TITLE 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 55. CHILD SUPPORT ENFORCEMENT

SUBCHAPTER G. AUTHORIZED COSTS AND FEES IN IV-D CASES

1 TAC §55.155

The Office of the Attorney General (OAG), the State's Title IV-D agency under Family Code §231.001, adopts amendments to Title 1, Part 3, Chapter 55, Subchapter G, §55.155, regarding authorized fees in IV-D cases. The amended section is adopted without changes to the proposed text as published in the August 9, 2019, issue of the Texas Register (44 TexReg 1427) and will not be republished.

Section 454(6)(B)(ii) of the Social Security Act (42 U.S.C. §654(6)(B)(ii)) requires a State's Title IV-D agency to impose an annual service fee of $35 for furnishing services under the State's plan for child support enforcement. Section 13.01 of Senate Bill 891 (SB 891), 86th Legislature, Regular Session, 2019, amended Family Code §231.103(a) to increase the annual service fee that may be charged in Title IV-D cases from $25 to $35 as required by federal law. This amendment to Family Code §231.103(a) was effective September 1, 2019. The adopted amendments to §55.155 update fee information consistent with §454(6)(B)(ii) of the Social Security Act and the amendment to Family Code §231.103(a) and provide a central and convenient location for information regarding these child support fees on the OAG's website.

No comments were received regarding adoption of the amendments.

The amendments to §55.155 are adopted under Family Code §231.103(g), which grants the OAG rulemaking authority to establish procedures for the imposition of fees and recovery of costs authorized under §231.103.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 17, 2019.

TRD-201903343

TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 109. BUDGETING, ACCOUNTING, AND AUDITING

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING FINANCIAL ACCOUNTABILITY

19 TAC §109.1001

(EDITOR'S NOTE: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 19 TAC §109.1001 are not included in the print version of the Texas Register. The figures are available in the on-line version of the October 4, 2019, issue of the Texas Register.)

The Texas Education Agency (TEA) adopts an amendment to §109.1001, concerning financial accountability. The amendment is adopted with changes to the proposed text as published in the June 21, 2019, issue of the Texas Register (44 TexReg 3055) and will be republished. The adopted amendment updates financial accountability rating information and rating worksheets for school districts, open-enrollment charter schools, and charter schools operated by public institutions of higher education (IHEs).

REASONED JUSTIFICATION: Section 109.1001 includes the financial accountability rating system and rating worksheets that explain the indicators that the TEA will analyze to assign financial accountability ratings for school districts and open-enrollment charter schools. The rule also specifies the minimum financial accountability rating information that a school district or an open-enrollment charter school is to report to parents and taxpayers in the district.

The adopted amendment clarifies the financial accountability rating indicators used to determine each school district's rating for the 2018-2019 rating year and subsequent years by revising the ratings worksheet calculations in §109.1001(e)(4), (e)(5), (f)(4), and (f)(5). The adopted amendment also includes modifications to the rating worksheets in §109.1001(e)(4), (e)(5), (f)(4), (f)(5), (f)(6), and (f)(8).
(g)(1), and (g)(2) to clarify that financial accountability ratings for a rating year are based on the data from the prior fiscal year. The adopted worksheets, dated June 2019, differ from the current worksheets, dated February 2018, as follows.

Figure: 19 TAC §109.1001(e)(4), School FIRST Worksheet for Rating Years 2017-2018 through 2019-2020

The header in the worksheet is amended to clarify that the rating worksheet is for multiple rating years based on corresponding prior fiscal year end data.

The Determination of School District Rating table is revised to include the word "Achievement" beside the adopted terminology for each rating. The ratings terminology changes to "Superior Achievement," "Above Standard Achievement," and "Meets Standard Achievement."

Indicator 4 is revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

Indicator 5 is revised to amend the calculation by adding variable G for Other Post Employment Benefit (OPEB). The OPEB liability is added to the calculation to account for required changes in accounting requirements that adversely affect the total net position amount. Due to the implementation of the Governmental Accounting Standards Board (GASB) Statement No. 75 - Accounting and Financial Reporting for OPEB and the effect it has had on the district’s Statement of Net Position, the agency has determined that the indicator will not be utilized for the 2018-2019 rating year based on 2018 data and has made note of this on the worksheet at adoption.

Indicator 11 is revised to simplify the calculation for the administrative cost ratio.

Figure: 19 TAC §109.1001(e)(5), School FIRST Worksheet for Rating Year 2020-2021+

The header in the worksheet is amended to clarify that the rating worksheet is for multiple rating years based on corresponding prior fiscal year end data.

Indicator 4 is revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

Indicator 5 is revised to amend the calculation by adding variable G for OPEB. The OPEB liability would be added to the calculation to account for required changes in accounting requirements that adversely affect the total net position amount.

Indicator 6 is revised to clarify terminology to match the calculation and to correct the calculation by removing an extra parenthesis.

Indicator 7 is revised to clarify terminology to match the calculation.

Indicator 10 is revised to clarify terminology to match the calculation and to correct the order of operation in the calculation by adding and removing an extra parenthesis.

Indicator 13 is revised to simplify the calculation for the administrative cost ratio.

Indicator 20 is revised to clarify when the requirement for the indicator must be met. In response to public comment, the topic that is required to be discussed is also clarified at adoption.

Figure: 19 TAC §109.1001(f)(4), Charter FIRST Worksheet for Rating Years 2017-2018 through 2019-2020

The headers in the worksheets are amended to clarify that the rating worksheets are for multiple rating years based on corresponding prior fiscal year end data.

Indicator 4 is revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

No changes were made to this worksheet since published as proposed.

Figure: 19 TAC §109.1001(f)(5), Charter FIRST Worksheet for Rating Year 2020-2021+

The headers in the worksheets are amended to clarify that the rating worksheets are for multiple rating years based on corresponding prior fiscal year end data.

Indicator 4 is revised to amend the calculation text to allow for IRS payments made within 30 days to be considered timely payments.

Additionally, the agency made necessary corrections and clarifications to calculations for the following indicators on the Charter FIRST Worksheet 2020-2021+ (Figure: 19 TAC §109.1001(f)(5)) at adoption.

Indicator 6 is revised to amend the calculation by changing the terminology for variable A from one year to three years.

Indicator 6 is also revised to clarify the report name the calculation data comes from for variable F.

Indicator 7 is revised to clarify the report name the calculation data comes from for variable D.

Indicator 9 is revised to clarify the report name the calculation data comes from for variable C.

Indicator 10 is revised to amend the text to allow for fund 199 to be included in the calculation.

Indicator 12 is revised to clarify the report name the calculation data comes from for variables C, D, and E.

Figure: 19 TAC §109.1001(g)(1) and Figure: 19 TAC §109.1001(g)(2), IHE Charter FIRST Worksheet for Rating Years 2016-2017 through 2019-2020 and IHE Charter FIRST Worksheet for Rating Year 2020-2021+, respectively

The headers in the worksheets are amended to clarify that the rating worksheets are for multiple rating years based on corresponding prior fiscal year end data.

No changes were made to these worksheets since published as proposed.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began June 21, 2019, and ended July 22, 2019. Following is a summary of public comment received and agency response.

INDICATORS 6 and 7 - SCHOOL DISTRICTS

Comment: Concerning proposed Figure: 19 TAC §109.1001(e)(5), a representative from the Texas Association of School Business Officials (TASBO) commented that the wording and the object code data for Indicators 6 and 7 should be changed to use object codes 6100-6499 or reworded to reference total expenditures less facilities expenditure under function 81.
Agency Response: The agency agrees and has updated the worksheet at adoption to modify Indicators 6 and 7 in Figure: 19 TAC §109.1001(e)(4) to reference total expenditures in the calculation.

Comment: Concerning proposed Figure: 19 TAC §109.1001(e)(5), a representative from TASBO recommended that recapture payments be excluded from Indicator 7 since new legislation allows districts to make recapture payments in August.

Agency Response: The agency disagrees that the calculation should exclude recapture payments. Recapture payments are an expense that districts are still required to pay and is included with other expenditures in the denominator of the calculation. The calculation is used to determine if a district’s number of days of cash on hand plus cash investments in the general fund is sufficient to cover total expenditures.

**INDICATOR 10 - SCHOOL DISTRICTS**

2017-2018 through 2019-2020 Rating Year

Comment: Concerning proposed Figure: 19 TAC §109.1001(e)(4), a representative from Fort Bend Independent School District commented that current refundings are required to be recorded in function 71 and that the inclusion of large amounts from current refundings in the denominator produces a much lower ratio for districts with current refundings. The representative recommended excluding the current refunding amounts from the indicators so districts would have a higher debt service coverage ratio and earn maximum points for the indicator.

Agency Response: The agency agrees and will review audited reports submitted by districts for other financing sources to be excluded from the denominator. The comment does not necessitate a change to the indicator.

2020-2021+ Rating Years

Comment: Concerning proposed Figure: 19 TAC §109.1001(e)(5), a representative from TASBO commented that due to new legislation, revenue to districts will not be available until after the fall snapshot date and recommended that an automatic appeal for the indicator be allowed if the district adopted timely amendments to their budget as information about changes to revenue became available, even if the amendments came after the fall snapshot date.

Agency Response: The agency disagrees with the automatic appeal recommendation. A process is in place in 19 TAC §109.1001(n), which allows for the district to appeal any adverse issue it identifies in their preliminary rating no later than 30 days after the release of the preliminary ratings.

**INDICATOR 20 - SCHOOL DISTRICTS**

Comment: Concerning Figure: 19 TAC §109.1001(e)(5) a representative from TASBO commented that the calculation definition for Indicator 20 is confusing due to recent legislative changes and recommended that the indicator requirement be changed to a requirement that districts discuss legislative payment estimates and settle-up with their board.

Agency Response: The agency agrees and has updated the worksheet at adoption to modify the calculation for Indicator 20 in Figure: 19 TAC §109.1001(e)(5) to clarify the definition.

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §12.104, which subjects open-enrollment charter schools to the prohibitions, restrictions, or requirements relating to public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and TEC, Chapter 39A; TEC, §39.082, which states that the financial performance of a charter school operated by a public institution of higher education under TEC, Chapter 12, Subchapter D or E, shall be evaluated using only the indicators adopted under TEC, §39.082, determined by the commissioner by rule as appropriate to accurately measure the financial performance of such charter schools. The statute also requires the commissioner to develop and implement a financial accountability rating system for public schools and establishes certain minimum requirements for the system, including an appeals process; TEC, §39.083, which requires the commissioner to include in the financial accountability system procedures for public schools to report and receive public comment on an annual financial management report; TEC, §39.085, which requires the commissioner to adopt rules to implement TEC, Chapter 39, Subchapter D, which addresses financial accountability for public schools; and TEC, §39.151, which requires the commissioner to provide a process by which a district or charter school can challenge an agency decision related to academic or financial accountability under TEC, Chapter 39. This process must include a committee to make recommendations to the commissioner. These provisions collectively authorize and require the commissioner to adopt the financial accountability system rules, which implement each requirement of statute applicable to districts and open-enrollment charter schools.


