates to the SBOE Committee on School Finance/Permanent School Fund, to which it has delegated certain powers and duties relating to the investment of the PSF, the responsibility of representing the SBOE at the joint annual meeting between the School Land Board and the SBOE under Texas Natural Resources Code, §32.0161. The chairs of the SBOE and the SBOE Committee on School Finance/Permanent School Fund shall be responsible for coordinating the joint annual meeting between the School Land Board and the SBOE.

Source: The provisions of this §33.20 adopted to be effective September 1, 1997, 22 TexReg 4359; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective March 31, 2004, 29 TexReg 3174; amended

to be effective June 4, 2012, 37 TexReg 4039; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective September 1, 2018, 43 TexReg 3354; amended to be effective March 15, 2020, 45 TexReg 1707.

§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.

Statutory Authority: The provisions of this §33.21 issued under Texas Constitution, Article VII, §5(a) and (f), and Texas Education Code, §43.001 and §43.053.

Source: The provisions of this §33.21 adopted to be effective March 22, 2022, 47 TexReg 1453.

§33.25. Permissible and Restricted Investments and General Guidelines for Investment Managers.

- (a) Permissible investments. Any investment that satisfies the prudence standard, is consistent with the Fund's investment policy and portfolio objectives, and is used in executing investment strategies approved by the State Board of Education (SBOE).
- (b) Prohibited transactions and restrictions. Except as provided in subsection (a) of this section or as approved or delegated by the SBOE, the following prohibited transactions and restrictions apply to all Texas Permanent School Fund (PSF) investment managers with respect to the investment or handling of PSF assets, except as otherwise noted:
 - (1) short sales of any kind except for U.S. Treasury futures for purposes of hedging fixed income portfolios;
 - (2) purchasing letter or restricted stock;
 - (3) buying or selling on margin;
 - (4) engaging in purchasing or writing options or similar transactions;
 - (5) borrowing by pledging or otherwise encumbering PSF assets;
 - (6) purchasing the equity or debt securities of the PSF investment manager's own organization or an affiliated organization, but excluding purchases with respect to indexed or passively managed portfolios;
 - (7) engaging in any purchasing transaction, after which the cumulative market value of common stock in a single corporation exceeds 2.5% of the PSF total market value or 5.0% of the manager's total portfolio market value, but excluding purchasing transactions with respect to indexed or passively managed portfolios;
 - (8) engaging in any purchasing transaction, after which the cumulative number of shares of common stock in a single corporation held by the PSF exceeds 5.0% of the outstanding voting stock of that issuer, but excluding purchasing transactions with respect to indexed or passively managed portfolios;
 - (9) engaging in any purchasing transaction, after which the cumulative market value of fixed income securities or cash equivalent securities in a single corporation (excluding the U.S. government, its federal agencies, and government sponsored enterprises) exceeds 2.5% of the PSF total market value or 5.0% of the investment manager's total portfolio market value with the PSF;
 - (10) purchasing tax exempt bonds;
 - (11) purchasing guaranteed investment contracts (GICs) from an insurance company or bank investment contracts (BICs) from a bank not rated at least AAA by Standard & Poor's or Moody's;

- (12) purchasing any publicly traded fixed income security not rated investment grade by Standard & Poor's (BBB-), Moody's (Baa3), or Fitch (BBB-), subject to the provisions of the PSF Investment Procedures Manual and the following restrictions:
 - (A) when ratings are provided by the three rating agencies, the middle rating shall be used;
 - (B) when ratings are provided by two ratings agencies, the lower rating is used; or
 - (C) when a rating is provided by one rating agency, the sole rating is used;
 - (13) purchasing short-term money market instruments rated below A-1 by Standard & Poor's or P-1 by Moody's;
 - (14) engaging in any transaction that results in unrelated business taxable income (excluding current holdings);
 - (15) engaging in any transaction considered a "prohibited transaction" under the Internal Revenue Code or the Employee Retirement Income Security Act (ERISA);
 - (16) purchasing precious metals or other commodities;
 - (17) engaging in any transaction that would leverage a manager's position;
 - (18) lending securities owned by the PSF, but held in custody by another party, such as a bank custodian, to any other party for any purpose, unless lending securities according to a separate written agreement the SBOE approved; and
 - (19) purchasing fixed income securities without a stated par value amount due at maturity.
- (c) General guidelines for investment managers.
- (1) Each investment manager retained to manage a portion of PSF assets shall be aware of, and operate within, the provisions of this chapter and all applicable Texas statutes.
 - (2) As fiduciaries of the PSF, investment managers shall discharge their duties solely in the interests of the PSF according to the prudent expert rule, engaging in activities that include the following.
 - (A) Diversification. Each manager's portfolio should be appropriately diversified within its applicable asset class.
 - (B) Securities trading.
 - (i) Each manager shall send copies of each transaction record to the PSF investment staff and custodians.
 - (ii) Each manager shall be required to reconcile the accounts under management on a monthly basis with the PSF investment staff and custodians.
 - (iii) Each manager shall be responsible for complying fully with PSF policies for trading securities and selecting brokerage firms, as specified in §33.40 of this title (relating to Trading and Brokerage Policy). In particular, the emphasis of security trading shall be on best execution; that is, the highest proceeds to the PSF and the lowest costs, net of all transaction expenses. Placing orders shall be based on the financial viability of the brokerage firm and the assurance of prompt and efficient execution.
 - (iv) The SBOE shall require each external manager to indemnify the PSF for all failed trades not due to the negligence of the PSF or its custodian in instances where the selection of the broker dealer is not in compliance with §33.40 of this title (relating to Trading and Brokerage Policy).
 - (C) Acknowledgments in writing.
 - (i) Each external investment manager retained by the PSF must be a person, firm, or corporation registered as an investment adviser under the Investment Adviser Act of 1940, a bank as defined in the Act, or an insurance company qualified to

do business in more than one state, and must acknowledge its fiduciary responsibility in writing. A firm registered with the Securities and Exchange Commission (SEC) must annually provide a copy of its Form ADV, Section II.

- (ii) The SBOE may require each external manager to obtain coverage for errors and omissions in an amount set by the SBOE, but the coverage shall be at least the greater of \$500,000 or 1.0% of the assets managed, not exceeding \$10 million. The coverage should be specific as to the assets of the PSF. The manager shall annually provide evidence in writing of the existence of the coverage.
 - (iii) Each external manager may be required by the SBOE to obtain fidelity bonds, fiduciary liability insurance, or both.
 - (iv) Each manager shall acknowledge in writing receiving a copy of, and agreeing to comply with, the provisions of this chapter.
 - (D) Discretionary investment authority. Subject to the provisions of this chapter, any investment manager of marketable securities or other investments, retained by the PSF, shall have full discretionary investment authority over the assets for which the manager is responsible. Specialist advisors and investment managers retained for alternative asset investments may have a varying degree of discretionary authority, which will be outlined in contract documentation.
- (d) Reporting procedures for investment managers. The investment manager shall:
- (1) prepare a monthly and quarterly report for delivery to the SBOE, the SBOE Committee on School Finance/Permanent School Fund, and the PSF investment staff that shall include, in the appropriate format, items requested by the SBOE. The monthly reports shall briefly cover the firm's economic review; a review of recent and anticipated investment activity; a summary of major changes that have occurred in the investment markets and in the portfolio, particularly since the last report; and a summary of the key characteristics of the PSF portfolio. Quarterly reports shall comprehensively cover the same information as monthly reports but shall also include any changes in the firm's structure, professional team, or product offerings; a detail of the portfolio holdings; and transactions for the period. Periodically, the PSF investment staff shall provide the investment manager a detailed description of, and format for, these reports;
 - (2) when requested by the SBOE Committee on School Finance/Permanent School Fund, make a presentation describing the professionals retained for the PSF, the investment process used for the PSF portfolio under the manager's responsibility, and any related issues;
 - (3) when requested by the PSF investment staff, meet to discuss the management of the portfolio, new developments, and any related matters; and
 - (4) implement a specific investment process for the PSF. The manager shall describe the process and its underlying philosophy in an attachment to its investment management agreement with the PSF and manage according to this process until the PSF and manager agree in writing to any change.

Statutory Authority: The provisions of this §33.25 issued under the Texas Education Code, §7.102(c)(31), and Texas Constitution, Article VII, §5.

Source: The provisions of this §33.25 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective June 4, 2012, 37 TexReg 4039; amended to be effective October 21, 2013, 38 TexReg 7306; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.30. Standards of Performance.

- (a) The State Board of Education (SBOE) Committee on School Finance/Permanent School Fund shall set and maintain performance standards for the total Texas Permanent School Fund (PSF) and separately for the PSF Liquid Account, for each asset class in which the assets of the PSF and the PSF Liquid Account are invested, and for all investment managers based on criteria that include the following:

- (1) time horizon;
 - (2) real rate of return;
 - (3) representative benchmark index;
 - (4) volatility of returns (or risk), as measured by standard deviation; and
 - (5) universe comparison.
- (b) The SBOE Committee on School Finance/Permanent School Fund shall develop and implement the procedures necessary to establish and recommend to the SBOE the performance standards criteria.
 - (c) Performance standards shall be included in the PSF Investment Procedures Manual.

Source: The provisions of this §33.30 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707.

§33.35. Guidelines for the Custodian and the Securities Lending Agent for the Texas Permanent School Fund (PSF) and the PSF Liquid Account.

Completing custodial and security lending functions in an accurate and timely manner is necessary for effective investment management and accurate records.

- (1) A custodian shall have the following responsibilities regarding the segments of the funds for which the custodian is responsible.
 - (A) Provide complete custody and depository services for the designated accounts.
 - (B) Provide for daily investment of any cash to avoid uninvested amounts.
 - (C) Implement the investment actions in a timely and effective manner as directed by the investment managers.
 - (D) Collect all realizable income and principal and properly report the information on the periodic statements to the Texas Permanent School Fund (PSF) investment staff, the investment managers, or other appropriate parties.
 - (E) Provide monthly and annual accounting statements, as well as on-line, real-time accounting, that includes all transactions. Accounting shall be based on accurate security values for cost and market value and provided within a time frame acceptable to the State Board of Education (SBOE).
 - (F) Report to the PSF investment staff situations in which security pricing is either not possible or subject to considerable uncertainty.
 - (G) Distribute all proxy voting materials in a timely manner.
 - (H) Provide research and assistance to the SBOE and the PSF investment staff on all issues related to accounting and administration.
 - (I) Confirm that the depth of resources and personnel associated with the designated funds are comparable to those of the nation's leading custodial banks.
- (2) A securities lending agent for the PSF shall have the following responsibilities.
 - (A) Provide complete transaction reporting for the designated funds.
 - (B) Provide a monthly accounting, as well as on-line, real-time accounting for securities lending transactions, based on accurate security values.
 - (C) Report to the PSF investment staff any irregular situation that is outside the standard of practice for securities lending or inconsistent with the provisions of the securities lending agreement.

- (D) Implement a securities lending program for the PSF in a manner that does not impair any rights of the PSF by virtue of PSF ownership in securities.
- (E) As requested, provide research and assistance to the SBOE and the PSF investment staff on all issues related to accounting and administration.
- (F) Provide indemnification to the PSF satisfactory to the SBOE in the event of default on securities lending transactions.
- (G) Fully disclose all revenues and other fees associated with the securities lending program.
- (H) Comply with restrictions on types of securities lending transactions or eligible investments of cash collateral or any other restrictions imposed by the SBOE or the PSF investment staff. Unless the SBOE gives its written approval, the following guidelines apply to the PSF Securities Lending Program. Cash collateral reinvestment guidelines must meet the following standards.
 - (i) Permissible investments.
 - (I) U.S. Government and U.S. Agencies, under the following criteria:
 - (-a-) any security issued by or fully guaranteed as to payment of principal and interest by the U.S. Government or a U.S. Government Agency or sponsored Agency, and eligible for transfer via Federal Reserve Bank book entry, Depository Trust Company book entry, and/or Participants Trust Company book entry;
 - (-b-) maximum 397-day maturity on fixed rate;
 - (-c-) maximum three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as London InterBank Offered Rate (LIBOR), Federal Funds, Treasury Bills, or commercial paper; and
 - (-d-) no maximum dollar limit.
 - (II) Bank obligations, under the following criteria:
 - (-a-) time deposits with maximum 60-day maturity on fixed rate or three-year maturity for floating rate, with maximum reset period of 60 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-b-) negotiable Certificates of Deposit with maximum 397-day maturity on fixed rate or three-year maturity for floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-c-) bank notes with maximum 397-day maturity on fixed rate or three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
 - (-d-) bankers acceptances with maximum 45-day maturity;
 - (-e-) issued by banks with at least \$25 billion in assets and, for floating rate bank obligations with a maturity greater than 397 days, a long-term rating of AA2 and AA by Moody's Investor Service and Standard & Poor's Corporation at time of purchase; and, for fixed rate or floating rate bank obligations with a remaining maturity of 397 days or less, a short-term rating of "Tier 1" as defined in clause (ii)(IV) of this

subparagraph or, for such bank obligations without a short-term rating, an issuer rating of Tier 1. In addition, placements can be made in branches within the following countries:

- (-1-) Canada;
- (-2-) France;
- (-3-) United Kingdom; and
- (-4-) United States; and

- (-f-) dollar limit maximum per institution of 5.0% of investment portfolio at time of purchase.

(III) Commercial paper, under the following criteria:

- (-a-) dollar limit maximum per issuer of 5.0% of investment portfolio at time of purchase including any other obligations of that issuer as established in subclause (II)(-d-) of this clause. If backed 100% by bank Letter of Credit, then dollar limit is applied against the issuing bank;
- (-b-) must be rated "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
- (-c-) maximum 397-day maturity.

(IV) Asset backed commercial paper, under the following criteria:

- (-a-) dollar limit maximum per issuer of 5.0% of investment portfolio;
- (-b-) must be rated "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
- (-c-) maximum 397-day maturity.

(V) Asset backed securities, under the following criteria:

- (-a-) maximum 397-day weighted average life on fixed rate;
- (-b-) maximum three-year weighted average life on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper; and
- (-c-) rated Aaa and AAA by Moody's Investor Service and Standard & Poor's Corporation at time of purchase. One AAA rating may suffice if only rated by one Nationally Recognized Securities Rating Organization (NRSRO).

(VI) Corporate debt (other than commercial paper), under the following criteria:

- (-a-) must be senior debt;
- (-b-) maximum 397-day maturity on fixed rate;
- (-c-) maximum three-year maturity on floating rate, with maximum reset period of 94 days and use a standard repricing index such as LIBOR, Federal Funds, Treasury Bills, or commercial paper;
- (-d-) for floating rate corporate obligations with a maturity greater than 397 days, a long-term rating of AA2 and AA by Moody's

- Investor Service and Standard & Poor's Corporation at time of purchase; and, for fixed rate or floating rate corporate obligations with a remaining maturity of 397 days or less, a short-term rating of "Tier 1" as defined in clause (ii)(IV) of this subparagraph or, for such corporate obligations without a short-term rating, an issuer rating of Tier 1; and
- (-e-) dollar limit maximum per issuer of 5.0% of investment portfolio at time of purchase, including any other obligations of that issuer.
- (VII) Reverse repurchase agreements, under the following criteria:
- (-a-) counterparty must be "Tier 1" rated as defined in clause (ii)(IV) of this subparagraph for fixed rate and AA2 and AA by Moody's Investor Service and Standard & Poor's Corporation for floating rate or be a "Primary Dealer" in Government Securities as per the New York Federal Reserve Bank;
 - (-b-) underlying collateral may be any security permitted for direct investment;
 - (-c-) lending agent or a third party custodian must hold collateral under tri-party agreement;
 - (-d-) collateral must be marked to market daily and maintained at the following margin levels.
 - (-1-) U.S. Government, U.S. Government Agency, sponsored Agency, International Organization at 100%;
 - (-2-) Certificate of Deposits, Bankers Acceptance, bank notes, commercial paper at 102% under one year to maturity and rated at least "Tier 1" as defined in clause (ii)(IV) of this subparagraph; and
 - (-3-) corporate debt (other than commercial paper) at 105% rated at least AA2/AA or better by Moody's Investor Service and Standard & Poor's Corporation at time of purchase;
 - (-e-) due to daily margin maintenance, dollar limits and maturity limits of underlying collateral are waived, except with respect to the maturity limit in subclause (II)(-d-) of this clause;
 - (-f-) maximum 180-day maturity; and
 - (-g-) dollar limit for total reverse repurchase agreements is the greater of \$300 million or 15% of value of cash collateral portfolio with one counterparty at time of purchase.
- (VIII) Foreign sovereign debt, under the following criteria:
- (-a-) any security issued by or fully guaranteed as to payment of principal and interest by a foreign government whose sovereign debt is rated AA2/AA or better by Moody's Investor Service and Standard & Poor's Corporation at time of purchase. Securities must be delivered to Lending Agent or a third party under a Tri-Party agreement;

- (-b-) dollar limit maximum per issuer or guarantor of 2.5% of investment portfolio; and
 - (-c-) maximum maturity of 397 days.
- (IX) Short Term Investment Fund (STIF) and/or Registered Mutual Funds, under the following criteria:
 - (-a-) funds must comprise investments similar to those that would otherwise be approved for securities lending investment under the provisions of this subparagraph, not invest in derivatives, and not re-hypothecate assets;
 - (-b-) lender must approve each fund in writing and only upon receipt of offering documents and qualified letter; and
 - (-c-) fund must have an objective of a constant share price of one dollar.
- (ii) Investment parameters.
 - (I) Maximum weighted average maturity of investment portfolio must be 180 days.
 - (II) Maximum weighted average interest rate exposure of investment portfolio must be 60 days.
 - (III) All investments must be U.S. dollar-denominated.
 - (IV) "Tier 1" credit quality is defined as the highest short-term rating category by the following NRSROs:
 - (-a-) Standard & Poor's;
 - (-b-) Moody's Investors Service; and
 - (-c-) Fitch Investors Service.
 - (V) At time of purchase all investments must be rated in the highest short-term numerical category by at least two NRSROs, one of which must be either Standard & Poor's or Moody's Investors Service.
 - (VI) Issuer's ratings cannot be on negative credit watch at the time of purchase.
 - (VII) Interest and principal only (IO, PO) stripped mortgages are not permitted.
 - (VIII) Mortgage backed securities are not permitted.
 - (IX) Complex derivative or structured securities, including, but not limited to the following are not permitted:
 - (-a-) inverse floating rate notes;
 - (-b-) defined range floating rate notes;
 - (-c-) trigger notes; and
 - (-d-) set-up notes.
- (I) Provide a copy of the investment policy governing the custodian's securities lending program, as amended, to the PSF investment staff.
- (J) Confirm that the depth of resources and personnel associated with the designated funds are comparable to those of the nation's leading securities lending agents.

Source: The provisions of this §33.35 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective August 14, 2005, 30 TexReg 4478; amended to be effective October 15, 2006, 31 TexReg 8347; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.40. Trading and Brokerage Policy.

- (a) Security transaction policy.
 - (1) The following principles shall guide all Texas Permanent School Fund (PSF) transactions.
 - (A) Each manager shall be responsible for complying fully with PSF policies for trading securities and selecting brokerage firms, as specified in this section. In particular, the emphasis of security trading shall be on best execution; that is, the highest proceeds to the PSF and the lowest costs, net of all transaction expenses. Placing orders shall be based on the financial viability of the brokerage firm and the assurance of prompt and efficient execution.
 - (B) Ongoing efforts must be made to reduce trading costs, in terms of both commissions and market impact, provided the investment returns of the PSF are not jeopardized.
 - (2) The State Board of Education (SBOE) may enter into brokerage commission recapture agreements or soft dollar agreements.
 - (3) The SBOE may evaluate transaction activity annually through a trading cost analysis.
- (b) Directed trades. The SBOE may adopt directed trade procedures for the PSF portfolio according to procedures developed by the SBOE Committee on School Finance/Permanent School Fund.
- (c) Guidelines for selecting a brokerage firm and standards of ethical conduct for brokerage firms.
 - (1) Introduction and basic principles.
 - (A) The SBOE intends that any transaction of publicly traded security occur through a brokerage firm or automated trading system, regardless of location, to obtain the lowest transaction cost consistent with best execution.
 - (B) Each investment manager shall be responsible for selecting brokerage firms or automated trading systems through which PSF trading shall be completed. The selections must meet PSF guidelines and be for the exclusive benefit of the PSF.
 - (2) Guidelines for selection and standards of ethical conduct. The broker or dealer firm must:
 - (A) have appropriate trading and market expertise;
 - (B) have comprehensive, proprietary, in-house research capabilities;
 - (C) be in compliance with applicable federal and Texas laws related to conducting business as a broker or dealer, including the Anti-Fraud provisions of the Securities Exchange Act of 1934;
 - (D) be a member in good standing of the major financial exchanges;
 - (E) have on-site, in-house trading capability and direct access to major markets;
 - (F) have in-house access to trading support equipment;
 - (G) trade for competitive rates that provide the lowest transaction cost consistent with best execution;
 - (H) be financially able to accommodate a capital commitment trade over an industry standard settlement period;
 - (I) have the ability and record to clear and settle trades without unnecessary delays or fails; and

- (J) have been in business as a broker or dealer for a reasonable period of time to ensure financial and operational stability.
- (3) Exemptions.
 - (A) Broker/dealer firms that are certified as Texas based historically underutilized businesses (HUBs) are exempted from the requirements specified in paragraph (2)(B), (D), and (H) of this subsection; and
 - (B) broker/dealer firms that are operating as electronic communication networks are exempted from the requirements specified in paragraph (2)(B) of this subsection.
- (4) Reporting requirements. The executive administrator of the PSF will report to the SBOE Committee on School Finance/Permanent School Fund, on an ongoing basis, a list of broker dealers with whom the PSF has conducted business during the fiscal year that have been granted exemptions under paragraph (2)(B), (D), and (H) of this subsection and will identify the specific exemptions granted.
- (5) Review and evaluation. At least annually, the SBOE Committee on School Finance/Permanent School Fund shall review the brokerage firms used by PSF investment managers and all transactions for compliance with the provisions of this section.
- (6) Broker expenditure report. A broker shall file a report annually on April 15 of each year on the expenditure report provided in §33.5(n)(2)(J) of this title (relating to Code of Ethics) entitled "Report of Expenditures of Persons Providing Services to the State Board of Education Relating to the Management and Investment of the Permanent School Fund." The report shall be for the time period beginning on January 1 and ending on December 31 of the previous year. The expenditure report must describe in detail any expenditure of more than \$50 made by the person on behalf of:
 - (A) an SBOE Member;
 - (B) the commissioner of education; or
 - (C) an employee of the Texas Education Agency or of a nonprofit corporation created under the Texas Education Code, §43.006.

Source: The provisions of this §33.40 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective April 2, 2000, 25 TexReg 2568; amended to be effective October 11, 2000, 25 TexReg 10151; amended to be effective March 31, 2004, 29 TexReg 3174; amended to be effective October 10, 2004, 29 TexReg 9354; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.45. Proxy Voting Policy.

The State Board of Education (SBOE) recognizes its fiduciary obligations with respect to the voting of proxies of companies with securities that are owned by the Texas Permanent School Fund (PSF). Because the issues related to proxy voting are complex and directly impact investment values, the SBOE believes the PSF is best suited to vote the proxies of shares held in the PSF portfolio. Therefore, as part of the PSF investment policy, the SBOE instructs the PSF executive administrator and investment staff to vote all of the PSF proxies of companies according to the following guidelines. The executive administrator may delegate voting of proxies of securities not held in internally managed portfolios to external investment managers or proxy voting companies, provided voting is in accordance with the following guidelines.

