

ATTACHMENT II
Text of Proposed Repeal of 19 TAC

[Chapter 229. Accountability System for Educator Preparation]

§229.1. General Provisions and Purpose of Accountability System.

- ~~[(a) — The State Board for Educator Certification (SBEC) is responsible for establishing standards to govern the continuing accountability of all educator preparation programs. This chapter governs the accreditation of entities that prepare individuals for educator certification.]~~
- ~~[(b) — The purpose of the accountability system for educator preparation is to assure that entities are held accountable for the readiness for certification of individuals completing the programs. An educator preparation program is defined as an entity approved by the State Board for Educator Certification to recommend candidates for certification in one or more certification fields. At a minimum, accreditation is based on the performance of candidates for certification on examinations prescribed under Texas Education Code (TEC) §21.048(a) and beginning educators' performance on the appraisal system for beginning teachers adopted by the Board under TEC §21.045(a). The Board may adopt additional measures. Each entity is required to file an annual report of performance indicators. An entity will receive commendations for success in areas identified by the Board.]~~
- ~~[(c) — The ASEP Advisory Committee is established under TEC §21.040(3) (relating to general powers and duties of Board), §21.041(a) (relating to rules and fees), and §21.045 (relating to accountability system for educator preparation programs) and Government Code Chapter 2110 (relating to advisory committees) for the purpose of providing advice to the Board and executive director and to fulfill duties specified in this chapter.]~~
- ~~[(1) — The advisory committee shall be appointed by the Board and comprise a balanced representation of educator preparation entities, other organizations, and the public, as appropriate.]~~
- ~~[(2) — The executive director shall convene the advisory committee, or a subcommittee thereof, as necessary to complete assigned tasks and to provide ongoing advice concerning accountability and related issues. Members of a subcommittee formed to fulfill duties specified in this chapter shall be appointed by the advisory committee by vote of the committee. After completing an assigned task, the committee shall report to the Board and the executive director within a reasonable time but in no case later than the next regularly scheduled meeting of the Board, unless the executive director grants an extension.]~~
- ~~[(3) — The executive director or a designee shall annually evaluate the advisory committee's work, usefulness, and costs and appropriately report the findings of the evaluation under Government Code Chapter 2110 (relating to advisory committees).]~~
- ~~[(4) — The advisory committee shall be abolished on January 1, 2006, unless continued by amendment providing a different abolishment date.]~~
- ~~[(d) — The standard procedures by which the executive director may sanction an educator preparation program that fails to comply with the provisions of the chapter, up to and including a reduction in the accreditation rating, are described in the "ASEP User's Manual," published May 2000 by the agency, and "Texas Title II Reporting Manual," published May 2001 by the agency.]~~
- ~~[(e) — The following effective dates apply to the implementation of this chapter. Section 229.1 is effective beginning February 1, 2002. Sections 229.2-7 are effective beginning September 1, 2002. Sections 229.8-12 are effective beginning February 1, 2002, and expire August 31, 2002.]~~

§229.2. Definitions.

~~[The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:]~~

- ~~[(1) — Academic year — September 1 through August 31.]~~

- ~~[(2) — Acceptable — A minimum criterion set by the Board.]~~
- ~~[(3) — Beginning teacher — A person employed in a public school district within two academic years of completion of educator preparation program requirements in an initial teaching field, and who was assigned in his or her field of preparation.]~~
- ~~[(4) — Certification field or area — Professional development (elementary and secondary) and delivery system fields, academic or career and technology content fields, special education fields, specializations, or professional fields in which an entity is approved to offer certification.]~~
- ~~[(5) — Completer cohort — A cohort of candidates who complete an educator preparation program during an academic year. "Completing a program" means the individual satisfied, within that academic year, the entity requirements for certification in that field. A candidate is designated a "program completer" in a field regardless of whether the individual has taken or passed the certification tests required for that field or the person was recommended by the entity for certification in that field.]~~
- ~~[(6) — Educator preparation program — An entity approved by the Board to recommend candidates in one or more certification fields. For the purposes of this chapter, "program" and "entity" are used interchangeably.]~~
- ~~[(7) — Final pass rate — The percent of tests passed by a completer cohort through the second December 31 following the academic year of completion. The pass rate is based solely on tests required to obtain certification in the field(s) in which the person completed a program during that academic year. The rate reflects a candidate's success on the last attempt made on the test by the second December 31 following the year of completion. Formula: The number of successful (i.e., passing) last attempts made by the cohort divided by the total number of last attempts made by the cohort.]~~
- ~~[(8) — Initial pass rate — The percent of tests passed by a completer cohort through December 31 following the academic year of completion. The pass rate is based solely on tests required to obtain certification in the field(s) in which the person completed a program during that academic year. The rate reflects a candidate's success on the last attempt made on the test by December 31 following the year of completion. Formula: The number of successful (i.e., passing) last attempts made by the cohort divided by the total number of last attempts made by the cohort.]~~
- ~~[(9) — Program data — Data elements reported to meet requirements under TEC §21.045(b) (relating to Annual Performance Reports by Educator Preparation Programs).]~~

§229.3. The Accreditation Process.

