

Item 8:

Consider and Take Appropriate Action on Agreed Order for ACT-RGV Alternative Certification Preparation Program

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) the opportunity to approve an agreed order for ACT-RGV alternative certification program to continue to operate with conditions.

STATUTORY AUTHORITY: The continuing approval of educator preparation programs (EPPs) is authorized by the Texas Education Code (TEC), §§21.0443, 21.041, 21.0452, and 21.061, closure of EPPs is authorized by TEC §21.0451, and the informal disposition of contested cases is authorized by the Texas Government Code (TGC) §2001.056.

EFFECTIVE DATE: Upon Board approval.

BACKGROUND INFORMATION AND JUSTIFICATION: TEC §21.0443 authorizes the SBEC to adopt rules providing for EPP approval and renewal of approval. TEC §21.061 states the SBEC is to carry out a process for reviewing and, as necessary, updating standards and requirements for EPPs. The TEC, §21.0451 and 19 Texas Administrative Code (TAC) §229.6(b) state in part that if the Texas Education Agency (TEA) staff finds that an EPP has failed to comply with SBEC rules and/or the TEC, Chapter 21, and the EPP does not obtain compliance within the timelines established by TEA staff, the TEA staff shall recommend that the SBEC sanction the EPP. The TEA staff may recommend that the SBEC action include public reprimand, revocation of program approval, or the imposition of conditions upon continuing program approval. TGC §2001.056 allows informal disposition of a contested case by stipulation, agreed settlement, consent order, or default.

TEA staff conducted the five-year review of ACT-RGV on January 21, 2020. As a result of the review, ACT-RGV was required to submit their next steps to TEA by May 21, 2020 to address the areas of noncompliance found in the five-year review. After reviewing the next steps ACT-RGV submitted, TEA staff provided ACT-RGV additional opportunities to revise their next steps to address the identified deficiencies, as summarized below.

ACT-RGV Summary Timeline:

- August 31, 2020—TEA received and reviewed the revised next steps from ACT-RGV and provided feedback to the program on the deficiencies that were not corrected including the required curriculum documents.
- September 30, 2020—TEA received and reviewed the revised next steps from ACT-RGV, but these did not meet minimum requirements. Staff reviewed the results with the new EPP director with specific guidance on areas that were not addressed.
- October 23, 2020—TEA received the final next steps submission.
- November 5, 2020—TEA gave ACT-RGV formal written notice in accordance with 19 TAC §229.6(c) that its proposed recommendation to the SBEC was revocation of ACT-RGV's approval to recommend candidates for educator certification.

- November 11, 2020—ACT-RGV elected to enter into an agreed order imposing conditions on the continuing approval of ACT-RGV in accordance with 19 TAC §229.6(b) in lieu of proceeding to a hearing before the State Office of Administrative Hearings and subject to approval by SBEC.

An agreed order was drafted that included the following conditions for continuing approval to operate:

- Beginning on the effective date of the order, December 11, 2020, ACT-RGV will not admit any new candidates into the program until a curriculum matrix has been approved by TEA staff for the respective certification category.
- On or before January 31, 2021, ACT-RGV will make one final submission of curriculum matrices for each certificate category to TEA staff as well as corrections for all other identified deficiencies in the review report.
- TEA staff will review and approve all submitted curriculum matrices by February 15, 2021. Any certificate category for which ACT-RGV does not receive TEA approval will be immediately revoked without further review, hearing, or opportunity for appeal.
- If ACT-RGV fails to correct any deficiency identified in the review report and submit the required documentary proof to TEA on or before January 31, 2021, the SBEC will revoke its approval for ACT-RGV to recommend candidates for educator certification, without a SOAH hearing or any opportunity for appeal.
- Beginning on the effective date of the order, December 11, 2020, ACT-RGV will post notice on the home page of the EPP's website stating it is unable to accept new candidates for any certification category for which ACT-RGV has not received approval of the curriculum matrix from TEA staff. The website post will include the title: "Not Accepting New Candidates." When TEA has completed its review of ACT-RGV's curriculum matrices and all unapproved certification categories have been revoked, TEA staff will inform ACT-RGV that ACT-RGV may remove the post "Not Accepting New Candidates" from its website.