- (1) Routine matters. Routine proxy proposals shall be voted in support of company proposals unless there is a clear reason not to do so. Routine matters include:
 - (A) electing directors;
 - (B) determining the size of a board;
 - (C) changing a corporate name;
 - (D) appointing an auditor;
 - (E) splitting stock;

- (F) amending articles of incorporation that are required to comply with federal or state regulation; and
 - (G) changing the date, time, or location of an annual meeting.
- (2) Business matters. Business proposals that do not eliminate the rights of shareholders, especially minority shareholders, or the status of securities held, including ownership status, shall not be treated as routine; rather, they shall be carefully analyzed. These issues may be voted with management. However, business proposals that are nonroutine or would impair the economic interests of shareholders shall be voted against management. Examples of such proposals include:
- (A) requests to alter bylaws to require a super majority to approve mergers;
 - (B) anti-takeover proposals that could restrict tender offers or deny majority owners from exercising judgment;
 - (C) proposals to dilute existing shares by issuing substantially more stock without adequate explanation by management; and
 - (D) proposals that would enrich management excessively or substantially increase compensation awards or employment contracts to senior management that become effective when ownership of the company changes (also known as "golden parachute" awards).
- (3) Other matters. On all other matters, the PSF executive administrator, investment staff, and external investment managers shall vote proxies judged to be in the best interests of the PSF.
- (4) Reporting to SBOE. At each regularly scheduled SBOE meeting, the PSF executive administrator shall advise the SBOE of all instances in which the PSF executive administrator or external investment managers voted against management. External investment managers shall provide written reports monthly to the executive administrator according to procedures and a format established by the executive administrator.

Source: The provisions of this §33.45 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 22 TexReg 11671; amended to be effective March 31, 2004, 29 TexReg 3174.

§33.50. Socially and Politically Responsible Investment Policy.

Investments shall be considered based on the prudent person rule and the provisions of this chapter. Investments shall provide the highest return commensurate with the lowest risk and shall be diversified.

Source: The provisions of this §33.50 adopted to be effective September 1, 1996, 21 TexReg 3937.

§33.55. Standards for Selecting Consultants, Investment Managers, Custodians, and Other Professionals To Provide Outside Expertise for the Fund.

The State Board of Education (SBOE) may retain qualified professionals to assist in investment and related matters.

- (1) Basis for selection. The SBOE shall retain professional assistance based on the demonstrated ability of the professional to provide the expertise or assistance needed along with the proposed cost of the service in order to provide the best overall value for the Permanent School Fund. For each type of expertise, relevant and objective criteria shall be established to judge and select experts.
- (2) Types of expertise for consideration. Examples of professionals or specialized expertise the SBOE may retain include: investment managers, accountants, consultants, legal counsel, custodians, security lending agents, and system specialists.
- (3) Process for selecting professional assistance. The SBOE shall establish and maintain in the Texas Permanent School Fund (PSF) Procedures Manual an objective process for selecting expertise or assistance. The SBOE Committee on School Finance/Permanent School Fund shall periodically review the process to ensure it reflects SBOE objectives.

Source: The provisions of this §33.55 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective June 4, 2012, 37 TexReg 4039.

§33.60. Performance and Review Procedures.

As requested by the State Board of Education (SBOE) or Texas Permanent School Fund (PSF) investment staff, evaluation and periodic investment reports shall supply critical information on a continuing basis, such as the amount of trading activity, investment performance, cash positions, diversification ratios, rates of return, and other perspectives of the portfolios. The reports shall address compliance with investment policy guidelines.

- (1) Performance measurements. The SBOE Committee on School Finance/Permanent School Fund shall review the quarterly performance of each portfolio of the PSF in terms of the provisions of this chapter. The investment performance review shall include comparisons with representative benchmark indices, a broad universe of investment managers, and the consumer price index. A time-weighted return formula (which minimizes the effect of contributions and withdrawals) shall be used for investment return analysis. The review also may include quarterly performance analysis and comparisons of retained firms. The services of an outside, independent consulting firm that provides performance measurement and evaluation shall be retained.
- (2) Meeting and reports. Upon request, the SBOE Committee on School Finance/Permanent School Fund shall meet with the PSF investment managers and custodian to review their responsibilities, the PSF portfolio, and investment results in terms of the provisions of this chapter.
- (3) Reports to the School Land Board. Each quarter, the SBOE shall provide the School Land Board a financial report on the portion of the PSF assets and funds for which the SBOE is responsible in accordance with Texas Education Code, §43.0052.
- (4) Review and modification of investment policy statement. The SBOE Committee on School Finance/Permanent School Fund shall review the provisions of this chapter at least once a year to determine if modifications are necessary or desirable. Upon approval by the SBOE, any modifications shall be promptly reported to all investment managers and other responsible parties.
- (5) Compliance with this chapter and Texas statutes. Annually, the SBOE Committee on School Finance/Permanent School Fund shall confirm that the PSF and each of its managed portfolios have complied with the provisions of this chapter concerning exclusions imposed by the SBOE, proxy voting, and trading and brokerage selection.
- (6) Significant events. The SBOE must be notified promptly if any of the following events occur within the custodian or external investment manager organizations:
 - (A) any event that is likely to adversely impact to a significant degree the management, professionalism, integrity, or financial position of the custodian or investment manager. A custodian must report the loss of an account of \$500 million or more. An investment manager must report the loss of an account of \$25 million or more;
 - (B) a loss of one or more key people;
 - (C) a significant change in investment philosophy;
 - (D) the addition of a new portfolio manager on the sponsor's account;
 - (E) a change in ownership or control, through any means, of the custodian or investment manager; or
 - (F) any violation of policy.

Source: The provisions of this §33.60 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective September 1, 1998, 24 TexReg 7777; amended to be effective August 21, 2016, 41 TexReg 6003; amended to be effective March 15, 2020, 45 TexReg 1707; amended to be effective April 8, 2021, 46 TexReg 2231.

§33.65. 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 the 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 the TEC, §42.005.
 - (4) Bond--A debt security issuance approved by the attorney general, issued under the 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 the 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 the 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 the TEC, Chapter 45, Subchapter E; or
 - (B) any other type of loan or warrant that is not supported by bond taxes as defined by the 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 the 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 the 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 the 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 reduce the multiplier to maintain 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 will establish an amount of capacity to be held in reserve of no less than 5.0% of the fund's capacity. The reserved capacity can be used to award guarantees for districts that experience unforeseen catastrophes or emergencies that require the renovation or replacement of school facilities as described in the TEC, §44.031(h). The amount to be held in reserve may be increased by a majority vote of the SBOE based on changes in the asset allocation and risk in the portfolio and unrealized gains in the portfolio, or by the commissioner as necessary to prudently manage fund capacity. 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 the 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 the 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. 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 the 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-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 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 the 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 the 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 the 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 the TEA that the capacity continues to be available before proceeding with the public or private offer to sell bonds.
 - (ii) The 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 the TEA in accordance with subparagraph (A) of this paragraph must provide written notice to the 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 the 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 the 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) The 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) The 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 the 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 the 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 the 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 the TEC, §45.062.

Statutory Authority: The provisions of this §33.65 issued under the Texas Education Code, §§7.102(c)(33), 45.053(d), 45.0532, 45.0571, and 45.063, and the Texas Constitution, Article VII, Section 5.

Source: The provisions of this §33.65 adopted to be effective September 1, 1996, 21 TexReg 3937; amended to be effective December 5, 2004, 29 TexReg 11340; amended to be effective December 25, 2005, 30 TexReg 8431; amended to be effective February 22, 2009, 34 TexReg 1050; amended to be effective July 4, 2010, 35 TexReg 5537; amended to be effective December 26, 2013, 38 TexReg 9353; amended to be effective January 8, 2015, 40 TexReg 219; amended to be effective February 1, 2016, 40 TexReg 7222 and 40 TexReg 9791; amended to be effective March 1, 2017, 42 TexReg 755; amended to be effective March 29, 2018, 43 TexReg 1845.

§33.67. 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 the 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 the 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 the 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 the 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 the 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: $(\text{Excess of revenues over expenses} + \text{interest expense} + \text{depreciation expense} + \text{amortization expense}) / \text{annual debt service}$.
 - (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 the 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 the 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 the 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 the 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 §33.65 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 5.0% of the charter school available capacity in reserve each month.
 - (2) For state fiscal years 2018 through 2022, the available capacity of the PSF to guarantee bonds for charter districts shall follow the schedule described in TEC, §45.0532(b-1), unless the SBOE adopts a different percentage for a specific fiscal year or years in accordance with TEC, §45.0532(b-2) and (b-3). This paragraph expires September 1, 2022.

- (3) 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 the 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 §33.65 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 the 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 the 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 §33.65 of this title, the commissioner determines that the available capacity of the PSF as described in §33.65 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 the 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 the TEC, §53.40;
 - (iv) whether the 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 the 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 the 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 the 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 the TEA that the capacity continues to be available and must continue to meet the requirements of subsection (c)(2) of this section before proceeding with the public or private offer to sell bonds.
 - (ii) The 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 the TEA in accordance with subparagraph (A) of this paragraph must provide written notice to the 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 the 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 the 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) The 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) The 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 the 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 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 the 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 the 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 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 the 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 the 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 the 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 the 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 the 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.

Statutory Authority: The provisions of this §33.67 issued under the Texas Education Code, §§7.102(c)(33), 12.135, 45.051, 45.053, 45.0531, 45.0532, 45.0541, 45.056, 45.0571, 45.063, and the Texas Constitution, Article VII, Section 5.

Source: The provisions of this §33.67 adopted to be effective March 3, 2014, 39 TexReg 1367; amended to be effective January 8, 2015, 40 TexReg 225; amended to be effective October 19, 2015, 40 TexReg 7227; amended to be effective March 29, 2018, 43 TexReg 1845.

Figure: 19 TAC §33.5(i)(2)

POTENTIAL CONFLICT OF INTEREST DISCLOSURE FORM
(State Board of Education and Persons Providing Services to the State Board of Education
Relating to the Management and Investment of the Permanent School Fund)

TO: Commissioner of Education or
 Chair, State Board of Education

FROM:

DATE:

Description of Facts Creating Potential Conflict of Interest:

Proposed Action to Avoid Conflict of Interest:

REVIEWED AND APPROVED: _____

Cc: Internal Auditor
 General Counsel

Report of the Permanent School Fund Executive Administrator and Chief Investment Officer

September 1, 2022

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

SUMMARY: The Permanent School Fund (PSF) executive administrator will report to the committee on matters relating to the management of the PSF and the Charter District Reserve Fund. The report may present information on historical and current status of Fund holdings, current and proposed investment policies and procedures, and historical and current Fund performance and compliance. The administrator may update the board on the bond guarantee program, the status of requests for proposal or for qualifications and current contracts for services and other administrative activities undertaken on behalf of the board. The administrator may provide an update on the PSF distribution or on the effect of legislation impacting the PSF. The administrator may provide an analysis of current and future investment market conditions, focusing upon the impact on the holdings of the PSF.

STATUTORY AUTHORITY: Texas Constitution, [Article VII, §2](#) and [§5](#), and 19 Texas Administrative Code (TAC) Chapter 33.

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 and invest the permanent school fund in accordance with the prudent person standard.

19 TAC Chapter 33 codifies administrative rules that provide a statement of investment objectives, policies, and guidelines of the Texas Permanent School Fund and Bond Guarantee Program as adopted 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, Executive Administrator and Chief Investment Officer, Texas Permanent School Fund

COMMITTEE ON SCHOOL INITIATIVES

**Recommendation for Reappointment to the Boys Ranch
Independent School District Board of Trustees**

September 2, 2022

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

SUMMARY: This item provides an opportunity for the board to consider one reappointment to the board of trustees of Boys Ranch Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member.

STATUTORY AUTHORITY: Texas Education Code [\(TEC\), §11.352](#).

TEC, §11.352 authorizes the State Board of Education (SBOE) to appoint school board members in special purpose school districts.

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

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is statutorily authorized to appoint board members for special purpose ISDs created under its authority to establish certain special purpose school districts. Trustees so appointed hold office for two years and until their successors are appointed and qualified. When a vacancy occurs, the chief executive officer (CEO) of Cal Farley's Boys Ranch notifies the commissioner of education of the vacancy in compliance with TEC, §11.352. The CEO submits resumes and other documents verifying that individuals are qualified to hold the position as well as a statement that the individual would accept the position if appointed. The CEO is required by 19 TAC §61.2 to provide one nomination to the SBOE. The nominee must be qualified under the general school laws of Texas.

Mr. Richard Nedelkoff, president and CEO of Cal Farley's Boys Ranch, has notified the commissioner that the term of office of one board member has expired. Mr. Richard Nedelkoff has requested that Mr. Mark Strother be reappointed for a two-year term. Supporting documentation for the recommended candidate is attached.

MOTION TO BE CONSIDERED: The State Board of Education:

Based on Mr. Richard Nedelkoff's recommendation, approve the reappointment of Mr. Mark Strother to serve a two-year term of office, from September 2, 2022 to September 1, 2024, on the Boys Ranch ISD Board of Trustees.

Staff Member Responsible:

Christopher Lucas, Director, Policy, Planning, and Operations, Office of Governance

[Attachment:](#)

Correspondence from Mr. Richard Nedelkoff, president and CEO of Cal Farley's Boys Ranch ISD that includes supporting material for the nominee



June 27, 2022

Mr. Mike Morath
Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

Dear Commissioner Morath,

In my capacity as President and Chief Executive Officer of Cal Farley's Boys Ranch, I request that the State Board of Education, at its August/September meeting, reappoint **Mark Strother** to the Boys Ranch Independent School District (BRISD) Board of Trustees. Mr. Strother is qualified under Texas law and meets all requirements.

The following documents were previously provided: resume, signed statement expressing willingness to accept appointment and serve in full adherence to the state-established standards for school board members and certifying that the biographical information is true and correct, and background check information.

I understand that the BRISD Board of Trustees has the power to govern and oversee management of the district, and my power as President and Chief Executive Office of Cal Farley's Boys Ranch is limited to duty as defined by statutes relating to the process of appointing members to the BRISD Board of Trustees. I also certify that the membership composition of the BRISD Board of Trustees is in full compliance with the provisions of the Texas Education Code, section 11.352. I further certify that the roles of the BRISD superintendent is in full compliance with the provisions of the Texas Education Code, section 11.201.

Should you have any questions, please contact me at 830-358-2999 or via email at richardnedelkoff@calfarley.org.

I appreciate your consideration and look forward to confirmation of this appointment.

Sincerely,

Richard Nedelkoff
President and Chief Executive Officer

MARK STROTHER

EXPERIENCE **Cal Farley's – Amarillo, Texas – April 2002 to present**
Executive Vice President and Chief Operating Officer (2009 – present)

- a Responsible for all aspects of residential childcare operationsa at Cal Farley's including youth program design,a implementation and evaluation, provision of training anda related activities.a
- a Responsible for all aspects of the physical campus of Cala Farley's Boys Ranch.a
- a Responsible for CF Learning an international network ofa professionals, leaders and educators in the youth work field.a
- a Responsible for Information Technology for the entire Cala Farley's organization.a

Director of Program Development, Training, and Program Evaluation
(2002 – 2009)

- a Facilitate in the development of new programs and servicesa and in the redesign of existing ones.a
- a Train and supervise the training of youth workers, sociala workers, and support staff for the entire agency.a
- a Facilitate the evaluation of program and service outcomes.a
- a Facilitate Continuous Quality Improvement initiatives.a

Lee & Beulah Moor Children's Home – El Paso, Texas – March 1992 to April 2002


- a Responsible for residential youth programs.a

EDUCATION **MASTER OF ARTS IN EDUCATION - UNIVERSITY OF PHOENIX – SANTA TERESA, NEW MEXICO**
BACHELORS DEGREE IN BUSINESS - UNIVERSITY OF PHOENIX – SANTA TERESA, NEW MEXICO


LEADERSHIP **Currently serving on the Board of Directors for CYC-Net.**
An international association serving Child and Youth Care Workers.
2011-2013 President of the Board for the American Re-ED Association

STATEMENT TO ACCOMPANY
BOYS RANCH INDEPENDENT SCHOOL DISTRICT
SCHOOL BOARD TRUSTEE RE-APPOINTMENT REQUEST
FOR
MARK STROTHER

I, **Mark Strother**, verify that I am qualified under the general school laws of Texas to be a Boys Ranch Independent School District School Board Trustee. I certify that the attached biographical information is true and correct. I am willing to accept the re-appointment as Boys Ranch Independent School District School Board Trustee and serve in such capacity with full adherence to the state-established standards for the duties and responsibilities of school board members.



Mark Strother



(Date)



TEXAS

Health and Human Services

02/10/2022

Michelle Maikoetter
PO BOX 5
BOYS RANCH, Texas 79010-0005

Operation # 1639
Cal Farley's Boys Ranch

Dear Michelle Maikoetter:

Your operation requested a background check for **Mark A Strother**, born in 1957. The following alternate names for this person were also checked: Mark Allen Strother. The results of the check are based on the identification information that your operation submitted for this individual. It is your responsibility to ensure the accuracy of the identifying data by reviewing supporting documents.

Based on a review of the background check results, the Centralized Background Check Unit (CBCU) determined that this person is **ELIGIBLE** to be present at your operation in the role of **Staff/Employee**.

All background check types required for this role have been completed, and no further action is required at this time. The CBCU will notify you if this person's background check determination changes.

The CBCU has conducted this background check in compliance with, and as required by Child Care Regulation minimum standards, rules, and other Texas and federal law.

NOTICE: If you decide not to hire this person, or if the person is no longer employed by, living at, or otherwise associated with your operation, you must inactivate this person on the Background Check History webpage of your online provider account. If you do not have an online provider account, or are unable to access it, notify your CBCU representative of the change in status.

If this person continues to be associated with your operation, you must submit a renewal background check for this person on or before **01/18/2027**.

If you have questions:

- contact your CBCU representative:

<https://www.hhs.texas.gov/providers/protective-services-providers/child-care-regulation/child-care-regulation-background-checks/centralized-background-check-unit>

- visit the CBCU webpage:

<https://www.hhs.texas.gov/providers/protective-services-providers/child-care-regulation/child-care-regulation-background-checks/centralized-background-check-unit>

[re-regulation-background-checks](#); or

- contact the CBCU Support Line: 1-800-645-7549.

For your information, our records indicate that the following child care operations have submitted a background check request on this person:

- Cal Farley's Boys Ranch on 01/18/2022
- Cal Farley's Boys Ranch on 12/01/2021
- Cal Farley's Boys Ranch on 11/16/2017
- Licensed Child Care Administrators on 12/01/2015
- Cal Farley's Boys Ranch on 11/17/2015
- Licensed Child Care Administrators on 12/05/2013
- Cal Farley's Boys Ranch on 11/20/2013
- Cal Farley's Boys Ranch on 11/22/2011
- Cal Farley's Boys Ranch on 11/23/2009
- Cal Farley's Boys Ranch on 11/26/2007
- Cal Farley's Boys Ranch on 12/01/2005
- Cal Farley's Family Program on 02/12/2004
- Cal Farley's Family Program on 01/30/2004

Thank you,

Child Care Regulation Centralized Background Check Unit

**Recommendation for Reappointments to the
Lackland Independent School District Board of Trustees**

September 2, 2022

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

SUMMARY: This item provides an opportunity for the board to consider two reappointments to the board of trustees of Lackland Independent School District (ISD). The reappointments are necessary due to the expiration of the terms of office of two board members.

STATUTORY AUTHORITY: Texas Education Code [\(TEC\)](#), [§11.352](#).

TEC, §11.352 authorizes the State Board of Education (SBOE) to appoint school board members in special purpose school districts.

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

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is statutorily authorized to appoint board members for military reservation ISDs. Trustees so appointed hold office for two years and until their successors are appointed and qualified. Enlisted military personnel may be appointed to the board; however, a majority must be civilians, and all may be civilians. When a vacancy occurs, the base commander notifies the commissioner of education of such vacancy in compliance with TEC, §11.352. Vacancies are widely advertised through base newspapers, email, and other electronic methods. Interested individuals submit resumés and other documents verifying that they qualify to hold the position and would accept it if appointed.

The commanding officer appoints a nomination panel of at least three members who review the application packages, interview the candidates, and evaluate the candidates. The panel's recommendations are then forwarded to the commanding officer for consideration. The commanding officer is required by 19 TAC §61.2 to provide at least one nomination to the SBOE for each vacancy. All nominees must be qualified under the general school laws of Texas and live or be employed on the military reservation.

Colonel, United States Air Force, Shane R. Cuéllar, Commander of the 502d Force Support Group, has notified the commissioner that the terms of two trustees of the Lackland ISD have expired. Colonel Cuéllar recommends the reappointments of Mr. Brian Miller and Ms. Sandra H. Wellman to the Lackland ISD Board of Trustees.

MOTION TO BE CONSIDERED: The State Board of Education:

Based on Colonel Shane R. Cuéllar's recommendation, approve the reappointments of Mr. Brian Miller and Ms. Sandra H. Wellman to serve terms of office from September 2, 2022 to September 1, 2024, on the Lackland ISD Board of Trustees.

Staff Member Responsible:

Christopher Lucas, Director, Policy, Planning, and Operations, Office of Governance

Attachment:

Correspondence from Colonel Shane R. Cuéllar that includes biographical information and supporting materials for each nominee



**DEPARTMENT OF THE AIR FORCE
502D AIR BASE WING
JOINT BASE SAN ANTONIO**



4 May 22

MEMORANDUM FOR MR. MIKE MORATH
COMMISSIONER, TEXAS EDUCATION AGENCY
1701 NORTH CONGRESS AVENUE
AUSTIN, TX 78701

FROM: 502 FSG/CC
2330 Stanley Road, Suite A
JBSA Ft Sam Houston TX 78234

SUBJECT: Reappointment of Mr. Brian S. Miller and Ms. Sandra H. Wellman to the Lackland Independent School District (LISD) Board of Trustees

1. I would like to respectfully request reappointment for Mr. Brian Miller and Ms. Sandra H. Wellman to the Lackland Independent School District (LISD) Board of Trustees. Enclosed are the resumes for the positions, as required by Texas Administrative Code Section 61.2a (1), along with signed statements expressing their willingness to accept the appointments and serve in full adherence to the established state standards for school board members.
2. The nominees are qualified under the general school laws of Texas, and the nominees either live or works on JBSA-Lackland. The nominees are well qualified and would be in full compliance with the provisions of the Texas Education code 11.352. Every avenue was used to reach the widest possible applicant pool. The membership composition of the board of trustees is in compliance with the provisions of Texas Code 11.28.
3. I recognize the power of the Board of Trustees to govern and manage the operations of LISD and recognize that my role as the commanding officer of 502d Force Support Group is limited only to the duty defined by the statute in the process for appointing the Board of Trustees.
4. Thank you for your support of our school district. If you have any questions, please contact Ms. Dianna Fryer at (210) 671-8388 or dianna.fryer@us.af.mil.

SHANE R. CUÉLLAR, Colonel, USA
Commander, 502d Force Support Group

Attachments:
Mr. Brain S. Miller's Application Package
Ms. Sandra H. Wellman's Application Package

Mission ~ Wingman ~ Partners



Joint Base San Antonio Statement of Eligibility

Applicant Full Name: **Brian S. Miller**

Residential Address: *15507 GREY FOX TERRACE
SAN ANTONIO TX 78255*

Physical Address of Employer: *1618 TRUEMPER DR
JBSA - LACKLAND
SAN ANTONIO TX 78236*

Board of Trustees Location Applying For: **Lackland ISD**

I hereby make a formal application for the above indicated Board of Trustees. In doing so, I confirm that:

- I am qualified under the general school laws of Texas and live or am employed on JBSA.
- I attest the contents of my resume.
- I am a qualified voter.
- I willingly accept the appointment to the Board of Trustees and will serve in this capacity with full adherence to the state established standards on the duties and responsibilities of school board members.

Brian S. Miller
Signature of Applicant

22 Apr 22
Date

Brian S. Miller

Printed Name of Applicant

***Digital Signatures are authorized. If using a wet signature, please sign, date and print legibly.
Form must be completed prior to setting up your interview with the selection board.***

OBJECTIVE

It is my desire to continue to faithfully serve the needs of military families of Lackland ISD with a consideration for reappointment to the Lackland Independent School District Board of Trustees.