(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Annual Financial Report (AFR)--The audited annual report required by the Texas Education Code (TEC), §44.008, that is due to the Texas Education Agency (TEA) by no later than 150 days after the close of a school district’s or an open-enrollment charter school's fiscal year.

(2) Ceiling indicator--An upper limit (the maximum score) at which a score from a standard limit of a specific indicator will result regardless of overall points.

(3) Debt--An amount of money owed to a person, bank, company, or other organization.

(4) Electronic submission--The TEA electronic data feed format required for use by school districts, open-enrollment charter schools, and regional education service centers (ESCs).

(5) Financial Integrity Rating System of Texas (FIRST)--The financial accountability rating system administered by the TEA in accordance with the TEC, §39.082 and §39.085. The system provides additional transparency to public education finance and meaningful financial oversight and improvement for school districts (School FIRST) and open-enrollment charter schools and charter schools operated by a public institution of higher education under TEC, Chapter 12, Subchapters D and E (Charter FIRST).

(6) Fiscal year--The fiscal year of a school district or an open-enrollment charter school, which begins on July 1 or September 1 of each year, as determined by the board of trustees of the district or
the governing body of the charter holder in accordance with the TEC, §44.0011.

(7) 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 this state.

(8) Open-enrollment charter school--A charter school authorized by the commissioner of education under TEC, Chapter 12, Subchapter D.

(9) Public institution of higher education (IHE)--A public college or university eligible to operate a school district; an open-enrollment charter school; or a TEC, Chapter 12, Subchapter E, charter school authorized by the commissioner.

(10) Summary of Finances (SOF) report--The document of record for FSP allocations. An SOF report is produced for each school district and open-enrollment charter school by the TEA division responsible for state funding that describes the school district's or open-enrollment charter school's funding elements and FSP state aid.

(11) Texas Student Data System Public Education Information Management System (TSDS PEIMS)--The system that school districts and open-enrollment charter schools use to load, validate, and submit their data to the TEA.

(12) Warrant hold--The process by which state payments issued to payees indebted to the state, or payees with a tax delinquency, are held by the Texas Comptroller of Public Accounts until the debt is satisfied in accordance with the Texas Government Code, §403.055.

(b) The TEA will assign a financial accountability rating to each school district, open-enrollment charter school, and charter school operated by a public IHE under TEC, Chapter 12, Subchapters D and E, as required by the TEC, §39.082.

(c) The commissioner will evaluate the rating system every three years as required by the TEC, §39.082, and may modify the system in order to improve the effectiveness of the rating system. If the rating system has been modified, the TEA will communicate changes to ratings criteria and their effective dates to school districts, open-enrollment charter schools, and charter schools operated by public IHEs.

(d) The TEA will use the following sources of data in calculating the financial accountability indicators for school districts, open-enrollment charter schools, and charter schools operated by public IHEs:

1. AFR. For each school district, open-enrollment charter school, and charter school operated by a public IHE, the TEA will use audited financial data in the district's or charter's AFR. The AFR, submitted as an electronic submission through the TEA website, must include data required in the Financial Accountability System Resource Guide (FASRG) adopted under §109.41 of this title (relating to Financial Accountability System Resource Guide);

2. TSDS PEIMS. The TEA will use TSDS PEIMS data submitted by the school district, open-enrollment charter school, or charter school operated by a public IHE in the calculation of the financial accountability indicators.

3. Warrant holds. The TEA will use warrant holds as reported by the Texas Comptroller of Public Accounts in the calculation of the financial accountability indicators.

4. FSP. The TEA will use the average daily attendance (ADA) information used for FSP funding purposes for the school district, open-enrollment charter school, or charter school operated by a public IHE in the calculation of the financial accountability indicators.

(e) The TEA will base the financial accountability rating of a school district on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.

1. The financial accountability rating indicators for rating year 2014-2015 are based on fiscal year 2014 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated August 2015 for rating year 2014-2015." Figure: 19 TAC §109.1001(e)(1) (No change.)

2. The financial accountability rating indicators for rating year 2015-2016 are based on fiscal year 2015 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated August 2015 for rating year 2015-2016." Figure: 19 TAC §109.1001(e)(2) (No change.)

3. The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated December 2016 for rating year 2016-2017." Figure: 19 TAC §109.1001(e)(3) (No change.)

4. The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 are based on financial data from fiscal years 2017, 2018, and 2019, respectively, and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated June 2019 for rating years 2017-2018 through 2019-2020." The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(e)(4)

5. The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated June 2019 for rating year 2020-2021." The financial accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(e)(5)

6. The specific calculations and scoring methods used in the financial accountability rating worksheets for school districts for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.

5. The TEA will base the financial accountability rating of an open-enrollment charter school on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.

(1) The financial accountability rating indicators for rating year 2014-2015 are based on fiscal year 2014 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2014-2015." Figure: 19 TAC §109.1001(f)(1) (No change.)

(2) The financial accountability rating indicators for rating year 2015-2016 are based on fiscal year 2015 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2015-2016." Figure: 19 TAC §109.1001(f)(2) (No change.)
The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2016-2017." Figure: 19 TAC §109.1001(f)(3) (No change.)

(4) The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 are based on financial data from fiscal years 2017, 2018, and 2019, respectively, and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated June 2019 for rating year 2017-2018." The financial accountability rating indicators for rating years 2017-2018, 2018-2019, and 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(f)(4)

(5) The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated June 2019 for rating year 2020-2021." The financial accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(f)(5)

(6) The specific calculations and scoring methods used in the financial accountability rating worksheets for open-enrollment charter schools for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.

(g) The TEA will base the financial accountability rating of a charter school operated by a public IHE on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.

(1) The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "IHE Charter FIRST - Rating Worksheet Dated June 2019 for rating years 2016-2017 through 2019-2020." The financial accountability rating indicators for rating years 2016-2017 through 2019-2020 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(g)(1)

(2) The financial accountability rating indicators for rating year 2020-2021 are based on fiscal year 2020 financial data and are provided in the figure in this paragraph entitled "IHE Charter FIRST - Rating Worksheet Dated June 2019 for rating year 2020-2021." The financial accountability rating indicators for rating years after 2020-2021 will use the same calculations and scoring method provided in the figure in this paragraph. Figure: 19 TAC §109.1001(g)(2)

(h) The types of financial accountability ratings that school districts or open-enrollment charter schools may receive for the rating year 2014-2015 are as follows.

(1) P for pass. This rating applies only to the financial accountability rating for rating year 2014-2015 based on fiscal year 2014 financial data. In accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a P rating if it scores within the applicable range established by the commissioner for a P rating.

(2) F for substandard achievement. This rating applies to the financial accountability rating for rating year 2014-2015 based on fiscal year 2014 financial data. In accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an F rating if it scores within the applicable range established by the commissioner for an F rating.

(i) The types of financial accountability ratings that school districts or open-enrollment charter schools may receive for the rating year 2015-2016 and all subsequent rating years are as follows.

(1) A for superior achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an A rating if it scores within the applicable range established by the commissioner for an A rating.

(2) B for above standard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a B rating if it scores within the applicable range established by the commissioner for a B rating.

(3) C for standard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a C rating if it scores within the applicable range established by the commissioner for a C rating.

(4) F for substandard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an F rating if it scores within the applicable range established by the commissioner for an F rating.

(5) No Rating. Beginning with the financial accountability rating for rating year 2016-2017 and all subsequent rating years, in accordance with the procedures established in this section, a school district receiving territory due to an annexation order by the commissioner under the TEC, §13.054, or consolidation under the TEC, Chapter 41, Subchapter H, will not receive a rating for two consecutive rating years beginning with the rating year that is based on financial data from the fiscal year in which the order of annexation becomes effective. After the second rating year, the receiving district will be subject to the financial accountability rating system established by the commissioner in this section.

(j) The types of financial accountability ratings that charter schools operated by public IHEs may receive for the rating year 2016-2017 and all subsequent rating years are as follows.

(1) P for pass. Beginning with the financial accountability rating for rating year 2016-2017 and all subsequent rating years, in accordance with the procedures established in this section, a charter school operated by a public IHE will receive a P rating if it scores within the applicable range established by the commissioner for a P rating.

(2) F for substandard achievement. Beginning with the financial accountability rating for rating year 2016-2017 and all subsequent rating years, in accordance with the procedures established in this section, a charter school operated by a public IHE will receive an F rating if it scores within the applicable range established by the commissioner for an F rating.

(k) The commissioner may lower a financial accountability rating based on the findings of an action conducted under the TEC, Chapter 39, or change a financial accountability rating in cases of dis-
Aster, flood, extreme weather conditions, fuel curtailment, or another calamity.

The commissioner will make a final ratings decision.

A financial accountability rating remains in effect until replaced by a subsequent financial accountability rating.

The TEA will issue a preliminary financial accountability rating to a school district, an open-enrollment charter school, or a charter school operated by a public IHE on or before August 8 of each year. The TEA will base the financial accountability rating for a rating year on the data from the fiscal year preceding the rating year.

If the TEA does not receive an appeal of a preliminary rating, described by subsection (n) of this section, the TEA will issue a final rating to the school district, open-enrollment charter school, or charter school operated by a public IHE no later than 60 days after the deadline for submitting appeals.

If the TEA does not receive an appeal of a preliminary rating, described by subsection (n) of this section, the preliminary rating automatically becomes a final rating 31 days after issuance of the preliminary rating.

A school district, an open-enrollment charter school, or a charter school operated by a public IHE may appeal its preliminary financial accountability rating through the following appeals process.

The TEA division responsible for financial accountability must receive a written appeal no later than 30 days after the TEA’s release of the preliminary rating. The appeal must include adequate evidence and additional information that supports the position of the school district, open-enrollment charter school, or charter school operated by a public IHE. Appeals received 31 days or more after TEA issues a preliminary rating will not be considered.

A data error attributable to the TEA is a basis for an appeal. If a preliminary rating contains a data error attributable to the TEA, a school district or an open-enrollment charter school may submit a written appeal requesting a review of the preliminary rating.

A school district, an open-enrollment charter school, or a charter school operated by a public IHE may appeal any other adverse issue it identifies in the preliminary rating.

The TEA will only consider appeals that would result in a change of the preliminary rating.

The TEA division responsible for financial accountability will select an external review panel to independently oversee the appeals process.

The TEA division responsible for financial accountability will submit the information provided by the school district, open-enrollment charter school, or charter school operated by a public IHE to the external review panel members for review.

Each external review panel member will examine the appeal and supporting documentation and will submit his or her recommendation to the TEA division responsible for financial accountability.