As part of the agreement, if ACT-RGV violates any provisions of this Order, TEA staff will immediately recommend revocation of the EPP's continuing approval to recommend candidates in accordance with 19 TAC §229.6(c) without any opportunity for an informal review or a contested case hearing. The SBEC will revoke ACT-RGV's continuing approval and assign an accreditation status of Not Accredited—Revoked if the SBEC determines that ACT-RGV has failed to comply with the terms of the agreement.

A copy of the entire agreed order was provided to the Board as part of this item.

PUBLIC AND STUDENT BENEFIT: The public and student benefit anticipated as a result of the agreed order will be to ensure qualified educator preparation programs and educators in Texas.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve the agreed order for ACT-RGV alternative certification program as presented.

Staff Members Responsible:

Tam Jones, Director, Educator Preparation
Laura Moriaty, Director, SBEC Enforcement

Attachments:

- I. Statutory Citations
- II. Agreed Order ACT-RGV ACP with Exhibit A

ATTACHMENT I**Statutory Citations Relating to an Agreed Order for ACT-RGV Alternative Certification Preparation Program****Texas Education Code, §21.041, Rules: Fees**

- (d) The board may propose a rule adopting a fee for the approval or renewal of approval of renewal of an educator preparation program, or for the addition of a certificate or field of certificate to the scope of a program's approval. A fee imposed under this sub-section may not exceed the amount necessary, as determined by the board, to provide for the administrative cost of approving, renewing the approval of, and appropriately ensuring the accountability of educator preparation programs under this subchapter.

Texas Education Code, §21.0443, Educator Preparation Program Approval and Renewal

- (a) The board shall propose rules to establish standards to govern the approval or renewal of approval of:
- (1) educator preparation programs; and
 - (2) certification fields authorized to be offered by an educator preparation program.
- (b) To be eligible for approval or renewal of approval, an educator preparation program must adequately prepare candidates for educator certification and meet the standards and requirements of the board.
- (c) The board shall require that each educator preparation program be reviewed for renewal of approval at least every five years. The board shall adopt an evaluation process to be used in reviewing an educator preparation program for renewal of approval.

Texas Education Code, §21.0451, Sanctions Under Accountability System for Educator Preparation Programs:

- (a) The board shall propose rules necessary for the sanction of educator preparation programs that do not meet accountability standards or comply with state law or rules and shall at least annually review the accreditation status of each educator preparation program. The rules:
- (1) shall provide for the assignment of the following accreditation statuses:
 - (A) not rated;
 - (B) accredited;
 - (C) accredited—warned;
 - (D) accredited—probation; and
 - (E) not accredited—revoked;
 - (2) may provide for the agency to take any necessary action, including one or more of the following actions:
 - (A) requiring the program to obtain technical assistance approved by the agency or board;

- (B) requiring the program to obtain professional services under contract with another person;
 - (C) appointing a monitor to participate in and report to the board on the activities of the program; and
 - (D) if a program has been rated as accredited—probation under the Accountability System for Educator Preparation for a period of at least one year, revoking the approval of the program and ordering the program to be closed, provided that the board or agency has provided the opportunity for a contested case hearing;
- (3) shall provide for the agency to revoke the approval of the program and order the program to be closed if the program has been rated as accredited—probation under the Accountability System for Educator Preparation for three consecutive years, provided that the board or agency has provided the opportunity for a contested case hearing; and
- (4) shall provide the board procedure for changing the accreditation status of a program that:
- (A) does not meet the accreditation standards established under Section 21.045(a); or
 - (B) violates a board or agency regulation.
- (b) Any action authorized or required to be taken against an educator preparation program under Subsection (a) may also be taken with regard to a particular field of certification authorized to be offered by an educator preparation program.
- (c) A revocation must be effective for a period of at least two years. After two years, the program may seek renewed approval to prepare educators for state certification.
- (d) The costs of technical assistance required under Subsection (a)(2)(A) or the costs associated with the appointment of a monitor under Subsection (a)(2)(C) shall be paid by the educator preparation program.

Texas Education Code, §21.0452, Consumer Information Regarding Educator Preparation Programs (excerpt):

- (b) The board shall make available at least the following information regarding each educator preparation program:
- (1) the information specified in Sections 21.045(a) and (b);
- (e) The board may develop procedures under which each educator preparation program receives a designation or ranking based on the information required to be made available under Subsection (b). If the board develops procedures under this subsection, the designation or ranking received by each program must be included in the information made available under this section.