WORK HISTORY

2005-present Policy Director, AF Basic Military Training, U.S. Air Force
2001-present Board President, Lackland Independent School District, Board of Trustees
2004-2005 Deputy Chief, Standardization Evaluation, 37th Training Group, U.S. Air Force
2002-2004 Operations Superintendent, Training and Education, U.S. Air Force
1998-2002 Correspondence Course Manager/Writer, U.S. Air Force
1997-1998 Resource Advisor, U.S. Air Force, Republic of Korea (ROK)
1998-1999 Faculty Instructor, Central Texas College, Ed. Services, Kunsan AB, ROK
1996-1998 Training Manager, Community College of the Air Force, U.S. Air Force
1992-1996 Instructor, Community College of the Air Force, U.S. Air Force

EDUCATION

Masters in Adult Education (MAED)	2015	University of Phoenix
Masters in Public Administration (MPA)	2013	University of Phoenix
B.A. Occupational Education/Corporate Training	1997	Wayland Baptist University
Associates in Applied Science in Criminal Justice	1992	Vernon Regional College
Associates in Applied Science in Instructional Technology	1992	Community College of the AF

SCHOOL BOARD TRAINING/EXPERIENCE

- Twenty years' experience in school board governance, policy development, school law, board facilitation; budget formulation, adoption, and implementation.
- Extensive training in school board governance with over 200 hours in continuing education
 - Budget Implementation
 - Planning and Accountability
 - Effective Facilitation
 - Public Relations
 - Open Meetings Act
 - Texas Education Code
 - Legislative Updates
 - School Law
 - Team Building
- Sixteen congressional visits advocating the educational needs of military families and the continued appropriations for Federal Impact Aid.
- Fifteen years' experience in policy research and development for Air Force and Major Command Instructions, supplements and policy issuances.

COMMUNITY VOLUNTEER ACTIVITIES

2007-present President, Red Robin Homeowners Association
2007-present Member, Bexar County School Board Coalition
1999-2014 Religious Educator for Lackland AFB Chapel



Joint Base San Antonio Statement of Eligibility

Applicant Full Name: Sandra H. Wellman

Residential Address: 2220 Carswell Ave

Joint Base San Antonio-Lackland Texas 78253

Physical Address of Employer:

2220 Carswell Ave

Joint Base San Antonio-Lackland Texas 78253

Board of Trustees Location Applying For: Lackland ISD

I hereby make a formal application for the above indicated Board of Trustees. In doing so, I confirm that:

- I am qualified under the general school laws of Texas and live or am employed on JBSA.
- I attest the contents of my resume.
- I am a qualified voter.
- I willingly accept the appointment to the Board of Trustees and will serve in this capacity with full adherence to the state established standards on the duties and responsibilities of school board members.

WELLMAN.SANDRA.H
EARL.1249889187

Digitally signed by
WELLMAN SANDRA HEARL 1249889187
Date: 2022.04.21 13:15:16 -0500

Signature of Applicant

Sandra H. Wellman

Printed Name of Applicant

21 April 2022

Date

***Digital Signatures are authorized. If using a wet signature, please sign, date and print legibly.
Form must be completed prior to setting up your interview with the selection board.***



BIOGRAPHY

UNITED STATES AIR FORCE

CHIEF MASTER SERGEANT SANDRA H. WELLMAN

Chief Master Sergeant Sandra H. Wellman is the Senior Enlisted Leader for the United States Band of the West. The unit is composed of sixty-one personnel, five flights, and maintains thirteen performance teams that execute more than 350 missions each year in support of the Department of Defense and Air Force strategic communication initiatives, Presidential support, civic outreach, internal partnership building, recruiting, and troop support across an eight state region and at deployed locations around the world. Chief Wellman is the principal advisor to the commander on good order and discipline, health and wellness, readiness, professional development, and training of the unit's enlisted personnel.

Prior to entering the Air Force in 2001, Chief Wellman was a sought after guest artist, clinician, and music educator throughout Texas. Her Air Force background includes various assignments with the Air Force Bands, Professional Military Education and the Air Force Inspector General at bases in Texas, United Arab Emirates and Germany. She has deployed in support of Operations: INHERENT RESOLVE, FREEDOM'S SENTINEL, SPARTAN SHIELD and COMBINED JOINT TASK FORCE – HORN OF AFRICA.

Prior to her current position, Chief Wellman was the Vice-Commandant, Robert D. Gaylor Noncommissioned Officer Academy, Joint Base San Antonio-Lackland, Texas.



EDUCATION

1998 Bachelors of Music, Clarinet Performance, Magna Cum Laude, Texas Tech University, Lubbock, Texas
2000 Masters of Music, Clarinet Performance, Summa Cum Laude, Texas Christian University, Ft. Worth, Texas
2005 Airman Leadership School, Kelly Air Force Base, Texas
2008 Associate's Degree in Fine and Applied Art-Music, Community College of the Air Force
2012 Noncommissioned Officer Academy, Kapaun Air Station, Germany
2012 Enlisted Professional Military Education Instructor Course, Maxwell AFB, Ala.
2013 Senior Enlisted Joint Professional Military Education, by distance learning
2013 Associate's Degree in Instructor of Technology & Military Science, Community College of the Air Force
2015 Senior Noncommissioned Officer Academy, Course 14, by distance learning
2016 Professional Managers Certificate, Community College of the Air Force, Maxwell AFB, Ala.
2016 Masters of Education, Educational Leadership and Curriculum Design, Summa Cum Laude, Oklahoma University, Oklahoma City, Oklahoma
2017 Senior Enlisted Joint Professional Military Education II, by distance
2019 Senior Noncommissioned Officer Academy, Maxwell AFB, Ala.
2019 USAF Continuous Process Improvement Black Belt Course, Maxwell AFB, Ala.
2020 Women in Leadership Executive Certificate, University of Notre Dame, Indiana

ASSIGNMENTS

1. August – October 2001, Trainee, Basic Military Training, Lackland Air Force Base, Texas
2. October 2001 – July 2009, Regional Band Journeyman, Clarinet, Band of the West, Lackland AFB, Texas
3. July 2009 – July 2012, Music Performance Team NCOIC, United States Air Forces in Europe Band, Ramstein AB, Germany
4. July 2012 – February 2016, Senior Flight Instructor, Kisling Noncommissioned Officer Academy, Kapaun Air Station, Germany
5. February 2016 – August 2016, Commandant Support Superintendent, Kisling NCOA, Kapaun AS, Germany
6. August 2016 – April 2018, Operations Section Chief, Band of the West, JBSA-Lackland AFB
(April – October 2018, Superintendent and Director of Inspections, Inspector General, 380th Air Expeditionary Wing, Al Dhafra Air Base)
7. November 2018 – October 2020, Superintendent, Band of the West, JBSA-Lackland AFB
8. October 2020 – July 2021, Vice-Commandant, Robert D. Gaylor Noncommissioned Officer Academy, JBSA-Lackland AFB
9. July 2021 – present, Senior Enlisted Leader, Band of the West, JBSA-Lackland AFB

MAJOR AWARDS AND DECORATIONS

Meritorious Service Medal with three oak leaf clusters
Air Force Commendation Medal with two oak leaf clusters
Air Force Achievement Medal with three oak leaf clusters
Humanitarian Service Medal
Military Outstanding Volunteer Service Medal with bronze star

OTHER ACHIEVEMENTS

2004 USAF Band of the West Airman of the Year
2013 Tuskegee Airman "SMSgt BarBour" Award
2013 HQ USAFE Command Section NCO of the Year
2015 Kisling Lance P Sijan Award, Junior Enlisted
2018 380th Air Expeditionary Wing SNCO of the Quarter, July –September
2019 Distinguished Graduate, Senior Noncommissioned Officer Academy
2019 Presidential National Medal of the Arts
2019 USAF Band of the West SNCO of the Year
2020 Wing Staff Agency Lance P. Sijan Award, Senior Enlisted
2021 Air Education and Training Command Master Instructor Badge

EFFECTIVE DATES OF PROMOTION

Chief Master Sergeant November 2021

(Current as of November 2021)

**Recommendation for Reappointment to the Randolph Field
Independent School District Board of Trustees**

September 2, 2022

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

SUMMARY: This item provides an opportunity for the board to consider one reappointment to the board of trustees of Randolph Field Independent School District (ISD). The reappointment is necessary due to the expiration of the term of office of one board member.

STATUTORY AUTHORITY: Texas Education Code (TEC), §11.352.

TEC, §11.352 authorizes the State Board of Education (SBOE) to appoint school board members in special purpose school districts.

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

BACKGROUND INFORMATION AND JUSTIFICATION: The SBOE is statutorily authorized to appoint board members for military reservation ISDs. Trustees so appointed shall hold office for two years and until their successors are appointed and qualified. Enlisted military personnel may be appointed to the board, however, a majority must be civilians, and all may be civilians. When a vacancy occurs, the base commander notifies the commissioner of education of the vacancy in compliance with TEC, §11.352. Vacancies are widely advertised through base newspapers, email, and other electronic methods. Interested individuals submit resumes and other documents verifying that they are qualified to hold the position and would accept it if appointed.

The commanding officer appoints a nomination panel of at least three members who review the application packages, interview the candidates, and evaluate the candidates. The panel's recommendations are forwarded to the commanding officer for consideration. The commanding officer is required by 19 TAC §61.2 to provide at least one nomination to the SBOE. All nominees must be qualified under the general school laws of Texas and live or be employed on the military reservation.

Colonel, United States Air Force, Shane R. Cuéllar, commander of the 502d Force Support Group, has notified the commissioner that the term of one trustee of the Randolph Field ISD is expiring. Colonel Cuéllar recommends the reappointment of Mrs. Glenda Solomon to the Randolph Field ISD Board of Trustees.

MOTION TO BE CONSIDERED: The State Board of Education:

Based on Colonel Shane R. Cuéllar's recommendation, approve the reappointment of Mrs. Glenda Solomon to serve a term of office from September 2, 2022, to September 1, 2024, on the Randolph Field ISD Board of Trustees.

Staff Member Responsible:

Christopher Lucas, Director, Policy, Planning, and Operations, Office of Governance

Attachment:

Correspondence from Colonel Shane R. Cuéllar that includes biographical information and supporting materials for the nominee



DEPARTMENT OF THE AIR FORCE
502D AIR BASE WING
JOINT BASE SAN ANTONIO



24 Jun 22

MORANDUM FOR MR. MIKE MORATH
COMMISSIONER, TEXAS EDUCATION AGENCY
1701 NORTH CONGRESS AVENUE
AUSTIN, TX 78701

FROM: 502 FSG/CC
2330 Stanley Rd, Suite A
JBSA Ft Sam Houston, TX 78234-2362

SUBJECT: Reappointment of Mrs. Glenda Solomon to the Randolph Field Independent School District (RFISD) Board of Trustees

1. I respectfully request the reappointment of Mrs. Glenda Solomon to the RFISD Board of Trustees. Enclosed is her resume, as required by Texas Administrative Code Section 61.2a(1), along with a signed statement expressing her willingness to accept the appointment and serve in full adherence to the established state standards for school board members.
2. The nominee is qualified under the general school laws of Texas and either live or work on JBASA-Randolph. The nominee is well qualified and would be in full compliance with the provisions of the Texas Education Code 11.352. Every avenue was used to reach the widest possible applicant pool. The membership composition of the board of trustees is in compliance with the provisions of Texas Code 11.28.
3. I recognize the power of the Board of Trustees to govern and manage the operations of the RFISD and recognize that my role as the commanding officer of JBASA-Randolph is limited only to the duty defined by statute in the process for appointing the Board of Trustees.
4. Thank you and your staff for your support of our school district. If you have any questions, please contact my POC, Ms. Angela Green at (210) 652-3081.

SHANE R. CUÉLLAR, Colonel, USA
Commander, 502d Force Support Group



Joint Base San Antonio Statement of Eligibility

Applicant Full Name: Glenda M. Solomon

Residential Address: 1851 1st Street E., Suite 3

JBSA Randolph TX 78154

Physical Address of Employer:

1851 1st Street E., Suite 3

JBSA Randolph TX 78154

Board of Trustees Location Applying For: Randolph FISD

I hereby make a formal application for the above indicated Board of Trustees. In doing so, I confirm that:

- I am qualified under the general school laws of Texas and live or am employed on JBSA.
- I attest the contents of my resume.
- I am a qualified voter.
- I willingly accept the appointment to the Board of Trustees and will serve in this capacity with full adherence to the state established standards on the duties and responsibilities of school board members.

SOLOMON.GLENDA.M
.1040046492

Digitally signed by
SOLOMON.GLENDA.M.1040046492
Date: 2020.06.26 10:20:35 -05'00'

Signature of Applicant

Date

Glenda M. Solomon

Printed Name of Applicant

Digital Signatures are authorized. If using a wet signature, please sign, date and print legibly. Form must be completed prior to setting up your interview with the selection board.

RFISD SCHOOL BOARD TRUSTEE APPLICATION

1. Personal Data

- a. Name/rank: Glenda M. Solomon /GS -12)
 - b. Address: 724 Broadleaf Schertz, TX 78154
 - c. Phone :_(210) 658-7225 home /(210) 652-4881
 - d. If military, date assigned to Randolph AFB: N/A; TAFMSD: N/A
 - e. Qualification: Military (if retired, grade: CMSgt, USAF Retired /date:1 Apr 2006), civilian, or ~~dependent~~ (circle one)
 - f. Children in RFISD: No; Graduates: 2007 & 2010
2. Status: Investigator & Complaints Resolution Specialist, HQ Air Education and Training Command, Office of the Inspector General, JBSA Randolph
- a. Education: BS Corporate Education & Training and BS in Business Management
 - b. Professional or personal experience that would be an asset to you as a school board trustee:
 - 1) Four years previous experience as RFISD School Board Trustee (2010-2014). I am very familiar with various Randolph School activities and organizations. I have participated in various Randolph Field ISD activities during my daughters' attendance as students. I was an active member of PTO, President of the Athletic Booster Club for four years, a member of the Band Booster Club and the Randolph Elementary School Campus Improvement Committee from 2001-2003.
 - 2) I spent over 27 years on active duty in the Air Force and can appreciate the dynamics of balancing military and family life. Outside the normal mundane details of everyday military life, I've had to adjust to new environments, leadership and organizations all while supporting and keeping focus on the mission, goals and objectives.
 - 3) I currently work in the office of the AETC Inspector General (May 2006 – Present) and a significant portion of my job is to ensure problems/issues are resolved by the most appropriate agencies within our Air Force bases nation-wide. I deal with matters that are sent through congressional channels as well as the concerns of the everyday laborer who walks in off the street. I have over 16 years of experience with the Inspector General (includes both Complaint Resolution Process and Air Force Inspection Processes).
 - 4) Director of Education - Robins (AF) NCO Leadership Academy (8 years - 1992-2000): duties included – curriculum development, resource advisor - 5.4 M annual budget, 12 member faculty/staff; platform instructor, supervisor – hiring authority.

3. Supervisor/reference:

- a. Name/rank: Mr. Ronald L. Hatfield (Lt Col - USAF Retired/ GS -13)
- b. Address: HQ AETC/ IG, 1851 1st Street East, Suite 3, JBSA Randolph TX 78150
- c. Phone: 210 652-2175

4. Why do you want to serve as a school board member?

I am reapplying for a position with the Randolph Field ISD School Board. My previous years (2010-2014 and 2020-2022) serving on the school board were very rewarding and productive. I believe I've been a contributing member and want to continue to serve and keep our school district a great place to learn. I continue to gain experience and better equipped to work with the other professionals to better serve and support the districts efforts in providing the best educational experience for Randolph students. Given the recent changes and challenges facing our nation, the educational system as a whole needs the support of all citizens. My continued service will provide continuity as well as support the customs and traditions of the past.

I do understand importance of managing funds and resources that enable the district continue to function, as well as social issues that can bring a district to chaos. As an advocate for education, our goal has been to create the best possible opportunities for our children to fulfill their potential. The success of a strong and successful school system is vested in all of us-- the school board, parents, teachers, administrators and community.

Lastly, as I've stated many times, my children attended Randolph ISD and received a solid education set them on the successful journey to attend/complete college and garner successful careers. I want to contribute towards educational and academic success of our Randolph students and believe the school board not only serves the administration (to include the staff), but every entity that makes the school district function. I believe that during my tenure as a school board member, I helped make things a little better. It not always easy to make the correct, yet hard and unpopular decisions, but sometimes that's what it takes. I'd like to offer my leadership once again as the district continues to take on even bigger challenges.

STATEMENT TO ACCOMPANY RFISD SCHOOL BOARD TRUSTEE APPLICATION

I verify that I work/~~live~~ on JBSA Randolph TX, a military reservation. I am qualified under the general school laws of Texas to be a RFISD School Board Trustee. I certify that the biographical information on me contained in or attached to my school board application is true and correct. I am willing to accept the appointment as RFISD School Board Trustee and serve in such capacity with full adherence to the state-established standards for the duties and responsibilities of school board members.

Glenda M. Solomon

6 June 2022

SIGNATURE

DATE

Open-Enrollment Charter School Generation 28 Application Updates

September 1, 2022

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

SUMMARY: The director of the Division of Charter School Authorizing and Administration will discuss 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 and Administration

Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I

September 2, 2022

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 E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I. The proposed amendment would update requirements for issuance of the Educational Aide I certificate to high school students who qualify for industry-based certification. The proposed amendment would also provide technical cross-reference and SBOE action updates.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 230, Subchapter E, §230.55, is the Texas Education Code (TEC), §21.041(a) and (b)(1)-(4).

TEC, §21.041(a), states the board may adopt rules as necessary for 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.

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 230, Subchapter E, specify the requirements for issuance of an educational aide certificate. The following provides a description of changes to 19 TAC §230.55.

The proposed amendment to §230.55(4) would include a technical cross-reference edit to reflect recent SBOE updates to Texas Essential Knowledge and Skills (TEKS) rule chapters for Career and Technical Education and to change references to Education and Training from Chapter 130, Subchapter E, to newly adopted Chapter 127, Subchapter G, Education and Training.

The proposed amendment to §230.55(4) would also expand the list of SBOE-approved education and training course options to be completed by high school students to qualify for the Educational Aide I certificate. The proposed amendment would allow high school students, who qualify for an industry-based certification, additional options for courses they can take to fulfill the three-credit requirement detailed in §230.55(4) and would continue to allow schools to accurately reflect these students as "career ready" in their accountability measures. The number of credits required to qualify for the Educational Aide I certificate remains unchanged.

The expanded list of approved education and training course options requires the proposed expansion of §230.55(4), wherein the existing two training course options are proposed to be contained in relettered subparagraphs (E) and (F), and the additional training course options are proposed to be contained in new subparagraphs (A)–(D), with §230.55(4) proposed to be organized by ascending training course section number. The proposed amendment to §230.55(E) and (F) would include the technical cross-reference edits to reflect recent TEKS chapter updates that align with the relevant education and training courses from Chapter 130, Subchapter E, to newly adopted Chapter 127, Subchapter G.

At adoption and in response to public comment, the SBEC changed the amended language of 19 TAC §230.55(4) to include the Human Growth and Development courses that are listed in 19 TAC §127.311 and §127.323 as qualifying courses for the Educational Aide I certificate. The list of proposed education and training courses were relettered accordingly due to the addition of the two courses at adoption.

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 Texas Education Agency (TEA) staff has determined that there is no additional fiscal impact on state and local governments and that 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, 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 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 providing high school students more course options and, thereby, greater flexibility and opportunity to meet the course work requirements for issuance of the educational aide certificate as an industry-based certification. The TEA staff has determined that there is no anticipated 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 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 the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I.

Staff Members Responsible:

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

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter E, Educational Aide Certificate, §230.55, Certification Requirements for Educational Aide I

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 230. Professional Educator Preparation and Certification

Subchapter E. Educational Aide Certificate

§230.55. Certification Requirements for Educational Aide I.

An applicant for an Educational Aide ~~[educational aide]~~ I certificate shall meet the requirements in either paragraphs (1) and (2) of this section or paragraphs (3) and (4) of this section as follows:

- (1) hold a high school diploma, the equivalent of a high school diploma, or higher; and
- (2) have experience working with students or parents as approved by the employing superintendent. Experience may be work in church-related schools, day camps, youth groups, private schools, licensed daycare centers, or similar experience; or
- (3) be a high school student 18 years of age or older; and
- (4) have a final grade of 70 or better in two or more education and training courses specified in Chapter 127, Subchapter G, ~~[Chapter 130, Subchapter E,]~~ of Part 2 of this title (relating to Education and Training) for three or more credits verified in writing by the superintendent of the district in which ~~[where]~~ the credits were earned. The education and training courses must include ~~[either]~~ :

(A) Human Growth and Development, as described in §127.311 of Part 2 of this title (relating to Human Growth and Development (One Credit), Adopted 2015); or

(B) ~~[(A)]~~ Child Development, as described in §127.317 of Part 2 of this title (relating to Child Development (One Credit), Adopted 2021); or

(C) ~~[(B)]~~ Child Guidance, as described in §127.318 of Part 2 of this title (relating to Child Guidance (Two Credits), Adopted 2021); or

(D) ~~[(C)]~~ Practicum in Early Learning, as described in §127.320 of Part 2 of this title (relating to Practicum in Early Learning (Two Credits), Adopted 2021); or

(E) Human Growth and Development, as described in §127.323 of Part 2 of this title (relating to Human Growth and Development (One Credit), Adopted 2021); or

(F) ~~[(D)]~~ Communication and Technology in Education, as described in §127.324 of Part 2 of this title (relating to Communication and Technology in Education (One Credit), Adopted 2021); or

(G) ~~[(E)]~~ ~~[(A)]~~ Instructional Practices, as described in §127.325 ~~[§130.164]~~ of Part 2 of this title (relating to Instructional Practices (Two Credits), Adopted 2021 ~~[2015]~~); or

(H) ~~[(F)]~~ ~~[(B)]~~ Practicum in Education and Training, as described in §127.326 ~~[§130.165]~~ of Part 2 of this title (relating to Practicum in Education and Training (Two Credits), Adopted 2021 ~~[2015]~~) .

**Review of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions,
Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7,
Requirements for Certificate Renewal**

September 2, 2022

**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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal. The proposed amendment would require that to renew an educator's certificate, the educator must be in compliance with the terms of any SBEC order resulting from an educator discipline case against the educator. This requirement would allow the SBEC to enforce its disciplinary orders more efficiently and consistently, particularly when the order requires an educator to take training or continuing education but does not suspend the educator's certificate.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 232, Subchapter A, §232.7, is the Texas Education Code (TEC), §§21.003(a); 21.0031(f); 21.031; 21.041(b)(1)-(4) and (7)-(9); 21.054; 21.0541; and 21.0543; and Texas Occupations Code (TOC), §55.002 and §55.003.

TEC, §21.003(a), states 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, §21.0031(f), clarifies and places certain limits on provisions authorizing termination of an educator's contract for failure to maintain a valid certificate.

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.

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(b)(7)–(8), requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Government Code, Chapter 2001, and provide for the adoption, amendment, and enforcement of an educator's code of ethics.

TEC, §21.041(b)(9), requires the SBEC to propose rules that provide for continuing education requirements.

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.

TEC, §21.0541, requires the SBEC to propose rules that allow an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator (AED).

TEC, §21.0543, requires the SBEC to propose rules that provide for continuing education credit related to digital technology instruction.

TOC, §55.002, states a state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

TOC, §55.003, states a military service member who holds a license is entitled to two years of additional time to complete any continuing education requirements and any other requirement related to the renewal of the military service member's license.

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 232, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, provide for rules that establish the requirements relating to types and classes of certificates issued, certificate renewal, and continuing professional education (CPE). In particular, 19 TAC §232.7, Requirements for Certificate Renewal, sets out the procedures for certificate renewal and the conditions an educator must meet in order to renew their educator certificate.

The proposed new §232.7(c)(4) would add a new prerequisite requirement for renewal of an educator's certificate to require the educator be in compliance with all terms of any SBEC disciplinary orders against the educator prior to renewal.