The TEA division responsible for financial accountability will compile the recommendations and forward them to the commissioner.
for professional consulting or other personal services. The schedule must separately report the amount received from each entity;

(iv) a summary schedule for the fiscal year of the total dollar amount of gifts that had a total economic value of $250 or more received by the executive officers and board members. This reporting requirement applies only to gifts received by the executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, Relationships by Consanguinity or by Affinity) of the school district, open-enrollment charter school (or charter holder), or charter school operated by a public IHE (or charter holder) from an outside entity that received payments from the school district, open-enrollment charter school (or charter holder), or charter school operated by a public IHE (or charter holder) in the prior fiscal year and to gifts from competing vendors that were not awarded contracts in the prior fiscal year. This reporting requirement does not apply to reimbursement by an outside entity for travel-related expenses when the purpose of the travel was to investigate matters directly related to an executive officer's or board member's duties or to investigate matters related to attendance at education-related conferences and seminars with the primary purpose of providing continuing education (this exclusion does not apply to trips for entertainment purposes or pleasure trips). This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had a total economic value of less than $250 per executive officer or board member; and

(v) a summary schedule for the fiscal year of the dollar amount received by board members for the total amount of business transactions with the school district, open-enrollment charter school (or charter holder), or charter school operated by a public IHE (or charter holder). This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; and

(C) any other information the board of trustees of the school district, open-enrollment charter school, or charter school operated by a public IHE determines to be useful.

(4) The board of trustees of each school district, open-enrollment charter school, or charter school operated by a public IHE must hold a public hearing on the annual financial management report within two months after receiving a final financial accountability rating. The public hearing must be held at a location in the facilities of the school district, open-enrollment charter school, or charter school operated by a public IHE. The board must give notice of the hearing to owners of real estate property in the geographic boundaries of the school district, open-enrollment charter school, or charter school operated by a public IHE and to parents of school district, open-enrollment charter school, or charter school operated by a public IHE students. In addition to other notice required by law, the board must provide notice of the hearing:

(A) to a newspaper of general circulation in the geographic boundaries of the school district, each campus of an open-enrollment charter school, or each campus of a charter school operated by a public IHE in one posting prior to holding the public meeting, providing the time and place of the hearing. The notice in the newspaper may not be earlier than 30 days or later than 10 days before the date of the hearing. If no newspaper is published in the county in which the district's central administration office is located or within the geographic boundaries of an open-enrollment charter school's campus or campus of a charter school operated by a public IHE, then the board must publish the notice in the county nearest to the county seat of the county in which the district's central administration office is located or in which the campus of the open-enrollment charter school or the campus of a charter school operated by a public IHE is located; and

(B) through electronic mail to the mass communication media serving the school district, open-enrollment charter school, or charter school operated by a public IHE, including, but not limited to, radio and television.

(5) At the hearing, the school district, open-enrollment charter school, or charter school operated by a public IHE must provide the annual financial management report to the attending parents and taxpayers.

(6) The school district, open-enrollment charter school, or charter school operated by a public IHE must retain the annual financial management report for at least three years after the public hearing and make it available to parents and taxpayers upon request.

(7) Each school district, open-enrollment charter school, or charter school operated by a public IHE that received an F rating must file a corrective action plan with the TEA, prepared in accordance with instructions from the commissioner, within one month after the public hearing of the school district, open-enrollment charter school, or charter school operated by a public IHE. The commissioner may require certain information in the corrective action plan to address the factor(s) that may have contributed to the F rating for a school district, open-enrollment charter school, or charter school operated by a public IHE.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Director, Rulemaking
Texas Education Agency
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For further information, please call: (512) 475-1497

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION

The State Board for Educator Certification (SBEC) adopts amendments to §§230.1, 230.21, 230.36, 230.37, and 230.101, concerning professional educator preparation and certification. The amendments to §§230.1, 230.21, 230.36, and 230.37 are adopted with changes to the proposed text as published in the May 31, 2019 issue of the Texas Register (44 TexReg 2672) and will be republished. The amendment to §230.101 is adopted without changes to the proposed text as published in the May 31, 2019 issue of the Texas Register (44 TexReg 2672) and will not be republished. The amendments update the figure specifying required tests for issuance of the standard certificate; create new requirements for issuance of intern and probationary certificates for the new intensive pre-service option in Chapter 228, Requirements for Educator Preparation Programs; and update the list of certification testing fees to include the performance-based assessment, edTPA, and content certification (subject-matter only) examinations.
REASONED JUSTIFICATION: The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 230 specify the requirements for issuance of educator certificates and permits, the testing requirements and associated fees, and the types and classes of certificates issued. These requirements ensure that educators are qualified and professionally prepared to instruct the schoolchildren of Texas.

Some of the changes correspond to revisions to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, which are published in the Adopted Rules section of this issue, and to amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Programs, which were published in the Proposed Rules section of the August 23, 2019 issue of the Texas Register.

§230.1. Definitions.

The adopted amendment to §230.1 aligns the test descriptions in Chapter 230 with the changes to pre-admission content testing (PACT) examinations adopted in 19 TAC Chapter 228 and proposed in Chapter 227.

Adopted new §230.1(8) defines the term content certification examination and adopted new §230.1(9) defines the term content pedagogy examinations. This amendment ensures alignment and clarity across chapters regarding the content of certification examinations. Conforming technical edits also were made.

Since published as proposed, the SBEC, at its July 2019 meeting, adopted a change to add new §230.1(17) to define the term pilot exam to align with the SBEC's intention of the two-year edTPA pilot and require the SBEC to review the pilot exam by September 1, 2021. Subsequent definitions were renumbered accordingly.

In addition, since published as proposed, the SBEC maintained the current definitions of educator and teacher in adopted §230.1(11) and §230.1(22).


The adopted amendment to §230.21(a)(1)(D) confirms that a candidate who has not passed a computer- or paper-based certification examination is required to wait 45 days before attempting the examination again. This 45-day wait period supports the reliability and validity of examination results for computer- and paper-based examinations because a candidate could potentially memorize the material and examination questions if he or she were allowed to retake the examination more frequently.

The adopted amendment aligns with TEC, §21.048(a)(1), that states that the SBEC may not require that more than 45 days elapse before a person may retake an examination. This change allows candidates completing a portfolio or performance-based examination to attempt the examination before the 45 days have elapsed.

Revisions to the figure in §230.21(e) were based on feedback from the October and December 2018 and February 2019 SBEC meetings, and Texas Education Agency (TEA) staff will be conducting a robust pilot of edTPA, a performance-based assessment for teachers prior to full implementation. At the April 2019 SBEC meeting, the SBEC approved the edTPA pilot.

The adopted amendment to Figure §230.21(e) adds edTPA as an optional assessment in addition to the current Pedagogy and Professional Responsibilities (PPR EC-12) exam for the demonstration of pedagogical knowledge and skills for the majority of initial educator certification categories. This change is necessary to enable a candidate taking part in the edTPA pilot to receive certification on the basis of edTPA and to prevent a pilot candidate from having to take an additional test, thus removing a potential disincentive from participating in the pilot and helping to ensure a more representative pilot sample.

Since published as proposed, the SBEC, at its July 2019 meeting, adopted a change to add the definition of pilot exam after each listed edTPA examination in Figure §230.21(e) to provide clarification that each edTPA optional examination will be used for pilot purposes only until and if the SBEC decides differently.

The adopted amendment aligns Figure §230.21(e) to the current list of active certifications by removing §233.10, Dance: Grades 8-12, and §233.5, Technology Applications: Grades 8-12, which are no longer offered. The adopted amendment replaces two TExES assessments: 141 Computer Science, 8-12 and 142 Technology Applications, EC-12, with the following updated TExES content assessments for those certificates: 241 Computer Science, 8-12 and 242 Technology Application, EC-12, respectively. These adopted changes are necessary to remove outdated provisions and provide clarity to candidates and preparation programs.

The adopted change to the column titles in Figure §230.21(e) aligns the test descriptions in this chapter with the changes to PACT examinations, concurrently adopted in 19 TAC Chapter 228 and proposed in Chapter 227, and aligns with the new definitions adopted in §230.1(8) and §230.1(9). The adopted amendment adjusts the "Required Content Test(s)" column name to "Required Content Pedagogy Test(s)" to reflect the distinction between examinations that test only pedagogy and those that test content in alignment with the new PACT examinations. The adopted amendment adjusts the "Pedagogy and Professional Responsibilities (PPR) Requirements" column name to "Pedagogical Requirement(s)" as it is intended to encompass all pedagogical assessments for all classes of certification.

In addition, the adopted amendment to Figure §230.21(e) moves the Performance Assessment for School Leaders (PASL), the content test for the Principal as Instructional Leader certification and endorsement, from the adopted new "Required Content Pedagogy Test(s)" column to the adopted new "Pedagogical Requirement(s)" column. This amendment aligns with the certificate issuance procedures found in §§230.36, 241.20, and 241.35 because the PASL is a performance-based pedagogical certification exam that will require additional time for candidates to complete during their intern year.

§230.36. Intern Certificates and §230.37. Probationary Certificates.

The SBEC is statutorily authorized to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse population of this state. The SBEC rules in 19 TAC §230.36 and §230.37 specify the types and classes of certificates issued. These rules help ensure that applicants for certification and candidates enrolled in educator preparation programs (EPPs) are qualified and professionally prepared to instruct the schoolchildren of Texas.

Research has shown that teachers who engage in hands-on practice as educators prior to entering the classroom as teachers of record are better prepared for their first teaching assignments, leading to better student outcomes. The adopted amendments to §§230.36 and §230.37, along with concurrently adopted amendments to Chapter 228, add an optional new route toward certification for candidates called intensive pre-ser-
service. The programmatic requirements of this route are stated in adopted new §228.33, Intensive Pre-Service. Candidates using the adopted new intensive pre-service option will demonstrate their proficiency and readiness to enter a classroom through pre-service practice instead of a standardized assessment. This will allow candidates to focus on their pre-service practice prior to entering the classroom as a teacher of record. Candidates will then be held accountable to the same required certification assessments as other educator candidates before becoming fully certified. The adopted amendments to §230.36 and §230.37 set out the requirements for certificate issuance of candidates participating in this adopted new optional intensive pre-service route.

The adopted amendments also include minor technical edits. §230.36. Intern Certificates.
The adopted amendment to §230.36(d)(1) and (2) aligns the test descriptions in Chapter 230 with the forthcoming changes to PACT examinations as outlined in the Chapter 227 proposal and aligns with the definition changes in §230.1(8) and §230.1(9). This change is necessary to ensure alignment across the chapters and to provide clarity and consistency for candidates and EPPs.

Adopted new §230.36(f) aligns with adopted new 19 TAC §228.33, Intensive Pre-Service, which will allow certification candidates to be supported by their EPP as they complete the programmatic requirements of intensive pre-service. The adopted new subsection (f) reflects the following.

Adopted new subsection (f) clarifies that the adopted new intensive pre-service option applies to applicants for certification admitted into an EPP on or after January 1, 2020, and clarifies that these applicants must meet the requirements specified in rule. This amendment aligns with the implementation date listed in adopted new §228.33, Intensive Pre-Service, and ensures programs are not allowed to issue certifications under this route until the stated implementation date.

Adopted new subsection (f)(1) clarifies that a passing score on the aligned pedagogical rubric specified in adopted new §228.33, Intensive Pre-Service, is a requirement for issuance of an intern certificate for the intensive pre-service option. This amendment defines the proficiency level required for candidates to be issued an intern certificate through intensive pre-service. This ensures that the teacher candidates have demonstrated a level of content and pedagogy before entering the classroom.