Texas Education Code, §21.061, Review and Updating of Educator Preparation Programs:

The board shall, after consulting with appropriate higher education faculty and public-school teachers and administrators and soliciting advice from other interested persons with relevant knowledge and experience, develop and carry out a process for reviewing and, as necessary, updating standards and requirements for educator preparation programs.

Texas Government Code, §2001.056, Informal Disposition of Contested Case:

Unless precluded by law, an informal disposition may be made of a contested case by:

- (1) stipulation;
- (2) agreed settlement;
- (3) consent order; or
- (4) default.

ATTACHMENT II

IN THE MATTER	§	BEFORE THE STATE BOARD
	§	
OF	§	FOR
	§	
ACT-RGV ALTERNATIVE CERTIFICATION PROGRAM	§	EDUCATOR CERTIFICATION

AGREED FINAL ORDER

On the 11th day of December 2020, the State Board for Educator Certification (“Board” or “SBEC”) considered the matter of the accreditation of the ACT-RGV Alternative Certification Program (“ACT-RGV”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act, Tex. Gov’t. Code §2001.056, which authorize the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On January 21, 2020, the Texas Education Agency (“TEA”) staff conducted a five-year continuing approval review on the ACT-RGV.
2. The review report listed numerous discrepancies that TEA staff had identified in the course of the continuing approval review and set out requirements for ACT-RGV to meet in order to address those discrepancies on or before May 21, 2020. To date, ACT-RGV has not successfully addressed many of the deficiencies that TEA staff identified, including a lack of required curriculum documents to prove alignment of the coursework and training to the educator standards for each certificate offered by the program.
3. On November 5, 2020, TEA staff provided notice to ACT-RGV that its proposed recommendation to the SBEC was revocation of approval to recommend candidates for educator certification.
4. On November 5, 2020, ACT-RGV and Texas Education Agency agreed to enter into an agreed order imposing conditions on the continuing approval of ACT-RGV.
5. Upon the effective date of this Order, the Parties agree that ACT-RGV will not admit a new candidate into the program until a curriculum matrix has been approved by TEA staff for the candidate’s certification category. This includes the following certificate categories:

Agriculture, Food & Natural Resources Grades (6-12)	Mathematics Grades (4-8)
Art Grades (EC-12)	Mathematics Grades (7-12)
Bilingual Education Supplemental-Spanish Grades (NA)	Mathematics/Science Grades (4-8)
Business and Finance Grades (6-12)	Music Grades (EC-12)
Core Subjects Grades (EC-6)	Physical Education Grades (EC-12)
Core Subjects Grades (4-8)	Science Grades (4-8)
Dance Grades (6-12)	Science Grades (7-12)
English Language Arts and Reading Grades (4-8)	Social Studies Grades (4-8)
English Language Arts and Reading Grades (7-12)	Social Studies Grades (7-12)
English Language Arts and Reading/Social Studies Grades (4-8)	Special Education Grades (EC-12)
English as a Second Language Supplemental Grades (NA)	Speech Grades (7-12)
Health Science Grades (6-12)	Teacher of Students with Visual Impairments Grades (EC-12)
History Grades (7-12)	Theatre Grades (EC-12)
Languages Other Than English – Spanish Grades (EC-12)	Trade and Industrial Education Grades (6-12)
Life Science Grades (7-12)	

6. Parties agree that ACT-RGV will make one final submission of curriculum matrices for each certificate category to TEA staff on or before January 31, 2021. Any certificate category for which TEA staff has not received a curriculum matrix by January 31, 2021 will be immediately revoked without further review, hearing, or opportunity for appeal. TEA staff will inform ACT-RGV of whether the submitted curriculum matrices are approved by February 15, 2021. Any certificate category not approved will be immediately revoked without further review, hearing, or opportunity for appeal.