The purpose of this amendment is to allow the SBEC an efficient method of enforcing its orders that require an educator to complete training or additional continuing education but do not suspend the educator's certificate. Currently, the SBEC is easily able to enforce the training or continuing education requirements of its orders involving suspensions because the educator has to show proof of the completed courses before the educator's certificate can be reinstated at the end of the suspension. To enforce an order that requires training but does not involve a suspension, the SBEC currently has to instigate a second contested case proceeding, seeking to find that the educator is in violation of the SBEC order. This is a long process and requires a significant amount of staff time and agency resources.

It is likely that SBEC orders requiring training without a suspension or other sanction will increase after recent rule changes to 19 TAC §249.15, Disciplinary Action by State Board for Educator Certification, to comply with House Bill 2519, 87th Texas Legislature, Regular Session, 2021, allowing the SBEC to order additional continuing education or training without otherwise sanctioning the educator's certificate. The proposed amendment would require educators to ensure that they had met the requirements of their disciplinary SBEC orders prior to renewing their certificates and would allow the SBEC to refuse to renew an educator's certificate until the educator has fully complied with the SBEC order by completing all required training and by submitting proof. This method of efficient enforcement of SBEC-ordered training requirements would ensure that more educators complete the ordered training or continuing education in a timely manner.

The proposal includes proposed technical edits that would renumber provisions in §232.7(c) to accommodate proposed new §232.7(c)(4) and that would edit a cross reference to 19 TAC §232.11 in §232.7(b)(4).

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 Texas Education Agency (TEA) staff has determined that there is no additional fiscal impact on state and local governments and that 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 enhanced student safety and welfare resulting from educators completing training to remediate in the specific areas that the SBEC found were necessary to improve the educators' worthiness to instruct. 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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal.

Staff Members Responsible:

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

Laura Moriaty, Director, SBEC Enforcement

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 232. General Certification Provisions

Subchapter A. Certificate Renewal and Continuing Professional Education Requirements

§232.7. Requirements for Certificate Renewal.

- (a) The Texas Education Agency (TEA) staff shall develop procedures to:
 - (1) notify educators at least six months prior to the expiration of the renewal period to the email address as specified in §230.91 of this title (relating to Procedures in General);
 - (2) confirm compliance with all renewal requirements pursuant to this subchapter;
 - (3) notify educators who are not renewed due to noncompliance with this section; and
 - (4) verify that educators applying for reactivation of certificate(s) under §232.9 of this title (relating to Inactive Status and Late Renewal) are in compliance with subsection (c) of this section.
- (b) The TEA staff shall administratively approve each hardship exemption request that meets the criteria specified in paragraphs (1)-(4) of this subsection.
 - (1) A hardship exemption must be due to one of the following circumstances that prevented the educator's completion of renewal requirements:
 - (A) catastrophic illness or injury of the educator;
 - (B) catastrophic illness or injury of an immediate family member; or
 - (C) military service of the educator.
 - (2) The request for a hardship exemption must include documentation from a licensed physician or verified military records.
 - (3) The request for the amount of time allowed for renewal is equal to:
 - (A) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the educator's catastrophic illness or injury; or
 - (B) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the catastrophic illness or injury of an immediate family member; or
 - (C) two years of additional time for a military service member, in accordance with the Texas Occupations Code, §55.003.
 - (4) A hardship exemption may be approved for a local education agency on behalf of an educator who has an invalid certificate due to lack of earning the required continuing professional education (CPE) hours as prescribed in §232.11 of this title (relating to Number ~~and~~ of Content of Required Continuing Professional Education Hours). The hardship exemption is valid for the academic year of the application and may be renewed up to one additional academic year, provided that the superintendent or designee of the local education agency requests the extension.
 - (5) If a hardship exemption request is approved, the educator must pay the appropriate renewal fee, pursuant to §230.101 of this title (relating to Schedule of Fees for Certification Services).
- (c) To be eligible for renewal, an educator must:
 - (1) subject to §232.16(c) of this title (relating to Verification of Renewal Requirements), satisfy CPE requirements, pursuant to §232.11 of this title;
 - (2) hold a valid standard certificate that is not currently suspended and has not been surrendered in lieu of revocation or revoked by lawful authority;

- (3) not be a respondent in a disciplinary proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);
 - (4) be in compliance with all terms of any orders of the State Board for Educator Certification resulting from a disciplinary proceeding against the educator under Chapter 249 of this title;
 - (5) ~~(4)~~ successfully resolve any reported criminal history, as defined by §249.3 of this title (relating to Definitions);
 - (6) ~~(5)~~ not be in arrears of child support, pursuant to the Texas Family Code, Chapter 232;
 - (7) ~~(6)~~ pay the renewal fee, provided in §230.101 of this title, which shall be a single fee regardless of the number of certificates being renewed; and
 - (8) ~~(7)~~ submit fingerprints in accordance with §232.35(c) of this title (relating to Submission of Required Information) and the Texas Education Code, §22.0831.
- (d) The TEA staff shall renew the certificate(s) of an educator who meets all requirements of this subchapter.

INFORMATION MATERIALS

STATE BOARD OF EDUCATION OPERATING RULES
(amended January 26, 2021)

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. Public testimony
- 2. Establishment of essential knowledge and skills (TEKS)
- 3. Instructional materials proclamations and adoption of instructional materials
- 4. 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
7. Permanent School Fund management oversight, including audit responsibility, investment objectives, and investment decisions
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. Review and evaluation of charter school applications, revisions, and amendments the commissioner of education proposes to grant
 4. State Board for Educator Certification rules review
 5. School board member training policy
 6. Hearing examiners
 7. Military reservation and special purpose school districts
 8. Extracurricular activities
 9. 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 also consider seniority (total years of service), ethnicity balance, gender balance, racial diversity, geographic balance, and relevant qualifications specific to a committee assignment in making committee assignments. 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.
- (f) 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.
- (g) 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.

§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, 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. Official agendas will be available the day of the 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) 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.

§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. 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) No signs, placards, flags, noisemakers, or other objects of a similar nature shall be permitted in the audience gallery area.
- (d) No applause, 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.
- (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.

§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.
 - (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 its heritage.
 - (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 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.
- (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.
- (b) Registration Procedures.
- (1) Individuals may register between the hours of 8 a.m. (Central Time) on the Thursday preceding the board meeting and 5 p.m. on the Friday preceding the board meeting on the agency website at <https://tea.texas.gov/PublicTestimonySBOE/>, 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) A person may register himself or herself, and one other person. Organizations may not register more than two persons per item.
 - (4) Those registering online will receive an email confirming the registration during the next business day.
 - (5) Registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
 - (6) 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.
 - (7) Speakers will be informed if it appears that time constraints will not permit all speakers to make their presentation within the allotted time.
 - (8) All speakers shall provide twenty (20) collated or stapled copies of their testimony. Registered speakers who are unable to make their presentations due to time constraints are encouraged to provide twenty (20) copies 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.
 - (3) 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.
 - (4) 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. Three-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, twenty (20) collated or stapled copies shall be provided for distribution to board members and agency executive staff. Written testimony will not be attached to the board minutes.
- (c) Persons who were unable to attend or to testify at a committee or board meeting due to time constraints may provide twenty (20) collated or stapled copies 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 and (TEKS) 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 twenty (20) collated or stapled copies of their testimony for distribution to board members and agency executive staff.
- (e) Persons who were unable to testify at a public hearing due to time constraints may provide twenty (20) 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 is 5:00 p.m. on Friday the week prior to the start of the board meeting. 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 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 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.
- (b) The Permanent School Fund ethics policy governs the conduct of State Board of Education members with respect to the investment and management of the Permanent School Fund.

§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 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 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.
 - (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.
- (c) The board can 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 can 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 can 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 can 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 can 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 can 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 can 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.

- (a) The State Board of Education may establish a Committee of Investment Advisors (CIA) to the Permanent School Fund and approve all selected appointments. The CIA shall be composed of not more than 15 members, one appointed by each State Board of Education member, who each have considerable institutional investment expertise and are free from conflicts of interest. The CIA member will closely advise the individual State Board of Education member who appointed the member on all matters relative to the management of the Permanent School Fund as necessary. The CIA may meet in person or via conference call or telephone conference as needed. Duties and responsibilities of the CIA are within the *Texas Permanent School Fund - Investment Procedures Manual*, Section A.2.
- (b) If the board does not establish a CIA, nothing shall prevent a board member from selecting and working with an investment advisor in a manner consistent with federal and state laws and the Investment Procedures Manual.
- (c) 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 that proper criteria is 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:
 - (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.

**Texas Permanent School Fund
Asset Allocation Mix - SBOE
June 30, 2022**

Asset Class	Portfolio	Book Value	Mix	Fair Value	Mix
Equity	Domestic Small-Mid Cap	\$ 1,621,666,635	5.32%	\$ 2,093,058,088	5.48%
	Domestic Large Cap	1,873,029,113	6.15%	4,295,513,701	11.26%
	Total Domestic Equity	3,494,695,748	11.47%	6,388,571,789	16.74%
	International Equity - Blackrock	4,068,632,093	13.35%	4,974,542,934	13.04%
	Emerging Market Equity - Navarro	820,737,541	2.69%	1,008,515,489	2.64%
	Total Public Market Equity	8,384,065,382	27.51%	12,371,630,212	32.42%
	Fixed Income				
	Domestic Fixed Income	5,086,283,415	16.69%	4,548,789,185	11.92%
	Treasuries	1,500,204,863	4.92%	1,088,520,967	2.85%
	Chisos1 High Yield	419,019,967	1.37%	367,489,171	0.96%
Fixed Income	Chisos2 High Yield	420,150,692	1.38%	371,010,817	0.97%
	Total High Yield	839,170,659	2.75%	738,499,988	1.93%
	Investec Emerging Market Debt	1,335,478,205	4.38%	1,222,618,698	3.20%
	Ashmore Emerging Market Debt	1,347,172,173	4.42%	1,152,177,391	3.02%
	Total Emerging Market Debt	2,682,650,378	8.80%	2,374,796,089	6.22%
	Total Fixed Income	10,108,309,315	33.16%	8,750,606,229	22.92%
	Absolute Return				
	Raven 1	609,920,655	2.00%	1,001,633,427	2.62%
	Raven 4	256,225,166	0.84%	451,886,113	1.18%
	Raven 6	281,564,719	0.92%	420,578,062	1.10%
Absolute Return	Raven 7	132,392,204	0.43%	211,576,758	0.55%
	Raven 8	695,655,560	2.28%	816,830,788	2.14%
	Total Absolute Return	1,975,758,304	6.47%	2,902,505,148	7.59%
	Private Equity				
	Columbia NB Crossroads Fund L.P.	190,042,256	0.62%	227,394,282	0.60%
	Columbia NB Crossroads Fund II L.P.	283,766,932	0.93%	392,759,245	1.03%
	Columbia NB Crossroads Fund II Tranche C	688,994,509	2.26%	1,219,101,629	3.19%
	Columbia NB Crossroads Fund II Tranche D	1,137,353,745	3.73%	1,787,585,836	4.68%
	TPSF NB PE Program	758,615,200	2.49%	1,488,370,575	3.90%
	Private Equity Direct	1,945,989,016	6.38%	2,969,851,771	7.78%
Private Equity	Columbia CS Fund, L.P.	148,195,693	0.49%	212,691,120	0.56%
	Total Private Equity	5,152,957,351	16.90%	8,297,754,458	21.74%
	Emerging Managers				
	Private Equity Emerging Manager	13,927,406	0.05%	13,927,406	0.04%
	Real Estate Emerging Manager	9,030,204	0.03%	9,303,353	0.02%
	Total Emerging Managers	22,957,610	0.08%	23,230,759	0.06%
	Real Estate				
	Direct Real Estate Investments	3,129,452,678	10.27%	4,228,202,571	11.08%
	Total Real Estate	3,129,452,678	10.27%	4,228,202,571	11.08%
	Real Return				
Real Return	Real Return - TIPS	954,022,985	3.13%	897,812,679	2.35%
	Real Return Commodities - Terlingua 3	477,644,689	1.57%	416,518,653	1.09%
	Total Real Return	1,431,667,674	4.70%	1,314,331,332	3.44%
Total Unallocated Cash		273,769,376	0.91%	273,769,376	0.75%
Fund Total		30,478,937,690	100.00%	38,162,030,085	100.00%

Notes: The asset classes include cash that has been allocated to the investment portfolios.
Exposure includes fair value of funded investments plus unfunded commitments.

Exposure:	Total Private Equity Exposure and Percentage of Fund Total Fair Value	10,740,583,814	28.14%
	Total Real Estate Exposure and Percentage of Fund Total Fair Value	6,264,070,804	16.41%
	Total Emerging Manager Private Equity and Percentage of Fund Total Fair Value	299,077,406	0.78%
	Total Emerging Manager Real Estate and Percentage of Fund Total Fair Value	149,929,728	0.393%

Current State Board of Education approved Strategic Asset Allocation Mix (approved July 2, 2020)

Large Cap U.S. Equity		U.S. Treasuries	3.00%
Small/Mid Cap U.S. Equity		Absolute Return	7.00%
Developed and Emerging Market International Large Cap Equit	14.00%	Private Equity	15.00%
Emerging Market Equity	6.00%	Real Estate	11.00%
Core Bonds	14.00%	Emerging Manager Program	1.00%
High Yield Bonds	3.00%	Real Return (Commodities)	1.00%
Emerging Market Debt (Local Currency)	12.00%	Real Return (TIPS)	3.00%
	3.00%		
	7.00%		100.00%

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.

State Board of Education Meeting Schedule for 2023

September 2, 2022

STATE BOARD OF EDUCATION: INFORMATION

SUMMARY: According to the Texas Education Code, §7.106, the State Board of Education (SBOE) is to hold four meetings a year in Austin, Texas on dates determined by the chair. The SBOE may also hold other meetings as may be called by the chair. The purpose of this item is to announce the SBOE meeting dates in 2023.

BACKGROUND INFORMATION AND JUSTIFICATION: Advance notice of future SBOE meetings will provide an opportunity for the SBOE, agency staff, and the public to be informed of upcoming meetings and to plan activities accordingly. The following dates for SBOE meetings in 2023 have been scheduled by the SBOE chair:

January 31-February 3, 2023

April 11-14, 2023

June 20-23, 2023

August 29-September 1, 2023

November 14-17, 2023

Staff Member Responsible:

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

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
ARTICLE 7. EDUCATION
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 D. DISPOSITION OF THE PUBLIC DOMAIN
CHAPTER 51. LAND, TIMBER, AND SURFACE RESOURCES
SUBCHAPTER I. ACQUISITION OF PUBLIC SCHOOL LAND

NRC, §51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT.

- (a) The permanent school fund liquid account is established as an account in the permanent school fund in the State Treasury to be used by the board and the State Board of Education as provided by this section.
- (b) Each quarter, the board shall hold a meeting and adopt a resolution to release from the real estate special fund account funds designated under Section [51.401](#) that are not being used for a purpose listed in Section [51.402](#)(a) and are not required for the board's anticipated cash needs for the 90-day period following the date of the meeting, to be deposited to the credit of the permanent school fund liquid account in the State Treasury.
- (c) The State Board of Education may invest funds in the permanent school fund liquid account. The investments may be made only in liquid assets, in the same manner that the permanent school fund is managed by the State Board of Education.
- (d) Investment income and realized capital gains derived from funds in the permanent school fund liquid account shall be deposited in the State Treasury to the credit of the State Board of Education for investment in the permanent school fund. This subsection does not require a deposit if the market value of the assets held in the permanent school fund liquid account is below cost.
- (e) The State Board of Education may use funds in the permanent school fund liquid account to pay for administrative costs associated with implementing this section, including costs associated with contracts for professional investment management, investment advisory services, or custodial services.
- (f) The board shall provide to the State Board of Education in each quarterly report required by Section [32.068](#) the board's anticipated cash needs for the six-month period following the date of the report, to allow the State Board of Education to ensure that the board's cash needs may be met as provided by Subsection (g).
- (g) Not later than the fifth business day after the date of a request of the board, the State Board of Education shall release from the permanent school fund liquid account funds to be deposited to the credit of the real estate special fund account in the State Treasury in an amount requested by the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 493 (H.B. [4388](#)), Sec. 4, eff. September 1, 2019.

Repealed by Acts 2021, 87th Leg., R.S., Ch. 875 (S.B. [1232](#)), Sec. 2.10(4), eff. December 31, 2022.

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) The board shall establish a standard of performance considered satisfactory on student assessment instruments.~~
 - (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) The board may grant an open enrollment charter or approve a charter revision as provided by Subchapter D, Chapter [12](#).~~
 - (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 H. SPECIAL-PURPOSE SCHOOL DISTRICTS

TEC, §11.352. GOVERNANCE OF SPECIAL-PURPOSE DISTRICT.

- (a) The State Board of Education shall appoint for each district established under Section 11.351 a board of three, five, or seven trustees, as determined by the State Board of Education. A trustee is not required to be a resident of the district.
- (b) For each military reservation school district, the State Board of Education may appoint a board of three or five trustees. Enlisted military personnel and military officers may be appointed to the school board. A majority of the trustees appointed for the district must be civilians and all may be civilians. The trustees shall be selected from a list of persons who are qualified to serve as members of a school district board of trustees under Section 11.061 and who live or are employed on the military reservation. The list shall be furnished to the board by the commanding officer of the military reservation. The trustees appointed serve terms of two years.
- (c) The State Board of Education may adopt rules for the governance of a special-purpose district. In the absence of a rule adopted under this subsection, the laws applicable to independent school districts apply to a special-purpose district.

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.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER A. GENERAL PROVISIONS

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.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §21.0031. FAILURE TO OBTAIN CERTIFICATION; CONTRACT VOID.

- (a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:
 - (1) does not hold a valid certificate or permit issued by the State Board for Educator Certification;
 - (2) fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Subchapter B; or
 - (3) fails to comply with any requirement under Subchapter C, Chapter [22](#), if the failure results in suspension or revocation of the employee's certificate under Section [22.0831](#)(f)(2).
- (b) If a school district has knowledge that an employee's contract is void under Subsection (a):
 - (1) the district may, except as provided by Subsection (b-1):
 - (A) terminate the employee;
 - (B) suspend the employee with or without pay; or
 - (C) retain the employee for the remainder of the school year on an at-will employment basis in a position other than a position required to be held by an employee under a contract under Section [21.002](#) at the employee's existing rate of pay or at a reduced rate; and
 - (2) the employee is not entitled to the minimum salary prescribed by Section [21.402](#).
- (b-1) A school district may not terminate or suspend under Subsection (b) an employee whose contract is void under Subsection (a)(1) or (2) because the employee failed to renew or extend the employee's certificate or permit if the employee:
 - (1) requests an extension from the State Board for Educator Certification to renew, extend, or otherwise validate the employee's certificate or permit; and
 - (2) not later than the 10th day after the date the contract is void, takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by the State Board for Educator Certification.
- (c) A school district's decision under Subsection (b) is not subject to appeal under this chapter, and the notice and hearing requirements of this chapter do not apply to the decision.
- (d) This section does not affect the rights and remedies of a party in an at-will employment relationship.
- (e) This section does not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.
- (f) For purposes of this section, a certificate or permit is not considered to have expired if:
 - (1) the employee has completed the requirements for renewal of the certificate or permit;
 - (2) the employee submitted the request for renewal prior to the expiration date; and
 - (3) the date the certificate or permit would have expired is before the date the State Board for Educator Certification takes action to approve the renewal of the certificate or permit.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

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.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

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.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

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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TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

TEC, §21.0543. CONTINUING EDUCATION CREDIT FOR INSTRUCTION RELATED TO DIGITAL TECHNOLOGY.

The board shall propose rules allowing an educator to receive credit toward the educator's continuing education requirements for completion of education courses that:

- (1) use technology to increase the educator's digital literacy; and
- (2) assist the educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

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TITLE 2. PUBLIC EDUCATION
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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CHAPTER 28. COURSES OF STUDY; ADVANCEMENT
SUBCHAPTER A. ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

TEC, §28.0021. PERSONAL FINANCIAL LITERACY.

- (a) The Texas essential knowledge and skills and, as applicable, Section 28.025 shall include instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, in:
 - (1) mathematics instruction in kindergarten through grade eight; and
 - (2) one or more courses offered for high school graduation.
- (b) Each school district and each open-enrollment charter school that offers a high school program shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit under Section 28.025, using materials approved by the State Board of Education. The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the United States Department of Education. In fulfilling the requirement to provide financial literacy instruction under this section, a school district or open-enrollment charter school may use an existing state, federal, private, or nonprofit program that provides students without charge the instruction described under this section.

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CHAPTER 29. EDUCATIONAL PROGRAMS
SUBCHAPTER Z. MISCELLANEOUS PROGRAMS

TEC, §29.907. CELEBRATE FREEDOM WEEK.

- (a) To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week in public schools. For purposes of this subsection, Sunday is considered the first day of the week.
- (b) The agency, in cooperation with other state agencies who voluntarily participate, may promote Celebrate Freedom Week through a coordinated program. Nothing in this subsection shall give any other state agency the authority to develop a program that provides instruction unless funds are specifically appropriated to that agency for that purpose.

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TITLE 2. PUBLIC EDUCATION
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
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, §31.004. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS.

- (a) Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum under Section [28.002](#), other than physical education, and each grade level, the district provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.
- (b) To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), a school district or open-enrollment charter school may consider:
 - (1) instructional materials adopted by the State Board of Education;
 - (2) materials adopted or purchased by the commissioner under Section [31.0231](#) or Subchapter B-1;
 - (3) open education resource instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section [31.0241](#);
 - (4) open education resource instructional materials made available by other public schools;
 - (5) instructional materials developed or purchased by the school district or open-enrollment charter school; and
 - (6) open education resource instructional materials and other electronic instructional materials included in the repository under Section [31.083](#).

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. [2488](#)), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 20, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 3, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 2, eff. June 12, 2017.

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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.

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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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SUBCHAPTER A. GENERAL PROVISIONS

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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CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

TEC, §31.081. INSTRUCTIONAL MATERIALS WEB PORTAL.

- (a) The commissioner shall develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials under Section [31.101](#).
- (b) The web portal must include general information such as price, computer system requirements, and any other relevant specifications for each instructional material:
 - (1) on the instructional materials list, including the list adopted under Section [31.0231](#); or
 - (2) submitted by a publisher for inclusion in the web portal.
- (c) The commissioner by rule shall establish the procedure by which a publisher may submit instructional materials for inclusion in the web portal.
- (d) The commissioner shall use a competitive process to contract for the development of the web portal.
- (e) The commissioner shall use money in the state instructional materials and technology fund to pay any expenses associated with the web portal.

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CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

TEC, §31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED BY PUBLISHER.

- (a) The commissioner shall contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under Section 31.081. The analysis must:
 - (1) evaluate the quality of the material; and
 - (2) determine the extent to which the material covers the essential knowledge and skills identified under Section 28.002 for the subject and grade level for which the material is intended to be used, including an identification of:
 - (A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and
 - (B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material.
- (b) The commissioner shall include in the web portal developed under Section 31.081 the results of each analysis conducted under Subsection (a).

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SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
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SUBCHAPTER C. LOCAL OPERATIONS

**TEC, §31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL MATERIALS BY
SCHOOL DISTRICTS.**

- (a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:
 - (1) for a subject in the foundation curriculum, notify the State Board of Education of the instructional materials selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section [31.0231](#); or
 - (2) for a subject in the enrichment curriculum:
 - (A) notify the State Board of Education of each instructional material selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section [31.0231](#); or
 - (B) notify the State Board of Education that the board of trustees or governing body has selected instructional material that is not on the list.
- (b) In selecting instructional material each year, a school district or open-enrollment charter school may consider the use of open education resource instructional materials.
- (b-1) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.
- (c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.
- (c-1) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.
- (d) For instructional material that is not on the list, a school district or open-enrollment charter school must use the instructional material for the period of the review and adoption cycle the State Board of Education has established for the subject and grade level for which the instructional material is used.
- (e) A school district or open-enrollment charter school that selects subscription-based instructional material on the list adopted under Section [31.023](#) or electronic instructional material on the list adopted by the commissioner under Section [31.0231](#) may cancel the subscription and subscribe to new instructional material on the list adopted under Section [31.023](#) or electronic instructional

material on the list adopted by the commissioner under Section [31.0231](#) before the end of the state contract period under Section [31.026](#) if:

- (1) the district or school has used the instructional material for at least one school year; and
 - (2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the instructional material used by the district or school.
- (f) The commissioner shall maintain an online requisition system for school districts to requisition instructional materials to be purchased with the district's instructional materials and technology allotment.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. [4294](#)), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 49, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 50, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 67(8), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 28, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 18, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.020, eff. September 1, 2019.