Adopted new subsection (f)(2) confirms successful completion of the required content certification (subject-matter only) examination and is required for issuance of an intern certificate for the intensive pre-service option. This amendment ensures that candidates issued an intern certificate through intensive pre-service have demonstrated a minimum amount of content knowledge needed to teach their specific certification category.

Adopted new subsection (f)(3) clarifies that candidates must meet the provisions, requirements, and conditions specified for issuance of all intern certificates in §230.36(a)-(c).

Adopted new subsection (f)(1) and (2) applies to all certification categories except Special Education EC-12 and Bilingual Education, acknowledging that candidates teaching in special education and bilingual categories need special critical proficiencies to serve in these specialized areas. Section 230.36(f)(2)(A) and (B) specify that Special Education EC-12 certification candidates must also pass the TExES Special Education Supplemen-
tal and that candidates for bilingual certificates would be required to pass the Bilingual Target Language Proficiency Test (BTLPPT) or related language proficiency exam. This amendment ensures that candidates teaching in Special Education and bilingual categories demonstrate the required critical proficiencies to serve in these specialized areas.

Since published as proposed, the SBEC, at its July 2019 meeting, adopted technical edits to §230.36(f)(2) to comport with the commissioner’s rules concerning passing standards for educator certification examinations in 19 TAC §151.1001.

§230.37. Probationary Certificates.
The adopted amendment to §230.37(e)(3) clarifies that the needed assessments for issuance of probationary certificates for certificate categories other than classroom teacher will be those listed in the content pedagogy column of Figure §230.21(e). The pedagogical assessments for certifications other than classroom teacher require extensive preparation and demonstration that would be unreasonable to complete before a candidate seeks a standard certificate. The adopted amendment will ensure that a candidate has the appropriate amount of time to complete the pedagogical assessment. Currently, this only applies to the Principal as Instructional Leader certification.

Adopted new §230.37(f) allows candidates undertaking intensive pre-service to receive a probationary certificate without having to pass the PPR EC-12 examination. The adopted amendment also clarifies that an applicant must meet the requirements for the intern certificate options specified in §230.36(f); the provisions, requirements, and conditions specified for all probationary certificates in §230.37(a)-(c); and successfully complete the required content pedagogy tests prescribed in Figure §230.21(e) by the end of the first school year. The adopted amendment ensures that candidates participating in this optional route are held to the same certification requirements as other candidates and allows candidates the time needed to complete the required assessments.

Since published as proposed, the SBEC, at its July 2019 meeting, adopted changes to consolidate the requirements in adopted §230.37(f)(1)-(3) to remove redundancies by combining former §230.37(f)(1)-(3) into new §230.37(f)(1). The SBEC also adopted technical edits to §230.37(f)(3) to comport with the commissioner’s rules concerning passing standards for educator certification examinations in 19 TAC §151.1001.

The adopted amendment to §230.101(c)(6) specifies the required fee for edTPA, and the adopted amendment to §230.101(c)(7) specifies the fee for edTPA re-takes. This establishes the fee for edTPA in rule and allows for the pilot of edTPA. During the pilot period, candidates have the option to take the edTPA or the current PPR EC-12 assessment.

Adopted new §230.101(d) differentiates between the examinations used for admission purposes and the examinations used for certification purposes.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began May 31, 2019, and ended July 1, 2019. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the July 26, 2019 meeting in accordance with the SBEC board operating policies and procedures. The following is a summary of the public comments received on the proposal and the responses.
Comment: Twelve Texas teachers, one Texas parent, one education non-profit organization, and four Texas EPP members expressed support for the proposed amendments, noting that the amendments will improve teacher preparedness by using a pre-service assessment that mirrors the expectations of teachers in the classroom.

Response: The SBEC agrees. The edTPA pilot provides pre-service teacher candidates the option of demonstrating their competency through a performance-based portfolio assessment centered on planning, instruction, and assessment.

Comment: Three Texas EPP member expressed support for the proposed amendments, noting that the amendments will help teacher candidates identify and address student needs.

Response: The SBEC agrees. The context for the learning section of Task 1 in edTPA asks candidates to identify the various needs of students. Subsequent tasks address the candidate's ability to address the needs through planning, instruction, and assessment.

Comment: One Texas teacher expressed support for the proposed amendments, noting low teacher retention in the first three years of teaching is partially due to lack of preparation for the realities of teaching.

Response: The SBEC agrees. Teacher effectiveness and preparedness are key factors influencing teacher attrition.

Comment: Four Texas teachers and one Texas parent expressed support for the proposed amendments, noting that the amendments will improve the quality of educator preparation and training by including relevant teacher tasks on the pre-service assessment.

Response: The SBEC agrees. EPPs should align their coursework and training to meet the expectations of edTPA, including planning, instruction, and assessment.

Comment: One Texas teacher expressed support for the proposed amendments, noting that the amendments will improve the quality of in-service teachers that support pre-service teachers.

Response: The SBEC agrees. The structure and content of the edTPA are aligned to research-based best practices that can benefit both in-service and pre-service teachers.

Comment: Three Texas teachers and two Texas EPP members expressed support for the proposed amendments, noting that the amendments will improve teacher self-reflection skills by requiring candidates to review video recordings of their teaching.

Response: The SBEC agrees. Video-based assignments and self-reflections are a long-standing best practice used for teacher development.

Comment: One Texas teacher expressed support for the proposed amendments, noting that a performance assessment may benefit candidates with test anxiety or those who are not strong test-takers.

Response: The SBEC agrees. edTPA is an assessment that is best utilized when shared with candidates early in the EPP.

Comment: One Texas teacher expressed support for the proposed amendments, noting that the amendments lead to using an assessment that emphasizes research and creative-thinking skills instead of broad-based knowledge.

Response: The SBEC disagrees. Using research-based practices and problem-solving skills are prioritized in the educator standards.

Comment: One Texas administrator suggested in his or her comment that the Board remove the certification assessment requirement for an intern certification.

Response: The SBEC disagrees. To ensure that a highly-qualified teacher is in the classroom with students, a minimum requirement that must be maintained is that a candidate demonstrate content knowledge prior to entering the classroom.

Comment: Education Career Alternative Program (ECAP) commented that the proposed amendments do not meet the legislative requirement found in TEC, §21.0441.

Response: The SBEC disagrees. TEC, §21.0441, states that a content certification examination may be administered by a vendor approved by the commissioner for purposes of administering such an examination for the year for which the person is applying for admission to the program. The proposed definition of content certification examination meets the statute as an examination used for the purposes of candidate admission.

Comment: Education Career Alternative Program (ECAP) suggested that the Praxis II series be used for purposes of the content certification examination.

Response: The SBEC disagrees. The Praxis II assessments do not match the number and scope of current Texas certifications. After reviewing the list of Praxis II assessments, 20 of the 51 initial certification fields do not have a corresponding Praxis II assessment. In addition, it is unclear if the assessments that do correspond have the adequate alignment to the Texas Essential Knowledge and Skills (TEKS).

Comment: Dallas Baptist University commented with concern that edTPA was a summative assessment.

Response: The SBEC disagrees. The proposed amendment would utilize edTPA as an optional summative assessment in addition to the current Pedagogy and Professional Responsibilities EC-12 assessment, which is also a summative assessment.

Comment: Dallas Baptist University commented expressing concern that edTPA would increase the cost of candidate assessment by $300.

Response: The SBEC disagrees. The edTPA assessment fee is $165 more than the current Pedagogy and Professional Responsibilities EC-12 assessment.

Comment: Dallas Baptist University commented expressing concern that edTPA would impact the hiring timeline for candidates.

Response: The SBEC disagrees. The proposed rules include an amendment that would allow candidates to retake performance assessments without having to wait 45-days.

Comment: Two Texas EPP members commented expressing concern that edTPA does not have research demonstrating a positive impact on teacher quality.

Response: The SBEC disagrees. There is currently early research from Washington and North Carolina that links edTPA to teacher quality.

Comment: Two Texas EPP members commented expressing concern over the costs and challenges with video recording and their impact on district partners.
Response: The SBEC disagrees. Programs in 41 other states have been able to meet the video recording requirement through stronger EPP and district partnerships.

Comment: Two Texas EPP members commented that edTPA has not been validated for certification purposes.

Response: The SBEC disagrees. Extensive field-testing has been conducted, and the results have validated edTPA as an assessment to be used for initial licensure purposes.

Comment: Three Texas EPP members commented that a T-TESS aligned performance assessment should be developed.

Response: The SBEC disagrees. TEA has conducted a thorough review of edTPA and Texas Teacher Education and Support System (T-TESS) and has found significant degrees of alignment. Utilizing T-TESS as a basis for a performance assessment would not necessarily meet the needs of Texas districts and programs. T-TESS, in addition to locally-adopted appraisal systems, is approved for use by Texas districts, and Texas EPPs utilize a number of different frameworks such as T-TESS, the TAP System for Teacher and Student Advancement, TAP, and Danielson among others.

Comment: McMurry University commented that there is a lack of access to survey and FAQ documents.

Response: The SBEC disagrees. All documents related to edTPA are published in the October 2018, December 2018, February 2019, and April 2019 SBEC agendas in addition to being sent to all EPPs prior to publishing.

Comment: Teach for America and Good Reason Houston commented that the 45-day retake wait period for computer-or paper-based examinations should be waived or reduced to 15 days. For rationale, the commenters cited that the resubmission wait period can serve as an obstacle for candidates being admitted into an alternative certification program.

Response: The SBEC disagrees. The 45-day retake wait period is essential in maintaining the validity and reliability of the assessments themselves and of the interpretation of the candidate result. The pre-admission content test (PACT) route is an option that some EPPs may require; therefore, the Board encourages candidates to seek admission to programs that do not require the PACT.

Comment: The University of Texas at Austin commented that the Science of Teaching Reading assessment being added to the Core Subjects: Early Childhood-Grade 6 will add a cost burden to candidates.

Response: The SBEC agrees. The addition of the Science of Teaching Reading assessment is mandated by House Bill 3, as added by the 86th Texas Legislature, 2019, to ensure that candidates are ready to teach the foundations of reading.

Comment: The University of Texas at Austin stated that the proposed amendments may lead to a reduction in the teaching force and the diversity of the teaching force.

Response: The SBEC disagrees. The data shows that numerous states have faced a decline in teacher production regardless of edTPA policy or fees. The performance differences between candidate groups are fewer on edTPA than on traditional multiple-choice assessments.

Comment: The University of Texas at Austin commented that the proposed amendments will add increased regulatory burdens for EPPs.

Response: The SBEC disagrees. EPPs are expected to meet the Texas educator standards in their coursework and training. These Texas educator standards are highly aligned to the expectations of edTPA.

Comment: The University of Texas at Austin commented that programs that demonstrate strong outcomes and require at least 100 hours of field-based experience should be exempt from edTPA and allowed to use the constructed-response Pedagogy and Professional Responsibilities assessment.

Response: The SBEC disagrees. All candidates must meet the same requirement for certification.