7. The Parties agree that ACT-RGV will post notice on the home page by December 11, 2020, of its website stating that it is unable to accept new candidates for any certification field for which ACT-RGV has not received approval of the curriculum matrix from TEA staff. The website post will include the title: Not Accepting New Candidates. After TEA staff has completed its review and approval of the curriculum matrices and all unapproved certification categories have been revoked, TEA staff will inform ACT-RGV that ACT-RGV may remove the post “Not Accepting New Candidates” from its website.

8. The Parties agree that on or before January 31, 2021, ACT-RGV must correct all other deficiencies, aside from the lack of curriculum matrices, identified in the Review Report. A summary of the deficiencies and the required evidence that ACT-RGV must submit is attached hereto as Exhibit A and incorporated by reference as if set out in

full herein. ACT-RGV must submit all required documentary evidence as set out in Exhibit A to TEA staff for approval by January 31, 2021. Any deficiency in Exhibit A that is not corrected by ACT-RGV and approved by TEA staff will result in immediate revocation of the EPP's continuing approval to recommend candidates without further review, hearing, or opportunity for appeal..

9. The Parties agree that if ACT-RGV violates any provisions of this Order, TEA staff will immediately recommend revocation of the EPP's continuing approval to recommend candidates, without any opportunity for an informal review under 19 Texas Administrative Code §229.6(c) or §229.7 or a contested case hearing under Texas Government Code Chapter 2001. The SBEC shall determine whether ACT-RGV's performance under this agreement is acceptable and shall revoke ACT-RGV's continuing approval and assign an accreditation status of Not Accredited-Revoked if the SBEC determines that ACT-RGV has failed to comply with the terms of this agreement.

CONCLUSIONS OF LAW

1. ACT-RGV is subject to the jurisdiction of the SBEC and is required to comply with 19 Texas Administrative Code, Chapters 227, 228, 229, 230, 231, 234, 241, and 247 and Texas Education Code §§21.044, 21.0441, 21.0443, 21.045, 21.0451, 21.0452, 21.0454, 21.0455, 21.046, 21.048, and 21.049.
2. The Board is authorized, pursuant to 19 Texas Administrative Code Chapter 229 and Texas Education Code §21.0443 to revoke or refuse to renew its approval of an educator preparation program, and to put conditions on its continuing approval of a program.
3. The SBEC and ACT-RGV agree to the actions set forth herein in lieu of formal revocation proceedings.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. Upon the effective date of this Order, ACT-RGV will not admit a new candidate into the program until a curriculum matrix has been approved by TEA staff for the candidate's certification category. This includes the following certificate categories:

Agriculture, Food & Natural Resources Grades (6-12)	Mathematics Grades (4-8)
Art Grades (EC-12)	Mathematics Grades (7-12)
Bilingual Education Supplemental-Spanish Grades (NA)	Mathematics/Science Grades (4-8)
Business and Finance Grades (6-12)	Music Grades (EC-12)
Core Subjects Grades (EC-6)	Physical Education Grades (EC-12)
Core Subjects Grades (4-8)	Science Grades (4-8)
Dance Grades (6-12)	Science Grades (7-12)
English Language Arts and Reading	Social Studies Grades (4-8)

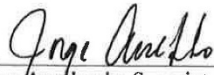
Grades (4-8)	
English Language Arts and Reading Grades (7-12)	Social Studies Grades (7-12)
English Language Arts and Reading/Social Studies Grades (4-8)	Special Education Grades (EC-12)
English as a Second Language Supplemental Grades (NA)	Speech Grades (7-12)
Health Science Grades (6-12)	Teacher of Students with Visual Impairments Grades (EC-12)
History Grades (7-12)	Theatre Grades (EC-12)
Languages Other Than English – Spanish Grades (EC-12)	Trade and Industrial Education Grades (6-12)
Life Science Grades (7-12)	