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SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

TEC, §31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT.

- (a) A school district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Section [31.0212](#).
- (b) A juvenile justice alternative education program under Section [37.011](#) is entitled to an allotment from the state instructional materials and technology fund in an amount determined by the commissioner. The program shall use the allotment to purchase items listed in Subsection (c) for students enrolled in the program. The commissioner's determination under this subsection is final and may not be appealed.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. [1525](#)), Sec. 13

- (c) Subject to Subsection (d), funds allotted under this section may be used to:
 - (1) purchase:
 - (A) materials on the list adopted by the commissioner, as provided by Section [31.0231](#);
 - (B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section [31.024](#);
 - (C) consumable instructional materials, including workbooks;
 - (D) instructional materials for use in bilingual education classes, as provided by Section [31.029](#);
 - (E) instructional materials for use in college preparatory courses under Section [28.014](#), as provided by Section [31.031](#);
 - (F) supplemental instructional materials, as provided by Section [31.035](#);
 - (G) state-developed open education resource instructional materials, as provided by Subchapter B-1;
 - (H) instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
 - (I) technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section [31.0231](#) or any instructional materials purchased with an allotment under this section; and
 - (J) inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials; and
 - (2) pay:
 - (A) for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use;
 - (B) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning; and
 - (C) for costs associated with distance learning, including Wi-Fi, Internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate Internet access.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 1003 (H.B. [3261](#)), Sec. 1

- (c) Funds allotted under this section may be used to:
 - (1) purchase:
 - (A) materials on the list adopted by the commissioner, as provided by Section [31.0231](#);
 - (B) instructional materials, regardless of whether the instructional materials are on the list

- adopted under Section [31.024](#);
- (C) consumable instructional materials, including workbooks;
- (D) instructional materials for use in bilingual education classes, as provided by Section [31.029](#);
- (E) instructional materials for use in college preparatory courses under Section [28.014](#), as provided by Section [31.031](#);
- (F) supplemental instructional materials, as provided by Section [31.035](#);
- (G) state-developed open education resource instructional materials, as provided by Subchapter B-1;
- (H) instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
- (I) technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section [31.0231](#) or any instructional materials purchased with an allotment under this section;
- (J) inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials; and
- (K) services, equipment, and technology infrastructure necessary to ensure Internet connectivity and adequate bandwidth; and
- (2) pay:
 - (A) for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use;
 - (B) for training personnel in the electronic administration of assessment instruments; and
 - (C) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.
- (d) Each biennium the commissioner shall assess the technology needs for all school districts and provide an estimate of the cost for these resources to the State Board of Education.
- (d-1) In purchasing technological equipment, a school district shall:
 - (1) secure technological solutions that meet the varying and unique needs of students and teachers in the district; and
 - (2) consider:
 - (A) the long-term cost of ownership; and
 - (B) flexibility for innovation.
- (e) Not later than May 31 of each school year, a school district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment under Subsection (a) on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination under this subsection is final.
- (f) The commissioner may adopt rules as necessary to implement this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 23, eff. July 19, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 211 (H.B. [5](#)), Sec. 26(a), eff. June 10, 2013.

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. [1474](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 5, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 6, eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.007, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 724 (H.B. [396](#)), Sec. 2, eff. September 1, 2019.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.006, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. [1525](#)), Sec. 13, eff. June 16, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1003 (H.B. [3261](#)), Sec. 1, eff. June 18, 2021.

is section.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES
CHAPTER 32. COMPUTERS, COMPUTER-RELATED EQUIPMENT,
AND STUDENT INFORMATION PROTECTION
SUBCHAPTER A. POWERS AND DUTIES OF STATE BOARD OF EDUCATION RELATING TO
ELECTRONIC INSTRUCTIONAL TECHNOLOGY AND COMPUTER-RELATED EQUIPMENT

TEC, §32.001. DEVELOPMENT OF LONG-RANGE PLAN.

- (a) The State Board of Education shall develop a long-range plan for:
 - (1) acquiring and using technology in the public school system;
 - (2) fostering professional development related to the use of technology for educators and others associated with child development;
 - (3) fostering computer literacy among public school students so that by the year 2000 each high school graduate in this state has computer-related skills that meet standards adopted by the board; and
 - (4) identifying and, through regional education service centers, distributing information on emerging technology for use in the public schools.
- (b) The State Board of Education shall update the plan developed under Subsection (a) at least every five years.
- (c) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board and other public agencies and institutions the State Board of Education considers appropriate, shall propose legislation and funding necessary to implement the plan developed under Subsection (a).
- (d) In developing the plan, the State Board of Education must consider accessibility of technology to students with disabilities.

TEXAS EDUCATION CODE
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, §43.001. COMPOSITION OF PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND.

- (a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:
 - (1) all land appropriated for the public schools by the constitution and laws of this state;
 - (2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as described by Section [88.111](#) and property described by Section [12.128](#);
 - (3) all proceeds from the authorized sale of permanent school fund land;
 - (4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;
 - (5) all investments authorized by Section [43.003](#) of assets belonging to the permanent school fund; and
 - (6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.
- (b) The available school fund, which shall be apportioned annually to each county according to its scholastic population, consists of:
 - (1) the distributions to the fund from the permanent school fund as provided by Sections [5\(a\)](#) and (g), Article VII, Texas Constitution;
 - (2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;
 - (3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and
 - (4) all other appropriations to the available school fund made by the legislature for public school purposes.
- (c) The term "scholastic population" in Subsection (b) or any other law governing the apportionment, distribution, and transfer of the available school fund means all students of school age enrolled in average daily attendance the preceding school year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state.
- (d) Each biennium the State Board of Education shall set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund as provided by Sections [5\(a\)](#) and (g), Article VII, Texas Constitution, to be placed, subject to the

General Appropriations Act, in the state instructional materials and technology fund established under Section [31.021](#).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 36, eff. June 10, 2003; Acts 2003, 78th Leg., ch. 328, Sec. 2.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 65, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 66, eff. July 19, 2011.

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. [1474](#)), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 34, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 22, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 461 (H.B. [4611](#)), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 461 (H.B. [4611](#)), Sec. 2, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.028, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 631 (S.B. [1454](#)), Sec. 12, eff. June 10, 2019.

Acts 2021, 87th Leg., R.S., Ch. 875 (S.B. [1232](#)), Sec. 1.02, eff. September 1, 2021.

TEXAS EDUCATION CODE
TITLE 2: PUBLIC EDUCATION
SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT
CHAPTER 48 [42]. FOUNDATION SCHOOL PROGRAM
SUBCHAPTER A. GENERAL PROVISIONS

TEC, §48.004 [~~42.004~~]. ADMINISTRATION OF THE PROGRAM.

The commissioner, [~~in accordance with the rules of the State Board of Education,~~] shall adopt rules and take [~~such~~] action and require [~~such~~] reports consistent with this chapter as [~~may be~~] necessary to implement and administer the Foundation School Program.

TEXAS EDUCATION CODE
TITLE 2: PUBLIC EDUCATION
SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT
CHAPTER 48. FOUNDATION SCHOOL PROGRAM
SUBCHAPTER F. FINANCING THE PROGRAM

TEC, §48.251. FINANCING; GENERAL RULE.

- (a) The cost of the Foundation School Program for a school district is the total sum of:
 - (1) the sum of the tier one allotments and other funding as follows:
 - (A) the basic allotment under Subchapter B;
 - (B) the student-based allotments under Subchapter C; and
 - (C) the additional funding under Subchapter D; and
 - (2) the tier two allotment under Subchapter E.
- (b) The sum of the Foundation School Program maintenance and operations costs for all accredited school districts in this state constitutes the total maintenance and operations cost of the Foundation School Program.
- (c) The program shall be financed by:
 - (1) state available school funds distributed in accordance with the law;
 - (2) ad valorem tax revenue generated by local school district effort; and
 - (3) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

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.

TEXAS EDUCATION CODE
TITLE 2. PUBLIC EDUCATION
SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS
CHAPTER 21. EDUCATORS
SUBCHAPTER B. CERTIFICATION OF EDUCATORS

**TEC, §21.0541. CONTINUING EDUCATION CREDIT FOR INSTRUCTION RELATED TO
USE OF AUTOMATED EXTERNAL DEFIBRILLATOR.**

The board shall adopt rules allowing an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator that meets any guidelines for automated external defibrillator training approved by the board.

Added by Acts 2015, 84th Leg., R.S., Ch. 1143 (S.B. [382](#)), Sec. 1, eff. June 19, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 545 (S.B. [199](#)), Sec. 3, eff. September 1, 2021.

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."

Text of subsection as added by Acts 2021, 87th Leg., R.S., Ch. 1005 (H.B. [4509](#)), Sec. 3

Text of subsection effective until December 02, 2021

- (h-2) 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.

Text of subsection as added by Acts 2021, 87th Leg., R.S., Ch. 772 (H.B. [3979](#)), Sec. 1

Text of subsection effective until December 02, 2021

- (h-2) In adopting the essential knowledge and skills for the social studies curriculum, the State Board of Education shall 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 history of Native Americans;
 - (4) the structure, function, and processes of government institutions at the federal, state, and local levels;
 - (5) the founding documents of the United States, including:
 - (A) the Declaration of Independence;
 - (B) the United States Constitution;
 - (C) the Federalist Papers;
 - (D) the transcript of the first Lincoln-Douglas debate;
 - (E) the writings of and about the founding fathers and mothers and other founding persons of the United States, including the writings of:
 - (i) George Washington;
 - (ii) Ona Judge;
 - (iii) Thomas Jefferson;
 - (iv) Sally Hemings; and
 - (v) any other founding persons of the United States;
 - (F) writings from Frederick Douglass's newspaper, the North Star;
 - (G) the Book of Negroes;
 - (H) the Fugitive Slave Acts of 1793 and 1850;
 - (I) the Indian Removal Act;
 - (J) Thomas Jefferson's letter to the Danbury Baptists; and
 - (K) William Still's Underground Railroad Records;
 - (6) historical documents related to the civic accomplishments of marginalized populations, including documents related to:
 - (A) the Chicano movement;

- (B) women's suffrage and equal rights;
- (C) the civil rights movement;
- (D) the Snyder Act of 1924; and
- (E) the American labor movement;
- (7) the history of white supremacy, including but not limited to the institution of slavery, the eugenics movement, and the Ku Klux Klan, and the ways in which it is morally wrong;
- (8) the history and importance of the civil rights movement, including the following documents:
 - (A) Martin Luther King Jr.'s "Letter from a Birmingham Jail" and "I Have a Dream" speech;
 - (B) the federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
 - (C) the United States Supreme Court's decision in *Brown v. Board of Education*;
 - (D) the Emancipation Proclamation;
 - (E) the Universal Declaration of Human Rights;
 - (F) the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution;
 - (G) the United States Court of Appeals for the Ninth Circuit decision in *Mendez v. Westminster*;
 - (H) Frederick Douglass's *Narrative of the Life of Frederick Douglass, an American Slave*;
 - (I) the life and work of Cesar Chavez; and
 - (J) the life and work of Dolores Huerta;
- (9) the history and importance of the women's suffrage movement, including the following documents:
 - (A) the federal Voting Rights Act of 1965 (52 U.S.C. Section 10101 et seq.);
 - (B) the Fifteenth, Nineteenth, and Twenty-Sixth Amendments to the United States Constitution;
 - (C) Abigail Adams's letter "Remember the Ladies";
 - (D) the works of Susan B. Anthony; and
 - (E) the Declaration of Sentiments;
- (10) the life and works of Dr. Hector P. Garcia;
- (11) the American GI Forum;
- (12) the League of United Latin American Citizens; and
- (13) *Hernandez v. Texas* (1954).

Text of subsection effective on December 02, 2021

- (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.

Text of subsection effective until December 02, 2021

- (h-3) For any social studies course in the required curriculum:
- (1) a teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs;
 - (2) a teacher who chooses to discuss a topic described by Subdivision (1) shall, to the best of the teacher's ability, strive to explore the topic from diverse and contending perspectives without giving deference to any one perspective;
 - (3) a school district, open-enrollment charter school, or teacher may not require, make part of a course, or award a grade or course credit, including extra credit, for a student's:
 - (A) political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
 - (B) participation in any internship, practicum, or similar activity involving social or public policy advocacy; and

- (4) a teacher, administrator, or other employee of a state agency, school district, or open-enrollment charter school may not:
 - (A) be required to engage in training, orientation, or therapy that presents any form of race or sex stereotyping or blame on the basis of race or sex;
 - (B) require or make part of a course the concept that:
 - (i) one race or sex is inherently superior to another race or sex;
 - (ii) an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 - (iii) an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
 - (iv) members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
 - (v) an individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;
 - (vi) an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
 - (vii) an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
 - (viii) meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
 - (ix) the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
 - (x) with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; and
 - (C) require an understanding of The 1619 Project.

Text of subsection effective on December 02, 2021

(h-3) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. 3), Sec. 6, eff. December 2, 2021.

Text of subsection effective until December 02, 2021

(h-4) A state agency, school district, or open-enrollment charter school may not accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development for a course described by Subsection (h-3)(3).

Text of subsection effective on December 02, 2021

(h-4) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. [3](#)), Sec. 6, eff. December 2, 2021.

Text of subsection effective until December 02, 2021

(h-5) A school district or open-enrollment charter school may not implement, interpret, or enforce any rules or student code of conduct in a manner that would result in the punishment of a student for discussing, or have a chilling effect on student discussion of, the concepts described by Subsection (h-3)(4).

Text of subsection effective on December 02, 2021

(h-5) Repealed by Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. [3](#)), Sec. 6, eff. December 2, 2021.

Text of subsection effective on December 02, 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.

Text of subsection effective on December 02, 2021

(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).

Text of subsection effective on December 02, 2021

(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.
- (l-1) In adopting rules relating to an activity described by Subsection (l)(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.
- (l-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).
- (l-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), (l-1), or (l-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.

TEXAS EDUCATION CODE
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 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

TEXAS EDUCATION CODE
CHAPTER 31. INSTRUCTIONAL MATERIALS
SUBCHAPTER A. GENERAL PROVISIONS

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.

TEXAS OCCUPATIONS CODE
TITLE 2. GENERAL PROVISIONS RELATING TO LICENSING
CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND
MILITARY SPOUSES

TOC, §55.002. EXEMPTION FROM PENALTY FOR FAILURE TO RENEW LICENSE.

A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

TEXAS OCCUPATIONS CODE
TITLE 2. GENERAL PROVISIONS RELATING TO LICENSING
CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND
MILITARY SPOUSES

**TOC, §55.003. EXTENSION OF LICENSE RENEWAL DEADLINES FOR MILITARY
SERVICE MEMBERS.**

A military service member who holds a license is entitled to two years of additional time to complete:

- (1) any continuing education requirements; and
- (2) any other requirement related to the renewal of the military service member's license.

MINUTES

STATE BOARD OF EDUCATION

JUNE 2022

Minutes

State Board of Education

June 17, 2022

STATE BOARD OF EDUCATION
(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

GEORGINA PÉREZ, El Paso
Secretary of the State Board of
Education
District 1

Board Members

LAWRENCE ALLEN, JR., Houston
District 4

WILL HICKMAN, Houston
District 6

REBECCA BELL-METEREAU, San Marcos
District 5

TOM MAYNARD, Florence
District 10

RUBEN CORTEZ, JR., Brownsville
District 2

SUE MELTON-MALONE, Robinson
District 14

AICHA DAVIS, Dallas
District 13

MARISA PEREZ-DIAZ, Converse
District 3

JAY JOHNSON, Pampa
District 15

MATT ROBINSON, Friendswood
District 7

PATRICIA HARDY, Fort Worth
District 11

AUDREY YOUNG, Apple Springs
District 8

Committees of the State Board of Education

INSTRUCTION

Sue Melton-Malone
Rebecca Bell-Metereau
Pam Little
Georgina Pérez
Audrey Young

SCHOOL FINANCE/PERMANENT SCHOOL FUND

Tom Maynard
Lawrence Allen, Jr.
Keven Ellis
Pat Hardy
Marisa Perez-Diaz

SCHOOL INITIATIVES

Matt Robinson
Ruben Cortez, Jr.
Aicha Davis
Will Hickman
Jay Johnson

Minutes
State Board of Education
Friday, June 17, 2022

The State Board of Education met at 9:09 a.m. on Friday, June 17, 2022, 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; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Pat Hardy; Will Hickman; Jay Johnson; Pam Little vice-chair; Tom Maynard; Georgina C. Pérez, secretary; Marisa B. Perez-Diaz; Matt Robinson; Audrey Young

Absent: Sue Melton-Malone

Invocation

Pledge of Allegiance

Roll Call

Approval of Minutes

State Board of Education, April 8, 2022

MOTION AND VOTE: *The State Board of Education unanimously approved the minutes of the April 8, 2022, meeting of the State Board of Education, as printed.*

1. Resolution and Presentations

Student Heroes Award

The State Board of Education, by unanimous consent, adopted a resolution commending each of the following students for their unselfish volunteerism, good character and integrity: Ashley Manquero, Genevieve Vallejo, Michael Valdez, Anvi Garyali, Natalie Veech, Nitya Kodali, Royal Cumby, Brady Wilson, Brandon James, Karter Linscott, Zane Sheffield, Bryn Taylor, Adamari Acosta, Kayla McFail, and Skyla Ramsay.

(ATTACHMENT 1, page 18)

Milken Educator Award

The State Board of Education recognized Krystal Contreras from Dr. C. M. Cash Elementary School in the San Benito Consolidated Independent School District as a Milken National Educator Award recipient.

Texas Elementary Teacher of the Year

The State Board of Education recognized Jennifer Han from Seguin Elementary School in the McAllen Independent School District as the 2022 Texas Elementary Teacher of the Year.

Texas Secondary Teacher of the Year

The State Board of Education recognized Ramon Benavides from Del Valle High School in the Ysleta Independent School District as the 2022 Texas Secondary Teacher of the Year.

Public Testimony

The board received no presentations of public testimony.

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) Review of the Report on Permanent School Fund Percentage Distribution Rates Under Consideration for Fiscal Years 2024 and 2025

(Board agenda page I-3)

The State Board of Education approved a range for the distribution rate of between 2.50% and 3.33% for fiscal years 2024 and 2025, as recommended by the Committee of the Full Board.

(2) Proposed Repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.1-115.7, Subchapter B, Middle School, §§115.21-115.23, and Subchapter C, High School, §§115.31-115.33

(Second Reading and Final Adoption)

(Board agenda page II-1)

The State Board of Education approved for second reading and final adoption the proposed repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §115.1, Implementation of Texas Essential Knowledge and Skills for Health Education, Elementary; §115.2, Health Education, Kindergarten; §115.3, Health Education, Grade 1; §115.4, Health Education, Grade 2; §115.5, Health Education, Grade 3; §115.6, Health Education, Grade 4; and §115.7, Health Education, Grade 5; Subchapter B, Middle School, §115.21, Implementation of Texas Essential Knowledge and Skills for Health Education, Middle School; §115.22, Health Education, Grade 6; and §115.23, Health Education, Grade 7-8; and Subchapter C, High School, §115.31, Implementation of Texas Essential Knowledge and Skills for Health Education, High School; §115.32, Health 1, Grades 9-10 (One-Half Credit); and §115.33, Advanced Health, Grades 11-12 (One-Half Credit), as recommended by the Committee on Instruction; and

Made an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §115.1, Implementation of Texas Essential Knowledge and Skills for Health Education, Elementary; §115.2, Health Education, Kindergarten; §115.3, Health Education, Grade 1; §115.4, Health Education, Grade 2; §115.5, Health Education, Grade 3; §115.6, Health Education, Grade 4; and §115.7, Health Education, Grade 5; Subchapter B, Middle School, §115.21, Implementation of Texas Essential Knowledge and Skills for Health Education, Middle School; §115.22, Health Education, Grade 6; and §115.23, Health Education, Grade 7-8; and

Subchapter C, High School, §115.31, Implementation of Texas Essential Knowledge and Skills for Health Education, High School; §115.32, Health 1, Grades 9-10 (One-Half Credit); and §115.33, Advanced Health, Grades 11-12 (One-Half Credit), is necessary and shall have an effective date of August 1, 2022.

- (3) **Proposed Repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.1-116.7, Subchapter B, Middle School, §§116.21-116.24, and Subchapter C, High School, §§116.51-116.56 (Second Reading and Final Adoption)**
(Board agenda page II-5)

The State Board of Education approved for second reading and final adoption the proposed repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §116.1, Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary; §116.2, Physical Education, Kindergarten; §116.3, Physical Education, Grade 1; §116.4, Physical Education, Grade 2; §116.5, Physical Education, Grade 3; §116.6, Physical Education, Grade 4; and §116.7, Physical Education, Grade 5; Subchapter B, Middle School, §116.21, Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School; §116.22, Physical Education, Grade 6; §116.23, Physical Education, Grade 7; and §116.24, Physical Education, Grade 8; and Subchapter C, High School, §116.51, Implementation of Texas Essential Knowledge and Skills for Physical Education, High School; §116.52, Foundations of Personal Fitness (One-Half Credit); §116.53, Adventure/Outdoor Education (One-Half Credit); §116.54, Aerobic Activities (One-Half Credit); §116.55, Individual Sports (One-Half Credit); and §116.56, Team Sports (One-Half Credit), as recommended by the Committee on Instruction; and

Made an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §116.1, Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary; §116.2, Physical Education, Kindergarten; §116.3, Physical Education, Grade 1; §116.4, Physical Education, Grade 2; §116.5, Physical Education, Grade 3; §116.6, Physical Education, Grade 4; and §116.7, Physical Education, Grade 5; Subchapter B, Middle School, §116.21, Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School; §116.22, Physical Education, Grade 6; §116.23, Physical Education, Grade 7; and §116.24, Physical Education, Grade 8; and Subchapter C, High School, §116.51, Implementation of Texas Essential Knowledge and Skills for Physical Education, High School; §116.52, Foundations of Personal Fitness (One-Half Credit); §116.53, Adventure/Outdoor Education (One-Half Credit); §116.54, Aerobic Activities (One-Half Credit); §116.55, Individual Sports (One-Half Credit); and §116.56, Team Sports (One-Half Credit), is necessary and shall have an effective date of August 1, 2022.

- (4) **Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §§127.310, 127.312, and 127.313; Subchapter I, Health Science, §127.409; and Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.753, 127.755, 127.761, and 127.764; and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277**
(Second Reading and Final Adoption)
(Board agenda page II-9)

The State Board of Education approved for second reading and final adoption the proposed repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §127.310, Principles of Education and Training (One Credit), Adopted 2015; §127.312, Instructional Practices (Two Credits), Adopted 2015; and §127.313, Practicum in Education and Training (Two Credits), Adopted 2015; Subchapter I, Health Science, §127.409, Health Informatics (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.753, Engineering Design and Problem Solving (One Credit), Adopted 2015; §127.755, Engineering Science (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); and §127.764, Computer Science III (One Credit); and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277, Child Development (One Credit), Adopted 2015, as recommended by the Committee on Instruction; and

Made an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §127.310, Principles of Education and Training (One Credit), Adopted 2015; §127.312, Instructional Practices (Two Credits), Adopted 2015; and §127.313, Practicum in Education and Training (Two Credits), Adopted 2015; Subchapter I, Health Science, §127.409, Health Informatics (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.753, Engineering Design and Problem Solving (One Credit), Adopted 2015; §127.755, Engineering Science (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); and §127.764, Computer Science III (One Credit); and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277, Child Development (One Credit), Adopted 2015, is necessary and shall have an effective date of August 1, 2022.