Comment: Texas Woman's University commented on edTPA's fiscal impact to candidates and the testing vendor.

Response: The SBEC agrees. There will be a fiscal impact should edTPA become the sole pedagogical assessment required for certification purposes; however, the adoption specifies edTPA is an optional pilot. The SBEC approved a change at adoption, subject to State Board of Education (SBOE) review, that adds a definition for pilot exam in §230.1 and adds the phrase "pilot exam" to all references to edTPA in Figure 230.21(e). A fiscal impact analysis is required if changes were proposed to make it mandatory.

The SBOE took no action on the review of amendments to §§230.1, 230.21, 230.36, 230.37, and 230.101 at the September 13, 2019 SBOE meeting.

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §230.1

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §21.041(b)(1), (2) and (4), which require the State Board for Educator Certification (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; which require the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and which specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.041(c), which states that the SBEC may adopt fees for the issuance and maintenance of an educator certification to adequately cover the cost of the administration; TEC, §21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.048, which states that the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes; TEC, §21.050(a), which states that a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), which states that the SBEC may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate; TEC, §21.050(c), which states that a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; and TEC, §22.082, which requires SBEC to subscribe to the criminal
history clearinghouse as provided by Texas Government Code, §411.0845, and may obtain any law enforcement or criminal history records that relate to a specific applicant for or holder of a certificate issued under Chapter 21, Subchapter B.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§21.041(b)(1), (2), and (4) and (c), 21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017; 21.048, 21.050, and 22.082.

§230.1. Definitions

The following words and terms, when used in this chapter, Chapter 232 of this title (relating to General Certification Provisions), and Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accredited institution of higher education—An institution of higher education that, at the time it conferred the degree, was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board.

(2) Appropriate—Suitable for a particular purpose. The term denotes compliance with State Board for Educator Certification (SBEC) rules and with SBEC procedures and policies posted on the Texas Education Agency website that are related to the stated particular purpose.

(3) Candidate—An individual who has been formally or contingently admitted into an educator preparation program; also referred to as an enrollee or participant.

(4) Certificate—Any educator credential issued by the State Board for Educator Certification under the authority of the Texas Education Code, Chapter 21, Subchapter B.

(5) Certification class—A certificate, as described in §230.33 of this title (relating to Classes of Certificates), that has defined characteristics and includes the following: superintendent, principal, classroom teacher, school counselor, school librarian, educational diagnostician, reading specialist, and master teacher.

(6) Charter school—A Texas public school operated by a charter holder under an open-enrollment charter school granted either by the State Board of Education (SBOE) or commissioner of education, whichever is applicable, pursuant to Texas Education Code, §12.101, identified with its own county district number.

(7) Classroom teacher—An educator who is employed by a school or district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technical education instructional setting. This term does not include an educational aide or a full-time administrator.

(8) Content certification examination—A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program.

(9) Content pedagogy examinations—A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's certification as an educator.

(10) Continuing professional education—Professional development required for the renewal of standard and/or lifetime certificates that is designed to ensure improvement in both the performance of the educator and achievement of his or her students.

(11) Educator—An individual who is required to hold a certificate issued under the Texas Education Code, Chapter 21, Subchapter B.

(12) Educator preparation program—An entity approved by the State Board for Educator Certification to offer training and coursework that must adequately prepare candidates for educator certification and meet the standards and requirements of the board.

(13) Examination—A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program, certification as an educator, continuation as an educator, or advancement as an educator.

(14) Hearing impairment—As defined in the Texas Education Code, §21.048(d)(1), a hearing impairment so severe that the person cannot process linguistic information with or without amplification.

(15) Initial certification—The first Texas educator certificate for a particular class issued to an individual as specified in §230.33 of this title (relating to Classes of Certificates).

(16) Intern certificate—A type of certificate issued to a candidate who has passed all required content examinations and is completing requirements for certification through an approved educator preparation program.

(17) Pilot exam—a certification exam that is subject to review by the State Board for Educator Certification prior to September 1, 2021.

(18) Private school—A non-public school whose educational program has been evaluated by a regional accrediting agency and whose program has met and is maintaining certain educational standards.

(19) Probationary certificate—A type of certificate issued to a candidate who has passed all required examinations and is completing requirements for certification through an approved educator preparation program.

(20) Professional class—A term that refers to certificates for duties other than classroom teacher (e.g., superintendent, principal, school counselor, school librarian, educational diagnostician, reading specialist, and master teachers).

(21) Standard certificate—A type of certificate issued to an individual who has met all requirements for a given class of certification, as specified in §230.33 of this title (relating to Classes of Certificates).

(22) Teacher—An individual who is required to hold a certificate issued under the Texas Education Code, Chapter 21, Subchapter B.

(23) Teacher of record—An educator who is employed by a school or district and who teaches in an academic instructional setting or a career and technical instructional setting not less than an average of four hours each day and is responsible for evaluating student achievement and assigning grades.

(24) Teacher service record—The official document used to record years of service and days used and accumulated under the state's former minimum sick leave program or the state's current personal leave program.

(25) Texas Essential Knowledge and Skills (TEKS)—The kindergarten-Grade 12 state curriculum in Texas adopted by the State
Board of Education and used as the foundation of all state certification examinations.

(26) Texas school district--A school district accredited and approved by the Texas Education Agency under the Texas Education Code, Chapter 11.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 23, 2019.

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State Board for Educator Certification
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For further information, please call: (512) 475-1497

SUBCHAPTER C. ASSESSMENT OF EDUCATORS

19 TAC §230.21

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §21.04(b)(1), (2), and (4), which require the State Board for Educator Certification (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; which require the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and which specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.048, which states that the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes; TEC, §21.050(a), which states that a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), which states that the SBEC may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate; TEC, §21.050(c), which states that a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §§54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; and TEC, §22.082, which requires SBEC to subscribe to the criminal history clearinghouse as provided by Texas Government Code, §411.0845, and may obtain any law enforcement or criminal history records that relate to a specific applicant for or holder of a certificate issued under Chapter 21, Subchapter B; and Texas Occupations Code, §54.003, which states that a licensing authority shall provide accommodations and eligibility criteria for examinees diagnosed as having dyslexia.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§21.041(b)(1), (2) and (4); 21.044(a), 21.048, as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017; 21.050; 22.082; and Texas Occupations Code, §54.003.

(a) A candidate seeking certification as an educator must pass the examination(s) required by the Texas Education Code (TEC), §21.048, and the State Board for Educator Certification (SBEC) in §233.1(e) of this title (relating to General Authority) and shall not retake an examination more than four times, unless the limitation is waived for good cause. The burden of proof shall be upon the candidate to demonstrate good cause.

(1) For the purposes of the retake limitation described by the TEC, §21.048, an examination retake is defined as a second or subsequent attempt to pass any examination required for the issuance of a certificate, including an individual core subject examination that is part of the overall examination required for the issuance of a Core Subjects certificate as described in §233.2 of this title (relating to Early Childhood; Core Subjects).

(A) A canceled examination score is not considered an examination retake.

(B) An examination taken by an educator during a pilot period is not considered part of an educator's five-time test attempt limit.

(C) Pursuant to TEC, §21.0491(d), the limit on number of test attempts does not apply to the trade and industrial workforce training certificate examination prescribed by the SBEC.

(D) A candidate who fails a computer- or paper-based examination cannot retake the examination before 45 days have elapsed following the candidate's last attempt to pass the examination.

(2) Good cause is:

(A) the candidate's highest score on an examination is within one conditional standard error of measurement (CSEM) of passing, and the candidate has completed 50 clock-hours of educational activities. CSEMs will be published annually on the Texas Education Agency (TEA) website;

(B) the candidate's highest score on an examination is within two CSEMs of passing, and the candidate has completed 100 clock-hours of educational activities;

(C) the candidate's highest score on an examination is within three CSEMs of passing, and the candidate has completed 150 clock-hours of educational activities;

(D) the candidate's highest score on an examination is not within three CSEMs of passing, and the candidate has completed 200 clock-hours of educational activities;

(E) if the candidate needs a waiver for more than one of the individual core subject examinations that are part of the overall examination required for the issuance of a Core Subjects certificate, the candidate has completed the number of clock-hours of educational activities required for each individual core subject examination as described in subparagraphs (A)-(D) of this paragraph up to a maximum of 300 clock-hours. The number of clock-hours for each examination may be divided equally based on the number of examinations in the waiver request, but the number of clock-hours for an examination shall not be less than 50; or

(F) if a CSEM is not appropriate for an examination, the TEA staff will identify individuals who are familiar and knowledgeable
with the examination content to review the candidate's performance on
the five most recent examinations, identify the deficit competency or
competencies, and determine the number of clock-hours of educational
activities required.

(3) Educational activities are defined as:

(A) institutes, workshops, seminars, conferences, inter-
active distance learning, video conferencing, online activities, under-
graduate courses, graduate courses, training programs, in-service, or
staff development given by an approved continuing professional ed-
cuation provider or sponsor, pursuant to §232.17 of this title (relat-
ing to Pre-Approved Professional Education Provider or Sponsor) and
§232.19 of this title (relating to Approval of Private Companies, Pri-
ivate Entities, and Individuals), or an approved educator preparation
program (EPP), pursuant to §228.10 of this title (relating to Approval
Process); and

(B) being directly related to the knowledge and skills
included in the certification examination competency or competencies
in which the candidate answered less than 70 percent of competency
questions correctly. The formula for identifying a deficit competency
is the combined total of correct answers for each competency on the five
most recent examinations divided by the combined total of questions
for each competency on the five most recent examinations.

(4) Documentation of educational activities that a can-
didate must submit includes:

(A) the provider, sponsor, or program's name, address,
telephone number, and email address. The TEA staff may contact the
provider, sponsor, or program to verify an educational activity;

(B) the name of the educational activity (e.g., course
title, course number);

(C) the competency or competencies addressed by the
educational activity as determined by the formula described in para-
graph (3)(B) of this subsection;

(D) the provider, sponsor, or program's description of
the educational activity (e.g., syllabus, course outline, program of
study); and

(E) the provider, sponsor, or program's written verifi-
cation of the candidate's completion of the educational activity (e.g.,
transcript, certificate of completion). The written verification must in-
clude:

(i) the provider, sponsor, or program's name;

(ii) the candidate's name;

(iii) the name of the educational activity;

(iv) the date(s) of the educational activity; and

(v) the number of clock-hours completed for the ed-
cucational activity. Clock-hours completed before the most re-
examination attempt or after a request for a waiver is submitted shall not
be included. One semester credit hour earned at an accredited institu-
tion of higher education is equivalent to 15 clock-hours.

(5) To request a waiver of the limitation, a candidate must
meet the following conditions:

(A) the candidate is otherwise eligible to take an exam-
ination. A candidate seeking a certificate based on completion of an
EPP must have the approval of an EPP to request a waiver;

(B) beginning September 1, 2016, the candidate pays
the non-refundable waiver request fee of $160;

(C) the candidate requests the waiver of the limitation
in writing on forms developed by the TEA staff; and

(D) the request for the waiver is postmarked not earlier
than:

(i) 45 calendar days after an unsuccessful attempt at
the fourth retake of an examination as defined in the TEC, §21.048; or

(ii) 90 calendar days after the date of the most recent
denied waiver of the limitation request; or

(iii) 180 calendar days after the date of the most re-
cent unsuccessful examination attempt that was the result of the most
recently approved request for waiver of the limitation.