2. ACT-RGV will make one final submission of curriculum matrices for each certificate category to TEA staff on or before January 31, 2021. Any certificate category for which TEA staff has not approved a curriculum matrix by January 31, 2021 will be immediately revoked without further review, hearing, or opportunity for appeal. TEA staff will inform ACT-RGV of whether the submitted curriculum matrices are approved by February 15, 2021. Any certificate category not approved will be immediately revoked without further review, hearing, or opportunity for appeal.
3. ACT-RGV will post notice on the home page by December 11, 2020, of its website stating that it is unable to accept new candidates for any certification field for which ACT-RGV has not received approval of the curriculum matrix from TEA staff. The website post will include the title: Not Accepting New Candidates.
4. On or before January 31, 2021, ACT-RGV must correct all other deficiencies, aside from the lack of curriculum matrices, identified in the Review Report. A summary of the deficiencies and the required evidence that ACT-RGV must submit is attached hereto as Exhibit A and incorporated by reference as if set out in full herein. ACT-RGV must submit all required documentary evidence as set out in Exhibit A to TEA staff for approval by January 31, 2021. Any deficiency not corrected by ACT-RGV and approved by TEA staff will result in immediate revocation of the EPP's continuing approval to recommend candidates without further review, hearing, or opportunity for appeal.
5. If ACT-RGV violates any provisions of this Order, TEA staff will immediately recommend revocation of the EPP's continuing approval to recommend candidates, without any opportunity for an informal review under 19 Texas Administrative Code §229.6(c) or §229.7 or a contested case hearing under Texas Government Code Chapter 2001.
6. The SBEC shall determine whether ACT-RGV's performance under this agreement is acceptable and shall revoke ACT-RGV's continuing approval and assign an accreditation status of Not Accredited-Revoked if the SBEC determines that ACT-

RGV has failed to comply with the terms of this agreement.

7. ACT-RGV waives its rights to a contested case hearing before the State Office of Administrative Hearings for the revocation of certification categories or its authority to approve candidates, waives any right to seek removal or modification of the revocation of certification categories noted herein, any right to seek removal or modification of the terms of this order, and any right to seek judicial review of this order.

SIGNED this 11 day of November, 2020



Dr. Jorge Arredondo, Superintendent
Chief Operating Officer and Legal Authority ACT-RGV ACP

On behalf of the State Board for Educator Certification:

SIGNED this _____ day of _____, 2020

Dr. Arturo Cavazos, Chair
State Board for Educator Certification

Exhibit A
Summary of Deficiencies and Required Evidence

Discrepancy	Action Item-Agreed	Requested/Expected Deliverable	Delivered Item
19 TAC §227.10(a)(4) Require applicants to demonstrate content knowledge prior to admission.	Require the EPP to require applicants to take and pass TX PACT for the content area for which they are seeking admission prior to being formally or contingently admitted if less than 2.5 GPA.	Provide a candidate file that has the documentation that the work experience met the equivalent of a 2.5 GPA and the extraordinary circumstance signed by the EPP director.	<u>Not Approved</u> EPP has not provided evidence - a candidate file with the necessary documentation.
19 TAC §228.30(a)(1) Ensure that the educator standards are the basis for each certificate offered.	Require the EPP to align the coursework to reflect specific training in the standards for each certificate offered.	Provide an Application A package* for each certificate offered by the program.	<u>Not Approved</u> EPP sent ELAR 4-8 on 8/31 and 9/30, was not approved. The ELPS alignment chart was incomplete. EPP has neither attained nor is seeking QM accreditation for their online curriculum.
19 TAC §228.30(c)(3) Instruction regarding mental health, substance abuse, and youth suicide was not from an approved provider.	Require the EPP to include instruction in mental health, substance abuse, and youth suicide to come from an approved provider.	Provide a candidate training certificate from ESC 4 with the date and total hours earned.	<u>Not Approved</u> EPP has stated that it is using the Texas Behavior Support Initiative from ESC 4 to fulfill the requirement but has not provided a file with evidence.
19 TAC §228.35(a)(6) The ACT-RGV online curriculum is not meeting or making progress toward meeting accreditation, quality assurance, and/or compliance with <u>DEAC</u> or <u>QM</u> .	Require the EPP to continue the process for having the online coursework offered by ACT-RGV to be accredited by QM. The process consists of various levels of accreditation and takes approximately three years to become fully accredited.	Provide the QM accreditation level that ACT-RGV has reached.	<u>Not Approved</u> The director never attended the QM training.

*The Application A package consists of a description of how the standards are incorporated into the EPP, documentation showing the program has the staff knowledge and expertise to support individuals participating in each of the certificate areas, scope and sequence, and a curriculum matrix that includes the standards, framework competencies, alignment charts, applicable TEKS, course and/or modules names, and benchmark assessments used to measure successful program progress.