- (5) **Approval of Updates and Substitutions to Adopted Instructional Materials**
(Board agenda page II-42)

The State Board of Education approved the request from Learning A-Z to update content in its product, *RAZ Plus ELL Texas Edition*, grades 2–5, adopted under *Proclamation 2019*, as recommended by the Committee on Instruction.

- (6) **Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of February, March, and April 2022**
(Board agenda page III-8)

The State Board of Education ratified the purchases and sales for the months of February, March, and April 2022, in the amount of \$1,302,927,099 and \$1,390,151,025, respectively, as recommended by the Committee on School Finance/Permanent School Fund.
(Attachment 2)

- (7) **Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of February, March, and April 2022**
(Board agenda page III-9)

The State Board of Education ratified the purchases and sales of the Permanent School Fund Liquid Account for the period February 1, 2022, through April 30, 2022, in the amounts of \$263,734,813 and \$56,014,234, respectively, as recommended by the Committee on School Finance/Permanent School Fund.
(Attachment 3)

- (8) **Review the Process to Consider Board Member Nominees for a School Land Board Position**
(Board agenda page III-11)

The Committee on School Initiatives took no action; therefore, this item was removed from the consent agenda.

- (9) **Review and Adoption of the Long-Term Strategic Asset Allocation Plan of the Permanent School Fund of the State Board of Education and the Permanent School Fund Liquid Account**
(Board agenda page III-12)

The State Board of Education adopted the recommendation of NEPC and PSF staff to approve the long-term strategic asset allocation of the Permanent School Fund, shown as Recommended Targets on page 9 of the NEPC presentation titled “Texas Permanent School Fund: Asset Allocation Discussion”; and adopted the recommendation of NEPC and PSF staff to approve the long-term strategic asset allocation of the Permanent School Fund Liquid Account, shown as Recommended Target on page 10 of the same NEPC presentation., as recommended by the Committee on School Finance/Permanent School Fund.

- (10) **Adoption of Rule Review of 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship and Subchapter B, Special Purpose School Districts**
(Board agenda page IV-1)

The State Board of Education adopted the review of 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship, and Subchapter B, Special Purpose School Districts, as recommended by the Committee on School Initiatives.

COMMITTEE OF THE FULL BOARD

3. **Proposed New 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §§126.1-126.3 and 126.8-126.10, and Subchapter B, Middle School, §§126.17-126.19**
(Second Reading and Final Adoption)
(Board agenda page I-5)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §126.1, Technology Applications, Kindergarten, Adopted 2022; §126.2, Technology Applications, Grade 1, Adopted 2022; §126.3, Technology Applications, Grade 2, Adopted 2022; §126.8, Technology Applications, Grade*

3, Adopted 2022; §126.9, Technology Applications, Grade 4, Adopted 2022; and §126.10, Technology Applications, Grade 5, Adopted 2022; and Subchapter B, Middle School, §126.17, Technology Applications, Grade 6, Adopted 2022; §126.18, Technology Applications, Grade 7, Adopted 2022; and §126.19, Technology Applications, Grade 8, Adopted 2022; and

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §126.1, Technology Applications, Kindergarten, Adopted 2022; §126.2, Technology Applications, Grade 1, Adopted 2022; §126.3, Technology Applications, Grade 2, Adopted 2022; §126.8, Technology Applications, Grade 3, Adopted 2022; §126.9, Technology Applications, Grade 4, Adopted 2022; and §126.10, Technology Applications, Grade 5, Adopted 2022; and Subchapter B, Middle School, §126.17, Technology Applications, Grade 6, Adopted 2022; §126.18, Technology Applications, Grade 7, Adopted 2022; and §126.19, Technology Applications, Grade 8, Adopted 2022, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register, as recommended by the Committee of the Full Board.

4. **Proposed New 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.788-127.794**
(Second Reading and Final Adoption)
(Board agenda page I-36)

MOTION: *It was moved by Mrs. Little that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register, as amended and recommended by the Committee of the Full Board.

MOTION AND VOTE: *It was moved by Mr. Hickman and carried that the State Board of Education amend §127.791(d)(1)(A) to read:*

“identify job and internship opportunities and accompanying job duties and tasks and contact one or more companies or organizations to explore career opportunities;”

MOTION AND VOTE: *It was moved by Mr. Hickman and carried that the State Board of Education amend §127.790(d)(1)(A), §127.792(d)(1)(A), and §127.793(d)(1)(A) to read:*

“identify job and internship opportunities and accompanying job duties and tasks and contact one or more companies or organizations to explore career opportunities;”

VOTE: *A vote was taken on the original motion to approve for second reading and final adoption proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022; as amended and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. The motion carried unanimously.

5. **Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics (Second Reading and Final Adoption)**
(Board agenda page I-67)

MOTION: *It was moved by Mrs. Little and carried that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register, as amended and recommended by the Committee of the Full Board.

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Mrs. Little, and carried that the State Board of Education amend §113.76(b) to read:*

“General Requirements. This course is recommended for students in Grades 11 and 12. Students shall be awarded one-half credit for successful completion of this course. Students may not be awarded credit for both this course and the personal financial literacy course adopted under this subchapter.”

VOTE: *A vote was taken on the original motion to approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, as amended; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. The motion carried unanimously.

6. **Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum (Second Reading and Final Adoption)**
(Board agenda page I-76)

MOTION AND VOTE: *It was moved by Mrs. Little and carried unanimously that the State Board of Education to approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register, as recommended by the Committee of the Full Board.

(Dr. Young was absent for the vote.)

7. **Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts (First Reading and Filing Authorization)**
(Board agenda page I-82)

MOTION AND VOTE: *It was moved by Mrs. Little and carried unanimously that the State Board of Education approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts, as recommended by the Committee of the Full Board.*

(Dr. Young was absent for the vote.)

8. **Consideration of the Commissioner of Education's Generation 27 Open-Enrollment Charter School Proposals**

(Board agenda page I-87)

MOTION AND VOTE: *It was moved by Mrs. Little and carried that the State Board of Education take no action on Academy of Visual and Performing Arts (Fort Worth). The motion carried with 7 members voting Aye and 6 members voting No as follows:*

<u>Aye:</u>	Ms. Hardy	Mr. Maynard
	Mr. Hickman	Dr. Robinson
	Dr. Johnson	Dr. Young
	Mrs. Little	

<u>No:</u>	Mr. Allen	Ms. Davis
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz

MOTION AND VOTE: *It was moved by Ms. Pérez and seconded by Ms. Perez-Diaz that the State Board of Education veto Heritage Classical Academy (Houston). The motion carried with 8 members voting Aye and 6 members voting No as follows:*

<u>Aye:</u>	Mr. Allen	Dr. Johnson
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz
	Ms. Davis	Dr. Robinson

<u>No:</u>	Dr. Ellis	Mrs. Little
	Ms. Hardy	Mr. Maynard
	Mr. Hickman	Dr. Young

MOTION AND VOTE: *It was moved by Ms. Pérez and seconded by Mr. Cortez that the State Board of Education veto ONE Collegiate Charter School (Houston). The motion carried unanimously with 13 members voting Aye and 0 members voting No as follows:*

<u>Aye:</u>	Mr. Allen	Mrs. Little
	Dr. Bell-Metereau	Mr. Maynard
	Mr. Cortez	Ms. Pérez
	Ms. Davis	Ms. Perez-Diaz
	Ms. Hardy	Dr. Robinson
	Mr. Hickman	Dr. Young
	Dr. Johnson	

No:

MOTION AND VOTE: *It was moved by Ms. Pérez and seconded by Ms. Cortez that the State Board of Education veto Patterns High School of Technology (Austin). The motion carried with 11 members voting Aye and 2 members voting No as follows:*

<u>Aye:</u>	Mr. Allen	Mrs. Little
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz
	Ms. Davis	Dr. Robinson
	Ms. Hardy	Dr. Young
	Dr. Johnson	

<u>No:</u>	Mr. Hickman	Mr. Maynard
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MOTION AND VOTE: *It was moved by Ms. Pérez and seconded by Mr. Cortez that the State Board of Education veto Spelligent San Antonio (San Antonio). The motion carried with 12 members voting Aye and 1 member voting No as follows:*

<u>Aye:</u>	Mr. Allen	Dr. Johnson
	Dr. Bell-Metereau	Mrs. Little
	Mr. Cortez	Ms. Pérez
	Ms. Davis	Ms. Perez-Diaz
	Ms. Hardy	Dr. Robinson
	Mr. Hickman	Dr. Young

<u>No:</u>	Mr. Maynard
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9. Update on Texas Essential Knowledge and Skills (TEKS) Review
(Board agenda page I-89)

The board did not take action on this item.

COMMITTEE ON INSTRUCTION

10. Proposed Approval of Innovative Courses
(Board agenda page II-144)

The board did not take action on this item.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND

11. Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide
(Second Reading and Final Adoption)
(Board agenda page III-1)

MOTION AND VOTE: *It was moved by Mr. Maynard and carried unanimously that the State Board of Education approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register, as recommended by the Committee on School Finance/Permanent School Fund.

COMMITTEE ON SCHOOL INITIATIVES

- 12. Adoption of Rule Review of 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship and Subchapter B, Special Purpose School Districts**
(Board agenda page IV-1)

This item was moved to the consent agenda.

- 13. Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.21, Educator Assessment**
(Board agenda page IV-15)

Dr. Ellis provided a statement noting consistency in the debate across the state and among stakeholders regarding the quality of the PPR and edTPA assessments and requested the consideration of alternatives. Dr. Ellis stated that an additional certification exam, such as a Texas-developed performance-based assessment, provides the opportunity for a second option to stand alongside edTPA. Dr. Ellis also suggested moving the exam requirement to a formative part of curriculum requirements in Chapter 228. He stated that a critical component of this option would be ensuring that TEA could hold poorly performing educator preparation programs accountable using this assessment tool. Dr. Ellis stated that if the proposed amendment is vetoed, there will be an opportunity for stakeholders, SBEC, SBOE, TEA, and constituents to participate in a convening to find a workable alternative.

MOTION AND VOTE: *It was moved by Dr. Robinson and carried unanimously that the State Board of Education reject the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.21, Educator Assessment, as recommended by the Committee on School Initiatives.*

- 14. Review of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; and Subchapter E, Grades 9–12 Assignments**
(Board agenda page IV-44)

MOTION AND VOTE: *It was moved by Dr. Robinson and carried unanimously that the State Board of Education take no action on the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; and Subchapter E, Grades 9–12 Assignments, as recommended by the Committee on School Initiatives.*

15. **Review of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes**
(Board agenda page IV-107)

MOTION AND VOTE: *It was moved by Dr. Robinson and carried unanimously that the State Board of Education take no action on the proposed amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes, as recommended by the Committee on School Initiatives.*

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 Committee on School Finance/Permanent School Fund discussed building infrastructure for the corporate board and approved policies and investment procedures. He stated that the committee authorized their CEO to negotiate for facilities.

Committee on School Initiatives

Dr. Robinson did not report on the Committee on Instruction.

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 11:39 a.m.

Georgina C. Pérez, Secretary

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R E S O L U T I O N

WHEREAS the State Board of Education’s Student Heroes Award, created in 2015, recognizes Texas public school students who engage in unselfish acts of kindness and service that benefit their fellow students or communities; and

WHEREAS State Board of Education members reviewed nominations and selected fifteen outstanding students across the state as recipients of the 2022 Student Heroes Award; and

WHEREAS Ashley Manquero, a senior at Odessa Career and Technical Early College High School in Ector County Independent School District (ISD), organized a pad drive and collected hygiene packages for homeless and abused women, and visited hospitalized children as a superhero character to brighten their day; and

WHEREAS Genevieve Vallejo, a sophomore at Mercedes High School in Mercedes ISD, is an advocate for community service. She raised funds for several causes, coordinated meal deliveries for the homeless, and hopes that someday hunger in society is eliminated; and

WHEREAS Michael Valdez, a senior at Edgewood Fine Arts Academy in Edgewood ISD, dedicated countless hours volunteering in his hometown of San Antonio, as a council member for the city mayor’s Youth Council for Climate Initiatives; and

WHEREAS Anvi Garyali, a junior at Dulles High School Math and Science Academy in Fort Bend ISD, founded *Rhythm of Life*, a nonprofit organization to spread awareness about mental health and to provide resources about substance abuse and mindfulness activities; and

WHEREAS Natalie Veech, a junior at San Marcos High School in San Marcos Consolidated ISD, is actively involved in her community. She volunteered her time serving as a GEAR UP Ambassador at several family and student events; and

WHEREAS Nitya Kodali, a junior at Langham Creek High School in Cypress-Fairbanks ISD, founded the nonprofit organization, *Letters & Love*. Her organization reached more than 2,000 volunteers and has sent over 50,000 letters of gratitude to healthcare workers in several countries; and

WHEREAS Royal Cumby, a senior at Santa Fe High School in Santa Fe ISD, overcame the challenge of fluency disorder. He attended *Camp Dream Speak Live* where he learned to focus less on speech, and more on other gifts and talents; and

WHEREAS Brady Wilson, a senior at New Waverly High School in New Waverly ISD, demonstrated the desire to serve others by collecting disaster relief supplies and delivering them to areas hit by tornadoes in Louisiana, Kentucky, and Tennessee; and

WHEREAS Brandon James, a senior at Ford High School in Quinlan ISD, demonstrated compassion through the school’s *#BeTheSpark* campaign by encouraging his teammates to involve a fellow student on the football field and in other activities; and

WHEREAS Karter Linscott, a fifth-grade student at Parkside Elementary School in Leander ISD, is a cancer survivor who gives to other cancer patients and their families through the Karter Bradley Foundation; contributions include gift cards to local restaurants, a collapsible wagon to help tow personal items back and forth to the hospital, and a crew of volunteers; and

WHEREAS Zane Sheffield, a junior at Birdville High School in Birdville ISD, started the *Back-the-Homeless* project by distributing backpacks to the homeless. He teamed up with *Tarrant to the World*, a local nonprofit to raise over \$6,000 and distribute two hundred backpacks to the homeless; and

WHEREAS Bryn Taylor, a third-grade student at Wally Watkins Elementary in Wylie ISD exemplifies responsibility and humility by her acts of kindness to students with learning needs; and

WHEREAS Adamari Acosta, a fifth-grade student at Uplift Mighty Primary in Fort Worth, has a heart for serving her community. She led a canned food drive for the community food bank and a pajama drive that collected fifty pairs of pajamas to donate to a children’s home; and

WHEREAS Kayla McFail, a senior at Harmony Science Academy in Carrollton, founded the *Dictation for Depression Chapter*, a safe space to help students who are impacted by depression, and she co-founded the *Help for Humanity Organization*, to raise awareness about exploitation matters that affect people of color; and

WHEREAS Skyla Ramsay, a senior at Canyon High School in Canyon ISD, is an ambassador of the Student Crime Stopper program. She received the 2021 Crime Stoppers Student Board Member of the Year award and introduced her classmates to the *Safe2save* app with the goal of preventing crime from occurring at her school; and

WHEREAS these amazing students have modeled caring and compassion in their communities; now, therefore be it

RESOLVED, that the State Board of Education extends its heartfelt thanks to each of these kindhearted students and commends them for their unselfish volunteerism, good character, and integrity; and be it further

RESOLVED, that this resolution be presented to each of them and that a copy be included in the permanent records of the State Board of Education.

WITNESS our signatures this seventeenth day of June, two thousand and twenty-two, in Austin, Texas.

Keven Ellis, Chair

Georgina Pérez, Secretary

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
(Including External Manager's Trades)
For February 1, 2022 through April 30, 2022**

Purchases/Capital Calls:

Long Term Fixed Income	\$ 554,864,074
Public Market Equities	184,177,421
Alternative Investments	<u>563,885,604</u>
 TOTAL	 <u><u>\$ 1,302,927,099</u></u>

Sales/Distributions:

Long Term Fixed Income	\$ 135,006,325
Public Market Equities	459,102,763
Alternative Investments	<u>796,041,937</u>
 TOTAL	 <u><u>\$ 1,390,151,025</u></u>

General Land Office Contributions:

FY 2021 Cumulative April 2021	FY 2022 Cumulative April 2022
\$22,500,000	\$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 \$22,500,000 through April 2021 for fiscal year 2021 versus \$0 through April 2022 for fiscal year 2022, 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 February 2022 through April 2022 Permanent School Fund portfolio purchases of \$1,302,927,099 and sales of \$1,390,151,025.

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**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
FOR PSF LIQUID ACCOUNTS
For February 1, 2022 through April 30, 2022**

Purchases:

Fixed Income	\$ 201,345,748
Public Market Equities	<u>62,389,065</u>
 TOTAL	 <u><u>\$ 263,734,813</u></u>

Sales:

Fixed Income	\$ 34,127,482
Public Market Equities	<u>21,886,752</u>
 TOTAL	 <u><u>\$ 56,014,234</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 February 1, 2022 through April 30, 2022 Permanent School Fund Liquid Account purchases of \$263,734,813 and sales of \$56,014,234.

Minutes

State Board of Education Committees

June 14-16, 2022 & August 1, 2022

**Report of the State Board of Education
Committee of the Full Board
Tuesday, June 14, 2022**

The State Board of Education Committee of the Full Board met at 9:11 a.m. on Tuesday, June 14, 2022, 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; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Georgina C. Pérez; Marisa B. Perez-Diaz; Matt Robinson; Audrey Young

Absent: Sue Melton-Malone

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #1, #3, and #5. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEM

- 1. Public Hearing Regarding Review of 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.21, Educator Assessment**
(Board agenda page I-1)

Invited testimony was provided by the following individuals:

NAME: Jean Streepey
AFFILIATION: State Board for Educator Certification

NAME: Scott Muri
AFFILIATION: Ector County Independent School District

Public testimony was provided by the following individuals:

NAME: Kevin Malonson
AFFILIATION: Teach Plus

NAME: Kate Hoffman
AFFILIATION: The Commit Partnership

NAME: Stacey Edmonson
AFFILIATION: Sam Houston State University

NAME: Arthur Polly
AFFILIATION: Teach Plus

NAME:	Leslie Anaya
AFFILIATION:	Self
NAME:	Ryan Franklin
AFFILIATION:	Educate Texas, Community Foundation of Texas
NAME:	Robert DeHass
AFFILIATION:	Dallas College
NAME:	Lisa Brown
AFFILIATION:	Austin Community College
NAME:	Sandra Nix
AFFILIATION:	Austin Community College
NAME:	Addison Old
AFFILIATION:	Teach Plus
NAME:	Susan Williams
AFFILIATION:	Texas A&M University Commerce
NAME:	Kathryn Dixon
AFFILIATION:	Self
NAME:	Susan Reily
AFFILIATION:	Stephen F. Austin State University
NAME:	Elizabeth Ward
AFFILIATION:	Texas Wesleyan University
NAME:	Tonya Williams-Clark
AFFILIATION:	Self
NAME:	Gina Anderson
AFFILIATION:	Texas Woman's University
NAME:	Rebecca Hampton
AFFILIATION:	INSPIRE TEXAS Educator Preparation
NAME:	April Sanders
AFFILIATION:	Texas A&M University Commerce
NAME:	Michael Max Pitcairn
AFFILIATION:	Self
NAME:	Al Rodriguez
AFFILIATION:	Texas Association of School Personnel Administrators (TASPA)
NAME:	Leslie Cooper
AFFILIATION:	Education Service Center, Region 20

NAME: Teresa Hinojosa
AFFILIATION: Education Service Center, Region 19

NAME: Mark Wiggins
AFFILIATION: Association of Texas Professional Educators

NAME: Carrie Griffith
AFFILIATION: Texas State Teachers Association

NAME: Suzanne Nesmith
AFFILIATION: Baylor University

NAME: Holly Eaton
AFFILIATION: Texas Classroom Teachers Association

NAME: Kelsey Kling
AFFILIATION: Texas American Federation of Teachers

NAME: Adam Bull
AFFILIATION: Self

ACTION ITEMS

2. Review of the Report on Permanent School Fund Percentage Distribution Rates Under Consideration for Fiscal Years 2024 and 2025

(Board agenda page I-3)

[Consent agenda item #1]

Holland Timmins, chief investment officer and executive administrator, stated that this item fulfills the requirement that the State Board of Education report the distribution rates under consideration to the Legislative Budget Board and the Governor prior to their adoption. He noted several factors that suggest a lower distribution rate in the coming 2024-2025 biennium than in the current biennium and that staff and NEPC recommendations are similar.

Carlos Veintemillas, deputy chief investment officer and director of fixed income, presented the Texas Permanent School Fund (PSF) Distributions to the Available School Fund. He addressed the factors considered in determining an appropriate distribution rate for the PSF that preserves intergenerational equity. The staff recommendation was for the board to adopt a range for the distribution rate of between 2.58% and 3.33% for fiscal years 2024 and 2025.

Keith Stronkowsky, senior consultant, NEPC, discussed the factors NEPC used to make its recommendation, explaining the slight differences in the variables between staff and NEPC. NEPC's recommendation was for a range for the distribution rate of between 2.71% and 3.21% for fiscal years 2024 and 2025.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Cortez, and carried to recommend that the State Board of Education approve a range for the distribution rate of between 2.50% and 3.33% for fiscal years 2024 and 2025.*

3. **Proposed New 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §§126.1-126.3 and 126.8-126.10, and Subchapter B, Middle School, §§126.17-126.19**
(Second Reading and Final Adoption)
(Board agenda page I-5)
[Official agenda item #3]

Public testimony was provided by the following individuals:

NAME: Mary Lowe
AFFILIATION: Moms for Liberty, Tarrant County

NAME: Jackie Besinger
AFFILIATION: Moms for Liberty, Travis County

NAME: Hollie Plemons
AFFILIATION: Self

Shelly Ramos, senior director, curriculum standards and student support, explained that the proposed new rules would update the technology applications Texas Essential Knowledge and Skills (TEKS) for Kindergarten through Grade 8 to ensure the standards remain current and to address statutory requirements related to cyberbullying and coding and computational thinking. Ms. Ramos explained that there were no recommended changes since the proposal was approved for first reading.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mrs. Little, and carried to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §126.1, Technology Applications, Kindergarten, Adopted 2022; §126.2, Technology Applications, Grade 1, Adopted 2022; §126.3, Technology Applications, Grade 2, Adopted 2022; §126.8, Technology Applications, Grade 3, Adopted 2022; §126.9, Technology Applications, Grade 4, Adopted 2022; and §126.10, Technology Applications, Grade 5, Adopted 2022; and Subchapter B, Middle School, §126.17, Technology Applications, Grade 6, Adopted 2022; §126.18, Technology Applications, Grade 7, Adopted 2022; and §126.19, Technology Applications, Grade 8, Adopted 2022; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 126, Texas Essential Knowledge and Skills for Technology Applications, Subchapter A, Elementary, §126.1, Technology Applications, Kindergarten, Adopted 2022; §126.2, Technology Applications, Grade 1, Adopted 2022; §126.3, Technology Applications, Grade 2, Adopted 2022; §126.8, Technology Applications, Grade 3, Adopted 2022; §126.9, Technology Applications, Grade 4, Adopted 2022; and §126.10, Technology Applications, Grade 5, Adopted 2022; and Subchapter B, Middle School, §126.17, Technology Applications, Grade 6, Adopted 2022; §126.18, Technology Applications, Grade 7, Adopted 2022; and §126.19, Technology Applications, Grade 8, Adopted 2022, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

4. **Proposed New 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §§127.788-127.794**
(Second Reading and Final Adoption)
(Board agenda page I-36)
[Official agenda item #4]

Ms. Ramos explained that this rule item pertains to a set of computer science courses and a set of cybersecurity courses. She said that public comments shared with the board regarding the proposal were generally positive. Ms. Ramos also explained that a board member had requested that staff seek feedback from the work group regarding a minor change to this rule item when it was approved for first reading. Feedback from the work group was supportive of the change.