(6) The TEA staff shall administratively approve each ap-
lication that meets the criteria specified in paragraphs (2)-(5) of this
subsection.

(7) An applicant who does not meet the criteria in para-
graphs (2)-(5) of this subsection may appeal to the SBEC for a final
determination of good cause. A determination by the SBEC is final
and may not be appealed.

(b) A candidate seeking a standard certificate as an educator
based on completion of an approved EPP may take the appropriate cer-
tification examination(s) required by subsection (a) of this section only
at such time as the EPP determines the candidate's readiness to take the
examinations, or upon successful completion of the EPP, whichever
comes first.

(c) The holder of a lifetime Texas certificate effective before
February 1, 1986, must pass examinations prescribed by the SBEC
to be eligible for continued certification, unless the individual has
passed the Texas Examination of Current Administrators and Teachers
(TECAT).

(d) The commissioner of education approves the satisfactory
level of performance required for certification examinations, and the
SBEC approves a schedule of examination fees and a plan for admin-
istering the examinations.

(e) The appropriate examination(s) required for certification
are specified in the figure provided in this subsection.

Figure: 19 TAC §230.21(e)

(f) Scores from examinations required under this title must be
made available to the examinee, the TEA staff, and, if appropriate, the
EPP from which the examinee will seek a recommendation for certifi-
cation.

(g) The following provisions concern ethical obligations relat-
ing to examinations.

(1) An educator or candidate who participates in the de-
velopment, design, construction, review, field testing, scoring, or val-
idation of an examination shall not reveal or cause to be revealed the
contents of the examination to any other person.

(2) An educator or candidate who administers an examination
shall not:

(A) allow or cause an unauthorized person to view any
part of the examination;

(B) copy, reproduce, or cause to be copied or repro-
duced any part of the examination;

(C) reveal or cause to be revealed the contents of the
examination;
(D) correct, alter, or cause to be corrected or altered any response to a test item contained in the examination;

(E) provide assistance with any response to a test item contained in the examination or cause assistance to be provided; or

(F) deviate from the rules governing administration of the examination.

(3) An educator or candidate who is an examinee shall not:

(A) copy, reproduce, or cause to be copied or reproduced any test item contained in the examination;

(B) provide assistance with any response to a test item contained in the examination, or cause assistance to be provided;

(C) solicit or accept assistance with any response to a test item contained in the examination;

(D) deviate from the rules governing administration of the examination; or

(E) otherwise engage in conduct that amounts to cheating, deception, or fraud.

(4) An educator, candidate, or other test taker shall not:

(A) solicit information about the contents of test items on an examination that the educator, candidate, or other test taker has not already taken from an individual who has had access to those items, or offer information about the contents of specific test items on an examination to individuals who have not yet taken the examination;

(B) fail to pay all test costs and fees as required by this chapter or the testing vendor; or

(C) otherwise engage in conduct that amounts to violations of test security or confidentiality integrity, including cheating, deception, or fraud.

(5) A person who violates this subsection is subject to:

(A) sanction, including, but not limited to, disallowance and exclusion from future examinations either in perpetuity or for a period of time that serves the best interests of the education profession, in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases); and/or

(B) denial of certification in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title; and/or

(C) voiding of a score from an examination in which a violation specified in this subsection occurred as well as a loss of a test attempt for purposes of the retake limit in subsection (a) of this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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State Board for Educator Certification
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SUBCHAPTER D. TYPES AND CLASSES OF CERTIFICATES ISSUED

19 TAC §230.36, §230.37

STATUTORY AUTHORITY. The amendments are adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.031(b), which states that the SBEC shall ensure that all candidates for certification or renewal of certification should demonstrate the knowledge and skills necessary to improve performance of a diverse student population; TEC, §21.041(b)(1)-(5), which require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; require 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; and require the SBEC to propose rules that include requirements for educators that hold a similar certification issued by another state or foreign country; TEC, §21.041(b)(9), which requires the SBEC to propose rules for regulation of continuing education requirements; TEC, §21.051, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017, which provides a requirement that before a school may employ a certification candidate as a teacher of record, the candidate must have completed at least 15 hours of field-based experience in which the candidate was actively engaged at an approved school in instructional or educational activities under supervision; TEC, §22.0831(c), which requires SBEC to review the national criminal history of a person seeking certification; and TEC, §22.0831(f)(1) and (2), which states that SBEC may propose rules regarding the deadline for the national criminal history check and implement sanctions for persons failing to comply with the requirements.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(5) and (9); 21.051, as amended by SB 1839, 85th Texas Legislature, Regular Session, 2017; and 22.0831(c) and (f).

§230.36. Intern Certificates.

(a) General provisions.

(1) Certificate classes. An intern certificate may be issued for any class of certificate except educational aide.

(2) Requirement to hold an intern certificate. A candidate seeking certification as an educator must hold an intern certificate while participating in an internship through an approved educator preparation program (EPP).

(b) Requirements for issuance. An intern certificate may be issued to a candidate seeking certification as an educator who meets the conditions and requirements prescribed in this subsection.

(1) Bachelor's degree. Except as otherwise provided in rules of the State Board for Educator Certification related to certain career and technical education certificates based on skill and expe-
(2) General certification requirements. The candidate must meet the general certification requirements prescribed in §230.11 of this title (relating to General Requirements).

(3) Fee. The candidate must pay the fee prescribed in §230.101 of this title (relating to Schedule of Fees for Certification Services).

(4) Fingerprint. The candidate must submit fingerprints in accordance with §232.35(c) of this title (relating to Submission of Required Information) and the Texas Education Code (TEC), §22.0831.

(c) Conditions. The validity and effectiveness of an intern certificate is subject to the following conditions.

(1) Internship. The holder of an intern certificate must be a participant in a good standing of an approved Texas EPP, serving in an acceptable, paid internship supervised by the EPP.

(2) Inactive status. An intern certificate will become inactive 30 calendar days after the holder's separation from the school assignment or the EPP. The unexpired term of an intern certificate may be reactivated if the holder satisfies the requirements specified in this section.

(3) Term of an intern certificate. An intern certificate shall be valid for one 12-month period from the date of issuance.

(4) Limit on preliminary certifications and permits. Without obtaining standard certification, an individual may not serve for more than three 12-month periods while holding any combination of the following:

(A) Intern certificates, limited to one 12-month period maximum, as described in this subsection;

(B) Probationary certificates, limited to two 12-month periods, as specified in §230.37 of this title (relating to Probationary Certificates)

(C) Emergency permits as specified in Subchapter F of this chapter (relating to Permits); or

(D) One-year certificates as specified in Subchapter H of this chapter (relating to Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States) and Chapter 245 of this title (relating to Certification of Educators from Other Countries).

(5) Reduction in force exception. If an educator is employed under an intern certificate and is terminated or resigns in lieu of termination before the end of the school year due to a reduction in force, that intern term shall not count as one of the three years referenced in paragraph (4) of this subsection.

(d) Testing requirements for issuance of an intern certificate. Beginning September 1, 2017, a candidate must meet the subject matter knowledge requirements for issuance of an intern certificate to serve an internship in a classroom teacher assignment for each subject area to be taught.

(1) To meet the subject matter knowledge requirements to be issued an intern certificate for an internship in a classroom teacher assignment on or after September 1, 2017, a candidate must pass all of the appropriate content pedagogy examinations, as prescribed in Subchapter C of this chapter.

(2) To meet the subject matter knowledge requirements to be issued an intern certificate for an internship in a career and technical education classroom teacher assignment that is based on skill and experience on or after September 1, 2017, a candidate must satisfy the requirements for that subject area contained in §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)) and pass the appropriate content pedagogy examination(s), as prescribed in Subchapter C of this chapter.

(e) Intern certificate in a certification class other than classroom teacher. An intern certificate may be issued for assignment as a superintendent, principal, reading specialist, master teacher, school librarian, school counselor, and educational diagnostician to an individual who meets the applicable requirements prescribed in subsection (b) of this section and who also meets the requirements prescribed in this subsection.

(1) An applicant for an intern certificate in a certification class other than classroom teacher must meet all requirements established by the recommending EPP, which shall be based on the qualifications and requirements for the class of certification sought and the duties to be performed by the holder of an intern certificate in that class.

(2) The individual must have also been:

(A) accepted and enrolled to participate in a Texas EPP that has been approved to prepare candidates for the certificate sought; and

(B) assigned in the certificate area being sought in a Texas school district, open-enrollment charter school, or, pursuant to §228.35 of this title (relating to Preparation Program Coursework and/or Training), other school approved by the TEA.

(3) The holder of an intern certificate in a certification class other than classroom teacher is subject to all terms and conditions of an intern certificate prescribed in subsection (c) of this section.

(4) The following provisions apply to the intern certificate for Principal as Instructional Leader:

(A) During the transition period of December 1, 2018 through September 1, 2019, the SBEC may issue an intern certificate to a candidate who meets the requirements specified in paragraphs (1)-(3) of this subsection.

(B) Effective September 1, 2019, the SBEC may issue an intern certificate to a candidate who meets requirements specified in paragraphs (1)-(3) of this subsection and has passed the Principal as Instructional Leader examination specified in Subchapter C of this chapter (relating to Assessment of Educators).

(f) Intern certificate for intensive pre-service. An intern certificate may be issued to an applicant who is a special education pre-service as prescribed in §228.33 of this title (relating to Intensive Pre-Service) on or after January 1, 2020, who:

(1) obtained a passing score on the aligned pedagogical rubric specified in §228.33 of this title;

(2) obtained a passing score, in accordance with §151.1001 of this title (relating to Passing Standards), on the required content certification (subject-matter only) examination and the following additional requirements for special education and bilingual assignments;
(A) Special education assignments also require a passing score, in accordance with §151.1001 of this title, on the TExES Special Education Supplemental examination prescribed in §230.21(e) of this title (relating to Educator Assessment); and

(B) Bilingual education assignments also require a passing score, in accordance with §151.1001 of this title, on the TExES Bilingual Target Language Proficiency examination or the related language proficiency examination prescribed in §230.21(e) of this title; and

(3) met the requirements as prescribed in subsections (a)-(c) of this section.

§230.37. Probationary Certificates.

(a) General provisions.

(1) Certificate classes. A probationary certificate may be issued for any class of certificate except educational aide.

(2) Requirement to hold a probationary certificate. A candidate seeking certification as an educator must hold a probationary certificate while participating in an internship through an approved educator preparation program (EPP).

(b) Requirements for issuance. A probationary certificate may be issued to a candidate seeking certification as an educator who meets the conditions and requirements prescribed in this subsection.

(1) Bachelor's degree. Except as otherwise provided in rules of the State Board for Educator Certification related to certain career and technical education certificates based on skill and experience, the candidate must hold a bachelor's degree or higher from an accredited institution of higher education. An individual who has earned a degree outside the United States must provide an original, detailed report or course-by-course evaluation of all college-level credits prepared by a foreign credential evaluation service recognized by the Texas Education Agency (TEA). The evaluation must verify that the individual holds, at a minimum, the equivalent of a bachelor's degree issued by an accredited institution of higher education in the United States.

(2) General certification requirements. The candidate must meet the general certification requirements prescribed in §230.11 of this title (relating to General Requirements).

(3) Fee. The candidate must pay the fee prescribed in §230.101 of this title (relating to Schedule of Fees for Certification Services).

(4) Fingerprints. The candidate must submit fingerprints in accordance with §232.35(e) of this title (relating to Submission of Required Information) and the Texas Education Code (TEC), §22.0831.

(c) Conditions. The validity and effectiveness of a probationary certificate is subject to the following conditions.

(1) Internship. The holder of a probationary certificate must be a participant in good standing of an approved Texas EPP, serving in an acceptable, paid internship supervised by the EPP.

(2) Inactive status. A probationary certificate will become inactive 30 calendar days after the holder's separation from the school assignment or the EPP. The unexpired term of a probationary certificate may be reactivated if the holder satisfies the program enrollment and school assignment requirements specified in §228.35 of this title (relating to Preparation Program Coursework and/or Training).

(3) Term of a probationary certificate. A probationary certificate shall be valid for a 12-month period from the date of issuance.

(4) Limit on preliminary certifications and permits. Without obtaining standard certification, an individual may not serve for more than three 12-month periods while holding any combination of the following:

(A) intern certificates, limited to one 12-month period maximum, as described in this subsection;

(B) probationary certificates, limited to two 12-month periods maximum, as described in this subsection;

(C) emergency permits as specified in Subchapter F of this chapter (relating to Permits); or

(D) one-year certificates as specified in Subchapter H of this chapter (relating to Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States) and Chapter 245 of this title (relating to Certification of Educators from Other Countries).

(5) Reduction in force exception. If an educator is employed under a probationary certificate and is terminated or resigns in lieu of termination before the end of the school year due to a reduction in force, that probationary term shall not count as one of the two allowed annual probationary terms.

(d) Testing requirements for issuance of a probationary certificate.

(1) Prior to September 1, 2017, a candidate must meet the subject matter knowledge requirements for issuance of a probationary certificate to serve an internship in a classroom teacher assignment for each subject area to be taught:

(A) At the elementary school level, by passing the appropriate subject area certification examination(s), as prescribed in Subchapter C of this chapter (relating to Assessment of Educators), appropriate to the grade level and subject matter assignment(s) as prescribed in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments).

(B) At the middle or high school level:

(i) by passing the appropriate subject area certification examination(s), as prescribed in Subchapter C of this chapter, appropriate to the grade level and subject matter assignment(s) as prescribed in Chapter 231 of this title; or

(ii) by completing coursework that complies with the TEC, §21.050, and comprised of not fewer than 24 semester credit hours, including 12 semester credit hours of upper division coursework in the subject area(s) taught; or

(iii) in the case of career and technical education assignments based on skill and experience, by satisfying the requirements for that subject area contained in §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

(C) A candidate who is the teacher of record in a special education assignment must meet the appropriate subject matter knowledge requirements prescribed in subparagraph (A) and/or (B) of this paragraph and pass the appropriate special education certification examination(s), as prescribed in Subchapter C of this chapter, appropriate to the assignment(s) as prescribed in Chapter 231 of this title. If a candidate has not passed the special education supplemental examination prior to the beginning of an internship, an EPP may permit the internship assignment if:
(i) the EPP has developed a plan to address any deficiencies identified through the candidate's previous attempt(s) on the examination; and 

(ii) the EPP implements the plan during the initial internship. An EPP shall not permit an additional internship if all examinations requirements are not met.

(D) A candidate who is in a bilingual education and/or English as a Second Language (ESL) assignment must meet the appropriate subject matter knowledge requirements prescribed in subparagraph (A) and/or (B) of this paragraph and pass the appropriate bilingual education and/or ESL certification examination(s), as prescribed in Subchapter C of this chapter, appropriate to the assignment(s) as prescribed in Chapter 231 of this title. If a candidate has not passed the bilingual education supplemental examination, ESL supplemental examination, or the Bilingual Target Language Proficiency test prior to the beginning of an internship, an EPP may permit the internship if:

(i) the EPP has developed a plan to address any deficiencies identified through the candidate's previous attempt(s) on the examination(s); and

(ii) the EPP implements the plan during the initial internship. An EPP shall not permit an additional internship if all examination requirements are not met.

(2) Beginning September 1, 2017, a candidate must meet all testing requirements for issuance of a probationary certificate.

(A) To meet the subject matter knowledge requirements to be issued a probationary certificate for an internship in a classroom teacher assignment, a candidate must pass the appropriate certification examination(s), including the appropriate pedagogy and professional responsibilities examination, as prescribed in Subchapter C of this chapter.

(B) To meet the subject matter knowledge requirements to be issued a probationary certificate for an internship in a career and technical education classroom teacher assignment that is based on skill and experience, a candidate must satisfy the requirements for that subject area contained in §233.14 of this title and pass the appropriate certification examination(s), including the appropriate pedagogy and professional responsibilities examination, as prescribed in Subchapter C of this chapter.

(c) Probationary certificate in a certification class other than classroom teacher. A probationary certificate may be issued for an assignment as a superintendent, principal, reading specialist, master teacher, school librarian, school counselor, and/or educational diagnostician to an individual who meets the applicable requirements prescribed in subsection (b) of this section and who also meets the requirements prescribed in this subsection.

1. An applicant for a probationary certificate in a certification class other than classroom teacher must meet all requirements established by the recommending EPP, which shall be based on the qualifications and requirements for the class of certification sought and the duties to be performed by the holder of a probationary certificate in that class.

2. The individual must have also been:

   (A) accepted and enrolled to participate in a Texas EPP that has been approved to prepare candidates for the certificate sought; and

   (B) assigned in the certificate category being sought in a Texas school district, open-enrollment charter school, or, pursuant to §228.35 of this title, other school approved by the TEA.

3. Effective September 1, 2017, to meet the subject matter requirements for issuance of the probationary certificate in a certification class other than classroom teacher, the individual must pass the appropriate content pedagogy examination(s) for that certificate.

4. The holder of a probationary certificate in a certification class other than classroom teacher is subject to all terms and conditions of an intern certificate prescribed in subsection (c) of this section.

(f) Probationary certificate for intensive pre-service. A probationary certificate may be issued to an applicant who is admitted to an EPP intensive pre-service as prescribed in §228.33 of this title (relating to Intensive Pre-Service) on or after January 1, 2020, who:

   (1) meets the applicable requirements prescribed in subsections (a)-(c) of this section;

   (2) has met requirements of §230.36(f) of this title; and

   (3) has obtained a passing score, in accordance with 19 TAC §151.1001 of this title (relating to Passing Standards), on the required content pedagogy tests prescribed in §230.21(e) of this title (relating to Educator Assessment).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

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State Board for Educator Certification
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For further information, please call: (512) 475-1475

SUBCHAPTER G. CERTIFICATE ISSUANCE PROCEDURES
19 TAC §230.101

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1)-(5), which require the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; require 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; and require the SBEC to propose rules that include requirements for educators that hold a similar certification issued by another state or foreign country; TEC, §21.041(b)(9), which requires the SBEC to propose rules for regulation of continuing education requirements; TEC, §21.041(c), which states that the SBEC may adopt fees for the issuance and maintenance of an educator certification to adequately cover the cost of the administration; TEC, §21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, which
The professionals; TRD-201903446 requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.044(e), which states that in proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, the board shall specify that a person must have: (1) an associate degree or more advanced degree from an accredited institution of higher education; (2) current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and (3) at least two years of wage earning experience utilizing the licensure requirement; TEC, §21.044(f), which states that the SBEC may not propose rules for a certificate to teach a health science technology education course that specify that a person must have a bachelor’s degree or that establish any other credential or teaching experience requirements that exceed the requirements under Subsection (e); TEC, §21.048, which states that the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes; TEC, §21.0485, which states the issuance requirements for certification to teach students with visual impairments; TEC, §21.050(a), which states that a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), which states that the SBEC may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate; TEC, §21.050(c), which states that a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate; TEC, §21.054(a), as amended by SB 7, 179, and 1839, 85th Texas Legislature, Regular Session, 2017, which requires the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements; TEC, §22.0831(f)(1) and (2), which states that SBEC may propose rules regarding the deadline for the national criminal history check and implement sanctions for persons failing to comply with the requirements; and Texas Occupations Code, §53.105, states that a licensing authority may require a fee that is an amount sufficient to cover the cost of administration.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§21.031(a); 21.041(b)(1)-(5) and (9) and (c); 21.044(a), as amended by Senate Bills (SBs) 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, (e), and (f); 21.048; 21.0485; 21.050; 21.054(a), as amended by SBs 7, 179, and 1839, 85th Texas Legislature, Regular Session, 2017; 22.082; and 22.0831(f); and the Texas Occupations Code, §53.105.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 23, 2019.

TRD-201903446

Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Effective date: October 13, 2019
Proposal publication date: May 31, 2019
For further information, please call: (512) 475-1497

TITLE 22. EXAMINING BOARDS
PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY
CHAPTER 501. RULES OF PROFESSIONAL CONDUCT
SUBCHAPTER E. RESPONSIBILITIES TO THE BOARD/PROFESSION
22 TAC §501.91
The Texas State Board of Public Accountancy adopts an amendment to §501.91, concerning Reportable Events, with revisions to the text as published in the April 5, 2019, issue of the Texas Register (44 TexReg 1698), which can be found in subsections (a)(1)(B) and (a)(5), subsections (c), (d), (g) and (h), and will be republished. The revisions were made in response to public comments received.

The amendment to §501.91 requires licensees to report settlements and any terms, conditions and allegations of unappealable adverse findings, agreed consent orders, or agreed settlements, as they relate to professional accounting work or criminal activity, to the Board. Confidentiality agreements between the licensee and another party will not eliminate the requirement to report the matters identified to the board.

Two comments were received regarding adoption of the amendment from the AICPA and John Sharbaugh.

Letter of comment
The Board received a letter from the AICPA commenting on the proposed revision expressing concern that: 1) the Board would require the reporting of all settlement agreements including those prior to litigation and suggests that only settlements that exceed $150,000 be reported; 2) settlements made confidential between the parties not be subject to discovery, subpoena, the Public Information Act (PIA) or other means of legal compulsion other than the Board; and 3) proposed revised §501.91(a)(5) be rewritten to be clarified.

A subsequent communication from John Sharbaugh attempted to address the confidentiality of documents as used in SOAH proceedings.