MOTION: *It was moved by Mr. Maynard and seconded by Mrs. Little to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022, 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 by Mr. Hickman, seconded by Ms. Hardy, and carried without objection to recommend that the State Board of Education amend §127.791(d)(1)(A) to read:*

“identify job and internship opportunities and accompanying job duties and tasks;”

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788, Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022, as amended; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter O, Science, Technology, Engineering, and Mathematics, §127.788,

Fundamentals of Computer Science (One Credit), Adopted 2022; §127.789, Computer Science I (One Credit), Adopted 2022; §127.790, Computer Science II (One Credit), Adopted 2022; §127.791, Computer Science III (One Credit), Adopted 2022; §127.792, Foundations of Cybersecurity (One Credit), Adopted 2022; §127.793, Digital Forensics (One Credit), Adopted 2022; and §127.794, Cybersecurity Capstone (One Credit), Adopted 2022, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. The motion carried unanimously.

5. **Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics (Second Reading and Final Adoption)**

(Board agenda page I-67)

[Official agenda item #5]

Public testimony was provided by the following individual:

NAME: Julia Brookins

AFFILIATION: American Historical Association

Ms. Ramos explained that this item would add TEKS for a new social studies course to comply with the requirements of Senate Bill 1063, 87th Texas Legislature, Regular Session, 2021. Ms. Ramos further explained that staff recommended some minor adjustments to a small number of student expectations to clarify their meaning.

MOTION: *It was moved by Mrs. Little and seconded by Ms. Hardy to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, 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 by Mr. Hickman, seconded by Dr. Johnson, and carried unanimously to recommend that the State Board of Education amend 19 TAC §113.76 to reflect the staff recommendations as follows:*

§113.76(d)(3)(F) “research and align personal interests and skills with potential careers and postsecondary education to assure a life strategy that will produce employment the student enjoys with a desired standard of living”

§113.76(d)(5)(C) “compare total compensation, ~~and~~ additional benefits, and obligations as a self-employed or independent contractor and ~~with total compensation~~ as an employee”

§113.76(d)(5)(F) “explain the characteristics of business organizations ~~organization~~ such as sole proprietorships, partnerships, and corporations.”

§113.76(d)(7)(D) “discuss how character, capacity, and collateral can adversely or positively impact an individual's credit rating and ~~the~~ ability to obtain credit;”

§113.76(d)(7)(E) “explain how to access a credit report and score and interpret a sample credit report and score;”

§113.76(d)(7)(G) “discuss how personal factors such as medical expenses, job loss, divorce, or a failed business could lead to bankruptcy; and”

§113.76(d)(9)(I) “describe and identify examples of common financial schemes and scams such as Ponzi schemes and pyramid, phishing, check cashing, and home renovation scams;”

§113.76(d)(10)(C) “explain why earning income, spending, credit, debt, saving and investing, and protecting and insuring assets are important parts of a comprehensive financial plan and develop a plan that incorporates these components.”

VOTE: *A vote was taken on the original motion to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, as amended; and*

Make an affirmative finding that immediate adoption of proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.76, Personal Financial Literacy and Economics, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register. The motion as amended carried unanimously.

6. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum (Second Reading and Final Adoption)

(Board agenda page I-76)

[Official agenda item #6]

Ms. Ramos explained that this item proposes changes to the list of high school courses that districts are required to offer to students. Ms. Ramos stated that the proposal would update rules to reflect the new physical education courses and the new Personal Financial Literacy and Economics course which will be implemented in the 2022-2023 school year.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Hickman, and carried to recommend that 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, §74.3, Description of a Required Secondary Curriculum; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

(Ms. Perez-Diaz was absent for the vote.)

7. **Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts**
(First Reading and Filing Authorization)
(Board agenda page I-82)
[Official agenda item #7]

Melissa Lautenschlager, director of instructional materials and implementation, explained that the proposed amendment would clarify the instructional materials certification requirements for school districts and open-enrollment charter schools regarding children's internet safety in accordance with Senate Bill 1, 87th Texas Legislature, Regular Session, 2021.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter C, Local Operations, §66.105, Certification by School Districts.*

(Ms. Davis and Ms. Perez-Diaz were absent for the vote.)

Dr. Ellis adjourned the meeting at 4:31 p.m.

**Report of the State Board of Education
Committee of the Full Board
Wednesday, June 15, 2022**

The State Board of Education Committee of the Full Board met at 9:03 a.m. on Wednesday, June 15, 2022, 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; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Georgina C. Pérez; Marisa B. Perez-Diaz; Matt Robinson; Audrey Young

Absent: Sue Melton-Malone

Public Testimony

The Committee of the Full Board heard public testimony on agenda items #2 and #3. Information regarding the individuals who presented public testimony is included in the discussion of that item.

The Committee of the Full Board considered items in the following order: Item number 1, 2, 4, 3, 5.

DISCUSSION ITEM

1. Commissioner's Comments
(Board agenda page I-86)

Commissioner Mike Morath outlined steps the agency is taking to increase the level of support provided to schools across the state related to school safety. He provided an update on the work of the Teacher Vacancy Task Force in addressing the four key charges: understanding the challenges districts are currently facing related to teacher vacancy, sharing best practices for addressing critical teacher vacancy and shortage areas, developing recommendations for regulatory or other policy changes for TEA, and providing feedback on TEA initiatives designed to help impact vacancies. He shared that four working groups launched on June 2 to address improving educator preparation, strategic staffing models, compensation models, and teacher experience. He reviewed the steps that have been taken by the State Board for Educator Certification to address improving educator preparation. Commissioner Morath provided the latest data on charter schools in Texas and reviewed the process that was followed to determine Generation 27 charter recommendations. He provided an overview of each of the five Generation 27 applicants to be considered by the State Board of Education as part of a separate item in the agenda.

ACTION ITEMS

2. Consideration of the Commissioner of Education's Generation 27 Open-Enrollment Charter School Proposals

(Board agenda page I-87)

[Official agenda item #8]

Invited testimony was provided by the following individuals:

NAME: Dr. Stephanie Love
AFFILIATION: Academy of Visual and Performing Arts (Fort Worth)

NAME: Sherron Richard
AFFILIATION: Academy of Visual and Performing Arts (Fort Worth)

NAME: Oscar Ortiz
AFFILIATION: Heritage Classical Academy (Houston)

NAME: Stuart Saunders
AFFILIATION: Heritage Classical Academy (Houston)

NAME: Dr. Christy McGowan
AFFILIATION: ONE Collegiate Charter School (Houston)

NAME: Dr. Michael Milstead
AFFILIATION: ONE Collegiate Charter School (Houston)

NAME: Cassian Choucair
AFFILIATION: Patterns High School of Technology (Austin)

NAME: Paul Perez
AFFILIATION: Patterns High School of Technology (Austin)

NAME: Celestina De La Garza
AFFILIATION: Spelligent San Antonio (San Antonio)

NAME: Michael Forrest Collins
AFFILIATION: Spelligent San Antonio (San Antonio)

Public testimony was provided by the following individuals:

NAME: Richard Johnson
AFFILIATION: Texas Public Policy Foundation

NAME: Hannah Burkhauser
AFFILIATION: Self

NAME: Joshua Hamm
AFFILIATION: Self

NAME: Serenity Franklin
AFFILIATION: Academy of Visual and Performing Arts

NAME: LuElla Damico
AFFILIATION: Self

NAME: Jack D'Amico
AFFILIATION: Self

NAME: Serigne Thiam
AFFILIATION: Academy of Visual and Performing Arts

NAME: Bailey Boatwright
AFFILIATION: Academy of Visual and Performing Arts

NAME: Gregory Harrington
AFFILIATION: Self

NAME: James Dickey
AFFILIATION: Self

NAME: Tracy Fisher
AFFILIATION: Self

NAME: Lola Areago
AFFILIATION: Self

NAME: Ann Heuberger
AFFILIATION: Del Valle Independent School District

NAME: Julie Hinaman
AFFILIATION: Cypress-Fairbanks Independent School District

NAME: Laura Carlin-Gonzalez
AFFILIATION: Del Valle Independent School District

NAME: Isaiah Johnson
AFFILIATION: Self

NAME: Sonja Howard
AFFILIATION: Del Valle Independent School District

NAME: Chris Nettles
AFFILIATION: Fort Worth City Council

NAME: Susan Salinas
AFFILIATION: Self

NAME: Deanna Blaconeri
AFFILIATION: Self

NAME: Kara Belew
AFFILIATION: Texas Public Charter School Association

NAME: Dinah Menger
AFFILIATION: Fort Worth Independent School District

NAME: Dave Herbener
AFFILIATION: Self

NAME: Ellen Williams
AFFILIATION: Texas Association of School Administrators

NAME: Sarah Terrell
AFFILIATION: Self

NAME: Kelsey Kling
AFFILIATION: Texas American Federation of Teachers

NAME: Charles Luke
AFFILIATION: Pastors for Texas Children

NAME: Ruth Kravetz
AFFILIATION: Community Voices for Public Education

NAME: Denise de la Rosa
AFFILIATION: Spelligent

NAME: Aubrey Kistler
AFFILIATION: Self

NAME: Adonis Schurmann
AFFILIATION: North East Independent School District, Texas State Teachers Association

NAME: Bobby Garcia
AFFILIATION: Manor Independent School District

NAME: Erica Hill
AFFILIATION: Manor Independent School District

MOTION AND VOTE: *It was moved by Mr. Hickman and seconded by Mr. Maynard to recommend that the State Board of Education take no action on Academy of Visual and Performing Arts (Fort Worth). The motion carried with 7 members voting Aye and 6 members voting No as follows:*

<u>Aye:</u>	Ms. Hardy	Mr. Maynard
	Mr. Hickman	Dr. Robinson
	Dr. Johnson	Dr. Young
	Mrs. Little	
<u>No:</u>	Mr. Allen	Ms. Davis
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz

MOTION AND VOTE: *It was moved by Mr. Cortez and seconded by Mr. Hickman to recommend that the State Board of Education take no action on Heritage Classical Academy (Houston). The motion failed with 5 members voting Aye and 8 members voting No as follows:*

<u>Aye:</u>	Ms. Hardy	Mr. Maynard
	Mr. Hickman	Dr. Young
	Mrs. Little	
<u>No:</u>	Mr. Allen	Dr. Johnson
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz
	Ms. Davis	Dr. Robinson

MOTION AND VOTE: *It was moved by Dr. Young and seconded by Mr. Maynard to recommend that the State Board of Education take no action on ONE Collegiate Charter School (Houston). The motion failed with 0 members voting Aye and 13 members voting No as follows:*

<u>Aye:</u>		
<u>No:</u>	Mr. Allen	Mrs. Little
	Dr. Bell-Metereau	Mr. Maynard
	Mr. Cortez	Ms. Pérez
	Ms. Davis	Ms. Perez-Diaz
	Ms. Hardy	Dr. Robinson
	Mr. Hickman	Dr. Young
	Dr. Johnson	

MOTION AND VOTE: *It was moved by Dr. Robinson and seconded by Ms. Pérez to recommend that the State Board of Education take no action on Patterns High School of Technology (Austin). The motion failed with 2 members voting Aye and 11 members voting No as follows:*

<u>Aye:</u>	Mr. Hickman	Mr. Maynard
<u>No:</u>	Mr. Allen	Mrs. Little
	Dr. Bell-Metereau	Ms. Pérez
	Mr. Cortez	Ms. Perez-Diaz
	Ms. Davis	Dr. Robinson
	Ms. Hardy	Dr. Young
	Dr. Johnson	

MOTION AND VOTE: *It was moved by Ms. Pérez and seconded by Ms. Hardy to recommend that the State Board of Education take no action on Spelligent San Antonio (San Antonio). The motion failed with 1 member voting Aye and 12 members voting No as follows:*

<u>Aye:</u>	Mr. Maynard	
<u>No:</u>	Mr. Allen	Dr. Johnson
	Dr. Bell-Metereau	Mrs. Little
	Mr. Cortez	Ms. Pérez
	Ms. Davis	Ms. Perez-Diaz
	Ms. Hardy	Dr. Robinson
	Mr. Hickman	Dr. Young

3. Update on Texas Essential Knowledge and Skills (TEKS) Review
(Board agenda page I-89)
[Official agenda item #9]

Public testimony was provided by the following individuals:

NAME: Julia Brookins
AFFILIATION: American Historical Association

NAME: Mary Castle
AFFILIATION: Texas Values Action

NAME: Andrew Pierce
AFFILIATION: Self

NAME: Eliza Epstein
AFFILIATION: Ethnic Studies Network of Texas

NAME: Marci Deal
AFFILIATION: Hurst-Euless-Bedford Independent School District

NAME: Jeff Lash
AFFILIATION: Self

Monica Martinez, associate commissioner for standards and programs, provided an update on the social studies TEKS review, including the status of the high school, kindergarten-grade 8, and ethnic studies work groups. She explained the work that has been completed to date by each of the work groups. Ms. Martinez also gave an overview of expected next steps for work groups and plans for future board meetings related to the review of the social studies TEKS.

The committee provided the following guidance to the work group completing recommendations for kindergarten-grade 8:

- For K-2, more directly relate the content of the student expectations to the themes at each grade level and ensure that each topic is related to the overarching grade level theme
- For K-2, ensure that student expectations clearly and specifically identify what students should know and are able to do in a grade-appropriate way
- For Grades 1 and 2, consider adding an introductory or foundational knowledge section that introduces the students to the main concepts related to each theme. Subsequent content should relate back to the theme.
- For all grade levels, make the best effort to streamline the content
- For K-2, carefully examine the language used to describe events, specifically the term “involuntary relocation”

DISCUSSION ITEMS

4. Long-Range Plan for Technology Update (Board agenda page I-92)

Julia Schacherl, strategic projects director, information technology division, presented planned revisions to the 2018-2023 Long-Range Plan for Technology, including updates to three sections of the plan. Revisions would include updates to the 1-to-1 initiative, cybersecurity, and campus and cyber safety. She said that recommendations from the board for schools to ensure Children’s Internet Protection Act (CIPA) compliance and to address options for students who do not have access to high-speed internet have been incorporated into the state and federal support section of the plan.

5. Discussion of Pending Litigation (Board agenda page I-93)

The committee did not discuss pending litigation; therefore, no executive session was held.

Dr. Ellis adjourned the meeting at 10:58 p.m.

**Report of the State Board of Education
Committee of the Full Board
Monday, August 1, 2022**

The State Board of Education Committee of the Full Board met at 8:06 a.m. on Monday, August 1, 2022, 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; Lawrence A. Allen, Jr. (virtual); Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Sue Melton-Malone (virtual); Georgina C. Pérez; Marisa B. Perez-Diaz (virtual); Matt Robinson (virtual); Audrey Young (virtual)

Absent:

Public Testimony

The Committee of the Full Board heard public testimony on agenda item #1. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEMS

- 1. Public Hearing on Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Courses**
(Board agenda page I-1)

Invited testimony was provided by the following individuals:

NAME: Stephen Balch
AFFILIATION: Social Studies Content Advisor

NAME: Pinar Emiralioglu
AFFILIATION: Social Studies Content Advisor

NAME: Alexa Proffitt
AFFILIATION: Social Studies Content Advisor

NAME: Kimberly Baxter
AFFILIATION: Social Studies Content Advisor

NAME: Sharon Bond
AFFILIATION: Social Studies Content Advisor

NAME: Don Frazier
AFFILIATION: Social Studies Content Advisor

NAME: Chief Justice Nathan Hecht
 AFFILIATION: Supreme Court of Texas

NAME: Senator Bryan Hughes
 AFFILIATION: Texas State Senate

NAME: Senator Royce West
 AFFILIATION: Texas State Senate

NAME: Representative Harold Dutton
 AFFILIATION: Texas House of Representatives

NAME: Jeff Lash
 AFFILIATION: Social Studies Content Advisor

NAME: Mary Smith
 AFFILIATION: Social Studies Content Advisor

NAME: Sue Sweeney
 AFFILIATION: Work Group B: Social Studies Practices

NAME: Cindy Nieto-Ruiz
 AFFILIATION: Work Group D: Kindergarten-Grade 2

NAME: Mary Pasquale-Vick
 AFFILIATION: Work Group D: Grades 3-5

NAME: Meghan Dougherty
 AFFILIATION: Work Group D: Grades 6-8

NAME: Dawn Brimhall
 AFFILIATION: Work Group C: United States History

NAME: Paul Nagel
 AFFILIATION: Work Group C: United States Government

NAME: Rob Cheshire
 AFFILIATION: Work Group C: World History Studies

NAME: Sarah Johnson
 AFFILIATION: Work Group C: Psychology and Sociology

NAME: Mohit Mehta
 AFFILIATION: Work Group E: Asian American Studies

NAME: Kelly Tudor
 AFFILIATION: Work Group E: American Indian/Native Studies

NAME: Juan Carmona
 AFFILIATION: Work Group E: Mexican American Studies

NAME: Erika Lowery
AFFILIATION: Work Group C: World Geography Studies

NAME: Lane Sobrehad
AFFILIATION: Work Group C: Special Topics

NAME: Keina Cook
AFFILIATION: Work Group E: African American Studies

Public testimony was provided by the following individuals:

NAME: Chloe Sikes
AFFILIATION: Intercultural Development Research Association

NAME: Missie Carra
AFFILIATION: Self

NAME: Lily Trieu
AFFILIATION: Asian Texans for Justice

NAME: Olivia Castillo
AFFILIATION: Self

NAME: Linda Black
AFFILIATION: Texas A&M University, Central Texas

NAME: Sarita Darji
AFFILIATION: Self

NAME: Ernie Moran
AFFILIATION: Self

NAME: Marco Vargas
AFFILIATION: OCA–Greater Houston

NAME: Julia Brookins
AFFILIATION: American Historical Association

NAME: Arshia Papari
AFFILIATION: Our Turn

NAME: Steven Wu
AFFILIATION: Woori Juntos

NAME: Anne Sung
AFFILIATION: Community Voices for Public Education

NAME: Somprathana Kongdara
AFFILIATION: Self

NAME: Lynette Agüero
AFFILIATION: Grand Prairie Independent School District

NAME: Marti Bier
AFFILIATION: Texas Freedom Network

NAME: Maggie Stern
AFFILIATION: Children's Defense Fund – Texas

NAME: Marci Deal
AFFILIATION: Hurst-Euless-Bedford Independent School District

NAME: Sophia Kwong Myers
AFFILIATION: Self

NAME: Vattanna Kongdara
AFFILIATION: Self

NAME: Hawana Townsley
AFFILIATION: Self

NAME: Ayaan Moledina
AFFILIATION: Generation Up

NAME: Jennifer Flemming
AFFILIATION: Self

NAME: Christi Beck
AFFILIATION: Self

NAME: Josh Posey
AFFILIATION: Self

NAME: Cassandra Posey
AFFILIATION: Self

NAME: Anh Nguyen
AFFILIATION: Self

NAME: Bianca Mabute-Louie
AFFILIATION: Rice University

NAME: Alishba Javaid
AFFILIATION: Self

NAME: Isabella Chavez
AFFILIATION: Self

NAME: Dona Murphey
AFFILIATION: Self

NAME: Nicolette Ardiente
AFFILIATION: Asian Pacific Islander American Public Affairs (APAPA) San Antonio

NAME: Darsi Bickley
AFFILIATION: Northwest Independent School District

NAME: Benjamin Lewis
AFFILIATION: Brenham Independent School District

NAME: Yongyin Huang
AFFILIATION: Self

NAME: Christina Fu
AFFILIATION: Self

NAME: Tommy Wan
AFFILIATION: Self

NAME: Noah Otote-Ingram
AFFILIATION: Self

NAME: Eliza Epstein
AFFILIATION: Ethnic Studies Network of Texas

NAME: Renee Blackmon
AFFILIATION: Texas Council for the Social Studies

NAME: Jennifer Halpenny
AFFILIATION: Self

NAME: Jahred Dobranic
AFFILIATION: Woori Juntos

NAME: Arabella Redus
AFFILIATION: Self

NAME: Kelsey Kling
AFFILIATION: American Federation of Teachers

NAME: Julia Fensel
AFFILIATION: Austin Youth Council

NAME: Andrew Pierce
AFFILIATION: CAPEEN

NAME: Arvind Kumar
AFFILIATION: CAPEEN

NAME: Zoya Haq
AFFILIATION: HiStory Retold

NAME: Sharon LaDay
AFFILIATION: Self

NAME: Evelyn Brooks
AFFILIATION: Self

NAME: Mary Lowe
AFFILIATION: Tarrant County Moms for Liberty

NAME: Emily Countryman
AFFILIATION: Northside Independent School District

NAME: Jackie Besinger
AFFILIATION: Moms for Liberty, Travis County

NAME: Linda Le
AFFILIATION: Self

NAME: Jennifer Kratky
AFFILIATION: Self

NAME: Cindy Najera
AFFILIATION: Moms for Liberty

NAME: Mary Castle
AFFILIATION: Texas Values

NAME: Ashley Cheng
AFFILIATION: Self

NAME: Andrea Aguirre
AFFILIATION: Self

NAME: Jonathan Saenz
AFFILIATION: Texas Values

NAME: Amy Campbell
AFFILIATION: Self

NAME: Robert Whistler
AFFILIATION: Citizen Potawatomi Nation

NAME: Honorable Rudy Metayer
AFFILIATION: Texas Black Caucus Foundation

NAME: Valerie Martinez
AFFILIATION: Ethnic Studies Network of Texas and NACCS Tejas Foco K-12 Committee

NAME: Gigs Hodges
AFFILIATION: Self

NAME: Steve Jensen
AFFILIATION: Racial Justice Action Team First Unitarian Church of Dallas

NAME: Emy Chen
AFFILIATION: Self

NAME: Carolyn E Boyd
AFFILIATION: Self

NAME: Annette Anderson
AFFILIATION: Indigenous Institute of the Americas

NAME: Larry Davis
AFFILIATION: Self

NAME: Abby Gail Trino
AFFILIATION: Self

NAME: Kim Zapalac
AFFILIATION: Daughters of the Republic of Texas

NAME: Selena Wang
AFFILIATION: OCA–Houston

NAME: Sarah Lindley Bailey
AFFILIATION: Self

2. **Discussion of Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter A, Elementary, Subchapter B, Middle School, Subchapter C, High School, and Subchapter D, Other Social Studies Course**
(Board agenda page I-3)

Monica Martinez, associate commissioner, standards and programs, provided an update regarding the progress of the social studies TEKS revision. Ms. Martinez discussed improvements to the social studies practices and increased specificity of student expectations. Ms. Martinez also presented the option for the board to bring AP and IB courses to first reading in September.

The board directed staff to convene an additional work group to provide a recommendation on whether to continue development of the proposed new kindergarten-grade 8 framework, consider amendments to the current structure, or consider another framework option and provide additional recommendations at the September meeting.

Dr. Ellis adjourned the meeting at 7:55 p.m.

**Report of the State Board of Education
Committee on Instruction
Thursday, June 16, 2022**

The State Board of Education Committee on Instruction met at 10:02 a.m. on Thursday, June 16, 2022, in Room #1-100 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Rebecca Bell-Metereau; Pam Little; Georgina C. Pérez; Audrey Young, vice-chair

Absent: Sue Melton-Malone, chair

Public Testimony

The Committee on Instruction heard public testimony on agenda item #6. Information regarding the individual who presented public testimony is included in the discussion of that item.