Response to comment
One suggestion in the original comment letter is that the Board rules contain language that protects the confidentiality of settlement agreements and that they not be subject to discovery, subpoena, the PIA or other means of legal compulsion. The Board will protect the confidentiality of matters that the legislature has declared confidential or privileged as provided for in §901.160 and §901.161 of the Act. The Board does not have the authority to create confidentiality beyond what the legislature has declared to be confidential or privileged. In addition the Board does not
adopt a dollar amount threshold for reporting settlements. The Board believes that if a settlement is important enough to reduce to writing it should be reported to the Board.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§501.91. Reportable Events.

(a) A licensee or certificate holder shall report in writing to the board the occurrence of any of the following events within 30 days of the date the licensee or certificate holder has knowledge of these events:

(1) the filing of criminal charges or the conviction or imposition of deferred adjudication of the licensee or certificate holder of:

   (A) a felony;
   (B) a crime of moral turpitude as listed in §519.7(a)(2) of this title (relating to Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License);
   (C) a crime of which fraud or dishonesty is an element as listed in §519.7(a)(1) of this title;
   (D) a crime that involves alcohol abuse or controlled substances as listed in §519.7(a)(3) of this title;
   (E) a crime of physical injury or threats of physical injury to a person as listed in §519.7(a)(4) of this title; or
   (F) a crime related to the qualifications, functions, or duties of a public accountant or CPA, or to acts or activities in the course and scope of the practice of public accountancy or as a fiduciary.

(2) the cancellation, revocation, or suspension or a voluntary consent decree of the right to practice as a CPA or a public accountant by any governmental body or agency or state, foreign country, or other jurisdiction for a reason other than the failure to pay the appropriate authorization fee;

(3) an un-appealable adverse finding in any state or federal court, an agreed settlement in a civil action against the licensee or certificate holder, or an agreed consent order or settlement with a regulatory authority or licensing body concerning professional accounting services or professional accounting work;

(4) a negotiated settlement evidencing deficient accounting services; or

(5) the revocation, suspension, or voluntary consent decree or any limitation on a professional license from any state or federal regulatory agency such as an insurance license or a securities license, resulting from an un-appealable adverse finding.

(b) The report required by subsection (a) of this section shall be signed by the licensee or certificate holder and shall set forth the facts which constitute the reportable event. If the reportable event involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.

(c) Regardless of whether a civil suit or administrative adjudicatory action has been filed, a licensee shall notify the board within 30 days of any written settlement agreement in which a licensee has been released from any or all claims or liabilities grounded, in whole or in part, upon an allegation of:

(1) professional negligence, gross negligence, dishonesty, fraud, misrepresentation, incompetence; or

(2) a violation of any consent order or settlement with a regulatory or licensing body concerning professional accounting services or professional accounting work.

(d) A licensee is not required to report to the board any of the events set forth in subsection (c) of this section when no Texas licensee is involved in the event or no harm has been caused to a person or entity located in Texas. The firm may contact the board to determine what may constitute involvement or harm to a person or entity located in Texas.

(e) Nothing in this section imposes a duty upon any licensee or certificate holder to report to the board the occurrence of any of the events set forth in subsection (a) of this section either by or against any other licensee or certificate holder.

(f) As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, plea of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence may not be actually imposed until all appeals are exhausted.

(g) Confidentiality provisions in the terms of any settlement of the reportable events described in subsections (a) and (c) of this section shall not limit the licensee or certificate holder's obligation to report such event and to cooperate fully with the board in any investigation. All information gathered or received by the board regarding a disciplinary action is confidential and not subject to disclosure under Chapter 552 of the Government Code (relating to Public Information) prior to public hearing.

(h) Interpretive Comment: A crime of moral turpitude is defined in this chapter as a crime involving grave infringement of the moral sentiment of the community and further defined in §501.90(19) of this chapter (relating to Discreditable Acts) and §519.7 of this title.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903998
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: April 5, 2019
For further information, please call: (512) 305-7842

CHAPTER 511. ELIGIBILITY
SUBCHAPTER B. CERTIFICATION BY EXAMINATION
22 TAC §511.21
The Texas State Board of Public Accountancy adopts an amendment to §511.21, concerning Examination Application, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4004). The rule will not be republished.
The amendment to §511.21 makes it clear that the fingerprinting of licensees must be from a vendor approved by the Department of Public Safety.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903399
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

SUBCHAPTER F. EXPERIENCE REQUIREMENTS

22 TAC §511.122

The Texas State Board of Public Accountancy adopts an amendment to §511.122, concerning Acceptable Work Experience, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4005). The amended rule will not be republished.

The amendment to §511.122 establishes the type of work experience needed to qualify to be certified.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201903400
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

CHAPTER 512. CERTIFICATION BY RECIPROCITY

22 TAC §512.1

The Texas State Board of Public Accountancy adopts an amendment to §512.1, concerning Certification as a Certified Public Accountant by Reciprocity, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4008) and will not be republished.

The amendment to §512.1 makes it clear that the fingerprinting of licensees must be from a vendor approved by the Department of Public Safety.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.
No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

 Filed with the Office of the Secretary of State on September 20, 2019.
TRD-201903404
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
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Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

CHAPTER 513. REGISTRATION
SUBCHAPTER B. REGISTRATION OF CPA FIRMS

22 TAC §513.11

The Texas State Board of Public Accountancy adopts an amendment to §513.11, concerning Qualifications for Non-CPA Owners of Firm License Holders, without changes to the proposed text as published in the August 2, 2019 issue of the Texas Register (44 TexReg 4010) and will not be republished.

The amendment to §513.11 removes the term "good moral character" which has been removed from the Act as a basis for not issuing a license and adds language regarding fingerprinting requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201903403
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §513.15

The Texas State Board of Public Accountancy adopts an amendment to §513.15, concerning Firm Offices, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4011) and will not be republished.

The amendment to §513.15 clarifies that a resident manager must be designated.

Response: Licensees will receive specific fingerprinting instructions in their renewal notice at least 45 days prior to their current expiration date. The staff is of the opinion that addressing the mechanics of the fingerprinting process in a mailing to each individual applicant will be more effective than having the instructions in a Board rule. Note: Applicant will be advised that the collection and submission of fingerprints will be handled by a third-party vendor (IdentoGo) under contract with the Texas Department of Public Safety and not by the Board or a Board vendor. There will be about 85 IdentoGo locations in-state and some locations out-of-state. The out-of-state and international fingerprinting process will not require travel to Texas to fulfill the requirement. If an applicant is unable to be fingerprinted through IdentoGo, the applicant can be fingerprinted at a law enforcement agency. If the DPS and or the FBI are unable to read the fingerprints, the applicant will be required to provide an additional set. If an applicant submitted electronic fingerprints to the Board after September 1, 2014, no additional fingerprints are required. However, all individuals who submitted fingerprints on or after September 1, 2014, will not need to be re-fingerprinted.
The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§515.1. License.

(a) An individual or firm license holder is responsible for renewing the license before the expiration date of the license.

(b) An individual certified or registered by this board must obtain a license for a 12-month interval and the license shall not be issued or renewed unless the board has received all required fees, satisfactory documentation of compliance with CPE requirements and a completed application which includes fingerprints unless fingerprints have been previously submitted for licensure on or after September 1, 2014.

(c) Subject to §515.3 of this chapter (relating to License Renewals for Individuals and Firm Offices), a firm registered with the board must obtain a license for each office associated with the firm.

(d) An individual license holder shall submit to the Department of Public Safety a complete and legible set of fingerprints from a vendor approved by the Department of Public Safety for the purpose of obtaining the applicant's criminal history record information. The fingerprinting can be waived by the executive director with evidence of extenuating circumstances. An extenuating circumstance would exist when doing so is not possible or would likely harm or cause irreparable damage to the license holder. Examples of extenuating circumstances include, but are not limited to, persons lacking fingers, the ability to produce fingerprints, or persons with no fingerprints. Evidence of an extenuating circumstance shall be required by the executive director where appropriate and may include medical documentation.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201903405
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §515.3

The Texas State Board of Public Accountancy adopts an amendment to §515.3, concerning License Renewals for Individuals and Firm Offices, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4014) and will not be republished.

The amendment to §515.3 reflects the new requirement for the fingerprinting of licensees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §515.5

The Texas State Board of Public Accountancy adopts an amendment to §515.5, concerning Reinstatement of a Certificate or License in the Absence of a Violation of the Board's Rules of Professional Conduct, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4015) and will not be republished.

The amendment to §515.5 reflects the new requirement for the fingerprinting of licensees.
No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201903409
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §515.8

The Texas State Board of Public Accountancy adopts an amendment to §515.8, concerning Retired or Disability Status, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4017). The amended rule will not be republished.

The amendment to §515.8 reflects the new requirement for the fingerprinting of licensees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201903410
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §515.10

The Texas State Board of Public Accountancy adopts the repeal of §515.10, concerning Licenses for Individuals with Defaulted Student Loans, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4019) and will not be republished.

The repeal of §515.10 is due to SB 37 of the 86th legislative session repeal, effective May 31, 2019, of the requirement for occupational agencies to revoke a license holder's license for a defaulted student loan.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903411
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
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For further information, please call: (512) 305-7842

CHAPTER 519. PRACTICE AND PROCEDURE

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §519.2

The Texas State Board of Public Accountancy adopts an amendment to §519.2, concerning Definitions, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4019) and will not be republished.

The amendment to §519.2 adds and defines the term "deferred adjudication."

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903412
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §519.13

The Texas State Board of Public Accountancy adopts new rule §519.13, concerning Direct Administrative Costs, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4021). The new rule will not be republished.

New rule §519.13 is the development of rules on how the board assesses administrative costs. It articulates types of costs (which are currently included in the definition of administrative costs), the formula by which the agency arrives at its costs (this is based upon the hourly wage of the individual's time attributed to the complaint investigation, prosecution, and witness fees), when it is appropriate to include its costs (because the agency is an SDSI agency administrative costs should be assessed in every instance in the absence of a good cause waiver) and the maximum rate (which shall not exceed the actual costs).

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903413
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §527.1

The Texas State Board of Public Accountancy adopts an amendment to §527.1, concerning Establishment of Peer Review Program, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4023). The amended rule will not be republished.

The amendment to §527.1 establishes the same peer review fee for all firms that are required to be peer reviewed and addresses the risk factor posed by different firms by recognizing non-attest preparation engagements under SSARS which do not require peer review.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903415
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842
22 TAC §527.2

The Texas State Board of Public Accountancy adopts an amendment to §527.2, concerning Definitions, without changes to the proposed text as published in the August 2, 2019, issue of the Texas Register (44 TexReg 4024) and will not be republished.

The amendment to §527.2 establishes the distinction between systems review and engagement reviews for purposes of peer review.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903416
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 10, 2019
Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

22 TAC §527.12

The Texas State Board of Public Accountancy adopts new rule §527.12, concerning Engagement Reviews and System Reviews, without changes to the proposed text as published in the August 2, 2019 issue of the Texas Register (44 TexReg 4025). The rule will not be republished.

New rule §527.12 defines engagement reviews and system reviews for the peer review program.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151, which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 20, 2019.

TRD-201903417
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
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Proposal publication date: August 2, 2019
For further information, please call: (512) 305-7842

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