ACTION ITEMS

1. **Proposed Repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §§115.1-115.7, Subchapter B, Middle School, §§115.21-115.23, and Subchapter C, High School, §§115.31-115.33**

(Second Reading and Final Adoption)

(Board agenda page II-1)

[Consent agenda item #2]

Jessica Snyder, special projects director, curriculum standards and student support division, explained that this item would repeal the health education Texas Essential Knowledge and Skills (TEKS) for elementary, middle school, and high school that have been replaced by new health education TEKS. The new standards will be implemented in the 2022-2023 school year. As a result, the current TEKS are no longer needed.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried without objection to recommend that the State Board of Education approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §115.1, Implementation of Texas Essential Knowledge and Skills for Health Education, Elementary; §115.2, Health Education, Kindergarten; §115.3, Health Education, Grade 1; §115.4, Health Education, Grade 2; §115.5, Health Education, Grade 3; §115.6, Health Education, Grade 4; and §115.7, Health Education, Grade 5; Subchapter B, Middle School, §115.21, Implementation of Texas Essential Knowledge and Skills for Health Education, Middle School; §115.22, Health Education, Grade 6; and §115.23, Health Education, Grade 7-8; and Subchapter C, High School, §115.31, Implementation of Texas Essential Knowledge and Skills for Health Education, High School; §115.32, Health 1, Grades 9-10 (One-Half Credit); and §115.33, Advanced Health, Grades 11-12 (One-Half Credit); and*

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 115, Texas Essential Knowledge and Skills for Health Education, Subchapter A, Elementary, §115.1, Implementation of Texas Essential Knowledge and Skills for Health Education, Elementary; §115.2, Health Education, Kindergarten; §115.3, Health Education, Grade 1; §115.4, Health Education,

Grade 2; §115.5, Health Education, Grade 3; §115.6, Health Education, Grade 4; and §115.7, Health Education, Grade 5; Subchapter B, Middle School, §115.21, Implementation of Texas Essential Knowledge and Skills for Health Education, Middle School; §115.22, Health Education, Grade 6; and §115.23, Health Education, Grade 7-8; and Subchapter C, High School, §115.31, Implementation of Texas Essential Knowledge and Skills for Health Education, High School; §115.32, Health 1, Grades 9-10 (One-Half Credit); and §115.33, Advanced Health, Grades 11-12 (One-Half Credit), is necessary and shall have an effective date of August 1, 2022.

2. Proposed Repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §§116.1-116.7, Subchapter B, Middle School, §§116.21-116.24, and Subchapter C, High School, §§116.51-116.56

(Second Reading and Final Adoption)

(Board agenda page II-5)

[Consent agenda item #3]

Ms. Snyder explained that this item would repeal the physical education Texas Essential Knowledge and Skills (TEKS) for elementary, middle school, and high school that have been replaced by new physical education TEKS. The new standards will be implemented in the 2022-2023 school year, therefore these TEKS are no longer needed.

MOTION AND VOTE: *It was moved by Dr. Bell-Metereau, seconded by Mrs. Little, and carried without objection to recommend that the State Board of Education approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §116.1, Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary; §116.2, Physical Education, Kindergarten; §116.3, Physical Education, Grade 1; §116.4, Physical Education, Grade 2; §116.5, Physical Education, Grade 3; §116.6, Physical Education, Grade 4; and §116.7, Physical Education, Grade 5; Subchapter B, Middle School, §116.21, Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School; §116.22, Physical Education, Grade 6; §116.23, Physical Education, Grade 7; and §116.24, Physical Education, Grade 8; and Subchapter C, High School, §116.51, Implementation of Texas Essential Knowledge and Skills for Physical Education, High School; §116.52, Foundations of Personal Fitness (One-Half Credit); §116.53, Adventure/Outdoor Education (One-Half Credit); §116.54, Aerobic Activities (One-Half Credit); §116.55, Individual Sports (One-Half Credit); and §116.56, Team Sports (One-Half Credit); and*

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 116, Texas Essential Knowledge and Skills for Physical Education, Subchapter A, Elementary, §116.1, Implementation of Texas Essential Knowledge and Skills for Physical Education, Elementary; §116.2, Physical Education, Kindergarten; §116.3, Physical Education, Grade 1; §116.4, Physical Education, Grade 2; §116.5, Physical Education, Grade 3; §116.6, Physical Education, Grade 4; and §116.7, Physical Education, Grade 5; Subchapter B, Middle School, §116.21, Implementation of Texas Essential Knowledge and Skills for Physical Education, Middle School; §116.22, Physical Education, Grade 6; §116.23, Physical Education, Grade 7; and §116.24, Physical Education, Grade 8; and Subchapter C, High School, §116.51, Implementation of Texas Essential Knowledge and Skills for Physical Education, High School; §116.52, Foundations of Personal Fitness (One-Half Credit); §116.53, Adventure/Outdoor Education (One-Half Credit); §116.54, Aerobic Activities (One-Half Credit); §116.55, Individual Sports (One-Half Credit); and §116.56, Team Sports (One-Half Credit), is necessary and shall have an effective date of August 1, 2022.

3. **Proposed Repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §§127.310, 127.312, 127.313; Subchapter I, Health Science, §127.409; and Subchapter O, Science Technology, Engineering, and Mathematics, §§127.753, 127.755, 127.761, 127.764; and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277**
(Second Reading and Final Adoption)
(Board agenda page II-9)
[Consent agenda item #4]

Ms. Snyder explained that this item would repeal the TEKS for a selection of career and technical education (CTE) courses. The TEKS for these courses have been revised, therefore these TEKS are no longer needed.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried without objection to recommend that the State Board of Education approve for second reading and final adoption the proposed repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §127.310, Principles of Education and Training (One Credit), Adopted 2015; §127.312, Instructional Practices (Two Credits), Adopted 2015; and §127.313, Practicum in Education and Training (Two Credits), Adopted 2015; Subchapter I, Health Science, §127.409, Health Informatics (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.753, Engineering Design and Problem Solving (One Credit), Adopted 2015; §127.755, Engineering Science (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); and §127.764, Computer Science III (One Credit); and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277, Child Development (One Credit), Adopted 2015; and*

Make an affirmative finding that immediate adoption of the proposed repeal of 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development and Career and Technical Education, Subchapter G, Education and Training, §127.310, Principles of Education and Training (One Credit), Adopted 2015; §127.312, Instructional Practices (Two Credits), Adopted 2015; and §127.313, Practicum in Education and Training (Two Credits), Adopted 2015; Subchapter I, Health Science, §127.409, Health Informatics (One Credit), Adopted 2015; and Subchapter O, Science, Technology, Engineering, and Mathematics, §127.753, Engineering Design and Problem Solving (One Credit), Adopted 2015; §127.755, Engineering Science (One Credit), Adopted 2015; §127.761, Fundamentals of Computer Science (One Credit); and §127.764, Computer Science III (One Credit); and Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services, §130.277, Child Development (One Credit), Adopted 2015, is necessary and shall have an effective date of August 1, 2022.

4. **Approval of Updates and Substitutions to Adopted Instructional Materials**
(Board agenda page II-42)
[Consent agenda item #5]

Amie Williams, director, instructional materials review and procurement, instructional materials and implementation division, explained that Learning A-Z has requested to update content in its adopted product, *Raz Plus ELL Texas Edition*, for second through fifth grade.

MOTION AND VOTE: *It was moved by Mrs. Little, seconded by Dr. Bell-Metereau, and carried without objection to recommend that the State Board of Education approve the request from Learning A-Z to update content in its product, RAZ Plus ELL Texas Edition, grades 2–5, adopted under Proclamation 2019.*

DISCUSSION ITEM

5. Discussion of Annual Audit Reports for Credit by Examination from Texas Tech University and The University of Texas at Austin (Board agenda page II-44)

Ms. Snyder explained that this item provides an opportunity for the committee to discuss the annual audit reports submitted by Texas Tech University and The University of Texas at Austin regarding examinations used for credit by examination.

ACTION ITEM

6. Proposed Approval of Innovative Courses (Board agenda page II-144) [Official agenda item #10]

Shelly Ramos, senior director, curriculum standards and student support, explained that this item presents for approval one new innovative course that does not fall within any of the subject areas of the foundation or enrichment curriculum. Ms. Ramos provided a brief overview of the proposed new innovative course, Feet First Foundation's Wellness Program.

MOTION AND VOTE: *It was moved by Dr. Bell-Metereau, seconded by Ms. Pérez, and carried without objection to suspend board operating procedure §2.10(b)(6) to accept late registration outside the allowable registration window and allow a late registrant to provide public testimony.*

Public testimony was provided by the following individual:

NAME: Jorge Sanchez
AFFILIATION: Feet First Foundation

The committee requested that staff add school counselor certificates to the list certifications allowed to teach the course.

MOTION AND VOTE: *It was moved by Ms. Pérez, seconded by Dr. Bell-Metereau, and carried without objection to recommend that the State Board of Education, contingent upon committee members having access to review the curriculum material prior to the final vote, approve for a period of one year Feet First Foundation's Wellness Program, which does not fall within any of the subject areas of the foundation or enrichment curriculum.*

The meeting of the Committee on Instruction adjourned at 10:56 a.m.

**Report of the State Board of Education
Committee on School Finance/Permanent School Fund
Thursday, June 16, 2022**

The State Board of Education Committee on School Finance/Permanent School Fund met at 12:08 p.m. on Thursday, June 16, 2022, in the State Board of Education Room, Room #1-104 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Tom Maynard, chair; Lawrence A. Allen, Jr., vice chair; Keven Ellis; Patricia Hardy; Marisa B. Perez-Diaz

Public Testimony

The Committee on School Finance/Permanent School Fund received no presentations of public testimony.

ACTION ITEM

1. **Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide**
(Second Reading and Final Adoption)
(Board agenda page III-1)
[Official agenda item #11]

Paul Moreno, assistant director, financial compliance, explained that the proposed amendment would adopt by reference the updated *Financial Accountability System Resource Guide* (FASRG) and that no changes are recommended since approved for first reading. He explained the purpose of the guide, what it includes, why it is being updated, and what aspects are being updated. He also explained the public comments that had been received.

MOTION AND VOTE: *It was moved by Mr. Allen, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption the proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide; and*

Make an affirmative finding that immediate adoption of the proposed amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter C, Adoptions By Reference, §109.41, Financial Accountability System Resource Guide, is necessary and shall have an effective date of 20 days after filing as adopted with the Texas Register.

DISCUSSION ITEM

2. Per Capita Apportionment Rate for the 2021-2022 School Year (Board agenda page III-7)

Leo Lopez, associate commissioner, department of school finance, explained the background of the per capita apportionment rate and said the preliminary 2021–2022 per capita apportionment rate of \$402.428 was set in September 2021. Based on actual funds available for expenditure, the final per capita appointment rate for 2021–2022 is \$510.890.

ACTION ITEMS

3. Report on Permanent School Fund Securities Transactions and the Investment Portfolio and Ratification of Purchases and Sales for the Months of February, March, and April 2022 (Board agenda page III-8) [Consent agenda item #6]

David Trice, managing director of investment finance and operations, provided a summary of the status of the Permanent School Fund (PSF) portfolio. Reports presented to the committee were for the reporting period February 1, 2022, through April 30, 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 April 30, 2022; PSF transaction activity occurring in the reporting period; revenues and expenditures for the fiscal period beginning September 1, 2021, through April 30, 2022; the activity in the securities lending program for the fiscal period beginning September 1, 2021, through April 30, 2022; the status of transfers from the General Land Office through April 30, 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 April 30, 2022; fixed income rating changes for the fiscal period September 1, 2021, through April 30, 2022; short-term cash investments; and ratification of purchases and sales from February 1, 2022, through April 30, 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, it was moved by Mr. Allen and carried without objection to recommend that the State Board of Education ratify the purchases and sales for the months of February, March, and April 2022, in the amount of \$1,302,927,099 and \$1,390,151,025, respectively (Attachment A).*

4. Report on Permanent School Fund Liquid Account and Ratification of Purchases and Sales for the Months of February, March, and April 2022 (Board agenda page III-9) [Consent agenda item #7]

Mr. Trice provided a summary of the status of the PSF Liquid Account. Reports presented to the committee were for the reporting period February 1, 2022, through April 30, 2022. Mr. Trice's report included reporting on the current fair market value of the Liquid Account; the asset allocation mix as of April 30, 2022; transfer activity between the General Land Office and the Liquid Account; cumulative Income and Realized Gains transferred to the SBOE from the Liquid Account as of April 30, 2022; transactions occurring in the reporting period; broker commissions on equity portfolios for

the calendar year to date period January 1, 2022, through April 30, 2022; and ratification of the cumulative Purchases and Sales of the Liquid Account from February 1, 2022, through April 30, 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, it was moved by Mr. Allen and carried without objection to recommend that the State Board of Education ratify the purchases and sales of the Permanent School Fund Liquid Account for the period February 1, 2022, through April 30, 2022, in the amounts of \$263,734,813 and \$56,014,234, respectively (Attachment B).*

DISCUSSION ITEMS

5. First Quarter 2022 Permanent School Fund Performance Report (Board agenda page III-10)

Mike Maher, vice president of BNY Mellon Global and Risk Solutions, presented the first quarter of 2022 PSF performance report. Mr. Maher began with an overview of the U.S and foreign capital markets. Mr. Maher then reviewed the performance of the Fund for the first quarter of 2022. He stated that the PSF returned -2.17% net of fees for the first quarter underperforming the target benchmark by eight basis points. Mr. Maher attributed most of the underperformance to Private Equity and Non-core Real Estate.

Mr. Maher reviewed the first quarter 2022 performance of the PSF by asset class, stating that the total domestic large cap equity composite returned -4.61%, underperforming its benchmark for the quarter by one basis point. Mr. Maher added that Small/Midcap Equity portfolio returned -5.14% in the quarter, underperforming its benchmark by four basis points. He added that international equities returned -5.63% for the quarter, underperforming its benchmark by 19 basis points for the period.

The fixed income portfolio returned -7.06% for quarter, underperforming its benchmark by 15 basis points. Mr. Maher added that high yield returned -4.42% during the quarter, underperforming its benchmark by 19 basis points. He stated that the Absolute Return composite returned -1.85% for the quarter, outperforming its benchmark, the HFRI Fund of Funds Composite Index, by 127 points. He added that the Real Estate composite returned 6.12% for the quarter, underperforming its benchmark by 29 basis points. He further stated that the Real Return Asset class returned 4.14% for the quarter, underperforming its benchmark by 47 basis points. He added that Emerging Market Debt returned -5.75% for the quarter, outperforming its benchmark by 71 basis points. Mr. Maher stated that private equity returned 3.76% for the quarter, underperforming its benchmark by 66 basis points. Finally, he stated that the total emerging market equity composite returned -7.24% for the first quarter 2022, underperforming its benchmark by 27 basis points.

ACTION ITEM

6. Review the Process to Consider Board Member Nominees for a School Land Board Position (Board agenda page III-11) [Consent agenda item #8]

Mark Shewmaker, managing director of special projects and portfolio manager, provided an overview of the process for selecting nominees to be sent to the Governor for membership on the School Land Board. No action was taken on this item.

7. Review and Adoption of the Long-Term Strategic Asset Allocation Plan of the Permanent School Fund (SBOE) and the Permanent School Fund Liquid Account

(Board agenda page III-12)

[Consent agenda item #9]

Holland Timmins, chief investment officer and executive administrator, introduced the review and adoption of the long-term strategic asset allocation plan of the PSF of the SBOE and the PSF Liquid Account.

Since the asset allocation had previously been discussed with committee members in the Texas PSF Corporation board meeting, Mr. Timmins recommended that the board approve the asset allocation recommended by NEPC on page 9 of the presentation titled “Texas Permanent School Fund: Asset Allocation Discussion.” The recommended target asset allocation is outlined below:

- U.S. Large Cap Equities 14%
- U.S. Small/Mid Cap Equities 6%
- International Equities 14%
- Emerging International Equities 3%
- Core Bonds 12%
- Non-Core Bonds (High Yield and Bank Loans) 4%
- Emerging Market Debt (Local Currency) 3%
- Treasuries 3%
- Private Equity 18%
- Real Estate 11%
- Real Return 4%
- Absolute Return 7%
- Emerging Manager Program 1%

	SBOE Current Targets	Recommended Targets
US Large-Cap Equity	14%	14%
US Small/Mid-Cap Equity	6%	6%
Non-US Developed Equity	14%	14%
Emerging Market Equity	3%	3%
Total Equity	37%	37%
Core Bonds	12%	12%
Non Core Bonds (High Yield and Bank Loans)	3%	4%
Emerging Market Local Currency Debt	7%	3%
U.S. Treasury Bonds	3%	3%
Total Fixed Income	25%	22%
Private Equity	15%	18%
Real Estate	11%	11%
Real Return	4%	4%
Absolute Return	7%	7%
Emerging Manager Program	1%	1%
Total Alternatives	38%	41%
Expected Return 10 years	6.23%	6.32%
Standard Deviation	13.28%	13.73%
Sharpe Ratio	0.285	0.283

Mr. Timmins also recommended that the board approve the Asset Allocation recommended by NEPC on page 10 of the presentation titled “Texas Permanent School Fund: Asset Allocation Discussion” for the Permanent School Fund Liquid Account. The recommended allocation is outlined below:

- Cash 2%
- U.S. Large Cap Equities 38%
- U.S. Small/Mid Cap Equities 10%
- International Equities 29%
- Core Bonds 16%
- Tips 5%

	Liquid Account Current Target	Recommended Target
Cash	2%	2%
Total Cash	2%	2%
US Large-Cap Equity	28%	38%
US Small/Mid-Cap Equity	7%	10%
Non-US Developed Equity	21%	29%
Total Equity	56%	77%
Core Bonds	12%	16%
Short Duration Fixed Income	25%	0%
TIPS	5%	5%
Total Fixed Income	42%	21%
Expected Return 10 yrs	4.89%	5.38%
Standard Deviation	9.99%	13.63%
Sharpe Ratio	0.245	0.216

MOTION AND VOTE: *It was moved by Mr. Allen, seconded by Ms. Perez-Diaz, and carried unanimously to recommend that the State Board of Education: 1) adopt the recommendation of NEPC and PSF staff to approve the long-term strategic asset allocation of the Permanent School Fund, shown as Recommended Targets on page 9 of the NEPC presentation titled “Texas Permanent School Fund: Asset Allocation Discussion”; and, 2) adopt the recommendation of NEPC and PSF staff to approve the long-term strategic asset allocation of the Permanent School Fund Liquid Account, shown as Recommended Target on page 10 of the same NEPC presentation.*

DISCUSSION ITEM

8. Report of the Permanent School Fund Executive Administrator and Chief Investment Officer (Board agenda page III-13)

Mr. Timmins provided the committee an update on the potential impact of inflation on the bond guarantee program and the related efforts to address capacity issues. He also reported on the status of the lawsuit related to the Tribune Company bankruptcy. He noted that there were no longer any claims pending against the PSF related to prior holdings and that all claims had been resolved in favor of the shareholders.

The meeting of the Committee on School Finance/Permanent School Fund adjourned at 1:24 p.m.

**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
(Including External Manager's Trades)
For February 1, 2022 through April 30, 2022**

Purchases/Capital Calls:

Long Term Fixed Income	\$ 554,864,074
Public Market Equities	184,177,421
Alternative Investments	<u>563,885,604</u>
 TOTAL	 <u><u>\$ 1,302,927,099</u></u>

Sales/Distributions:

Long Term Fixed Income	\$ 135,006,325
Public Market Equities	459,102,763
Alternative Investments	<u>796,041,937</u>
 TOTAL	 <u><u>\$ 1,390,151,025</u></u>

General Land Office Contributions:

FY 2021 Cumulative April 2021	FY 2022 Cumulative April 2022
\$22,500,000	\$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 \$22,500,000 through April 2021 for fiscal year 2021 versus \$0 through April 2022 for fiscal year 2022, 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 February 2022 through April 2022 Permanent School Fund portfolio purchases of \$1,302,927,099 and sales of \$1,390,151,025.

**TEXAS PERMANENT SCHOOL FUND
SUMMARY OF TRANSACTIONS FOR APPROVAL
FOR PSF LIQUID ACCOUNTS
For February 1, 2022 through April 30, 2022**

Purchases:

Fixed Income	\$ 201,345,748
Public Market Equities	<u>62,389,065</u>
 TOTAL	 <u><u>\$ 263,734,813</u></u>

Sales:

Fixed Income	\$ 34,127,482
Public Market Equities	<u>21,886,752</u>
 TOTAL	 <u><u>\$ 56,014,234</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 February 1, 2022 through April 30, 2022 Permanent School Fund Liquid Account purchases of \$263,734,813 and sales of \$56,014,234.

**Report of the State Board of Education
Committee on School Initiatives
Thursday, June 16, 2022**

The State Board of Education Committee on School Initiatives met at 9:01 a.m. on Thursday, June 16, 2022, in Room #1-111, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

Present: Matt Robinson, chair; Aicha Davis, vice chair; Ruben Cortez, Jr; Will Hickman; Jay Johnson

Non-Committee Members Present: Rebecca Bell-Metereau

Public Testimony

The Committee on School Initiatives heard public testimony on agenda item #2. Information regarding the individuals who presented public testimony is included in the discussion of that item.

The Committee on School Initiatives considered items in the following order: Item number 3, 2, 1, 5, 4.

ACTION ITEM

1. **Adoption of Rule Review of 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship, and Subchapter B, Special Purpose School Districts**
(Board agenda page IV-1)
[Official agenda item #12]

Christopher Lucas, director, policy, planning, and operations, explained that Texas Government Code, §2001.039, requires that state agency rules, including State Board of Education rules, be reviewed every four years. He added that the rule review requirement in state law is designed to ensure that the reason for initially adopting or readopting a rule continues to exist. Mr. Lucas informed the committee that the agency did not receive any comments during the public comment period.

MOTION AND VOTE: *It was moved by Mr. Cortez, seconded by Dr. Robinson, and carried unanimously to recommend that the State Board of Education adopt the review of 19 TAC Chapter 61, School Districts, Subchapter A, Board of Trustees Relationship, and Subchapter B, Special Purpose School Districts, and to place the item on the State Board of Education's consent agenda.*

(Ms. Davis was absent for the vote.)

DISCUSSION ITEM

2. Open-Enrollment Charter School Generation 28 Application Updates (Board agenda page IV-14)

Marian Schutte, director, charter school authorizing division, presented information on the Generation 28 Open-Enrollment Charter Application cycle, content, improvements, and timeline.

Public testimony was provided by the following individuals:

NAME: Kara Belew
AFFILIATION: Texas Public Charter School Association

NAME: Carrie Griffith
AFFILIATION: Self

NAME: Ellen Williams
AFFILIATION: Texas Association of School Administrators

ACTION ITEMS

3. Review of Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.21, Educator Assessment (Board agenda page IV-15) [Official agenda item #13]

Jessica McLoughlin, director, educator standards, testing, and preparation, explained that the proposed amendment would specify the timeline by which a passing score on a certification exam can be used for certification purposes; would update the figure specifying the required pedagogy certification exams for issuance of the probationary or standard certificate; and would remove certificate categories that are no longer operational.

MOTION AND VOTE: *It was moved by Mr. Hickman, seconded by Mr. Cortez, and carried unanimously to recommend that the State Board of Education reject the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, §230.21, Educator Assessment.*

4. Review of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; and Subchapter E, Grades 9–12 Assignments (Board agenda page IV-44) [Official agenda item #14]

Marilyn Cook, director, educator certification, explained that the proposed revisions would incorporate courses approved by the State Board of Education (SBOE), would add certificate areas to the list of credentials appropriate for placement into an assignment, and would incorporate technical edits where needed to improve readability and align citations.

MOTION AND VOTE: *It was moved by Mr. Cortez, seconded by Dr. Robinson, and carried unanimously to recommend that the State Board of Education take no action on the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten–Grade 6 Assignments; Subchapter C, Grades 6–8 Assignments; and Subchapter E, Grades 9–12 Assignments.*

(Ms. Davis was absent for the vote.)

5. Review of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes

(Board agenda page IV-107)

[Official agenda item #15]

Christie Pogue, director of State Board for Educator Certification (SBEC) policy development and support, explained that the proposed amendment would update the SBEC's petition procedures to allow for increased ease in submitting a petition for rulemaking for the SBEC's consideration.

MOTION AND VOTE: *It was moved by Dr. Johnson, seconded by Dr. Robinson, and carried unanimously to recommend that the State Board of Education take no action on the proposed amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes.*

(Ms. Davis was absent for the vote.)

The meeting of the Committee on School Initiatives adjourned at 11:11 a.m.