- ~~[(a) — Annually, beginning September 1, 1998, an entity must meet the accreditation standards at acceptable levels of performance set by the Board.]~~
- ~~[(b) — An entity shall be rated "Accredited," "Accredited Under Review," "Not Accredited," or "Accredited-Preliminary Status."]~~
- ~~[(c) — Accreditation ratings shall be based on an entity's performance over the appropriate period under TEC §21.045(d) (Relating to Oversight of Educator Preparation Programs) and shall be issued in the spring of each year to be in effect during the following academic year.]~~
- ~~[(d) — Upon initial approval by the Board of an entity applying to prepare educators for certification, an entity will be rated Accredited Preliminary Status. Program completers may be recommended for certification while an entity is rated Accredited Preliminary Status. New entities shall be rated Accredited Preliminary Status until the first accreditation ratings are issued following the academic year in which one or more of the entity's candidates completes the program; at that point, based on the performance of the completer(s), the entity will be held accountable and shall be rated Accredited or Accredited Under Review.]~~
- ~~[(e) — An entity is accountable for the performance of all program completers. A candidate is designated a program completer in a field according to whether the entity's requirements for certification have been satisfied, regardless of whether the individual attempted, passed, or failed the certification test(s) required for that field; for identifying candidates as program completers under this chapter, entities are prohibited from considering whether the candidate has taken the appropriate test(s) for certification or the candidate's success or failure on the certification test(s). The pass rates of program completers on examinations and the~~

~~performance of beginning teachers determine the accreditation rating. The performance on a content area assessment taken for the first time by a degreed candidate who earned a baccalaureate degree from another entity shall be included in an entity's ASEP performance only if the candidate has taken related college-level coursework and/or other comprehensive pre-service training at the current entity prior to attempting the test; the executive director shall identify the specific content area assessments applicable to this rule.]~~

~~[(f) — Accreditation relating to test performance is based upon initial and final pass rates. The Board shall set the acceptable pass rates and timely advise entities accordingly. In setting the levels for acceptable pass rates, the Board shall consider relevant information including, but not limited to, impact data, the recommendation of the ASEP Advisory Committee, and input received from other sources.]~~

~~[(g) — Accreditation of entity]~~

~~[(1) — For an entity to be rated Accredited to prepare educators, performance prior to issuance of the rating must be as follows for each demographic group (all students, African American, Hispanic, white, other, male, female):]~~

~~[(A) — Acceptable initial pass rates or acceptable final pass rates; and]~~

~~[(B) — Effective following approval by the Board of an appraisal of beginning teachers as required by TEC §21.045(a), acceptable performance on an appraisal of beginning teachers.]~~

~~[(2) — Based upon performance required by paragraph (1)(A) of this subsection, an entity rated Accredited Under Review may request reconsideration of that status by the executive director if the status is based upon ten or fewer completers in the "all students" demographic group. In evaluating the reconsideration request, the executive director shall consider the advice of a subcommittee of members of the ASEP Advisory Committee. The executive director may award the status of Accredited. If the executive director does not award the Accredited status, the entity may request reconsideration by the Board. The Board's decision shall be final.]~~

~~[(3) — If the executive director or Board awards the Accredited status under paragraph (2) of this subsection, the executive director shall send a letter to the entity's chief executive officer concerning the low performance and directing the entity to develop an action plan for addressing program deficiencies and improving the performance of candidates in the program. The executive director may prescribe information to be included in the action plan. The action plan must be sent by the chief executive officer of the entity to the executive director no later than 45 calendar days following the entity's receipt of the letter from the executive director.]~~

~~[(4) — Based upon performance required by paragraph (1)(A) of this subsection, the performance of a small gender or ethnic group (i.e., a group comprising 15 or fewer completers) shall be used in ASEP according to subparagraphs (A) and (B) of this paragraph.]~~

~~[(A) — If the performance of a small gender or ethnic group is acceptable, that performance shall be used in determining the accreditation rating for the entity.]~~

~~[(B) — If the performance of a small gender or ethnic group is unacceptable, clauses (i) and (ii) of this subparagraph shall apply based on the performance (initial and final pass rates) of that same gender or ethnic group from the previous completer cohort:]~~

~~[(i) — If either the initial or final pass rate of the previous cohort was acceptable, the current cohort's low performance shall not cause the entity to be rated Accredited Under Review. If the entity will be rated Accredited, the executive director shall send a letter to the entity's chief executive officer concerning the group's low performance and directing the entity to develop an action plan for addressing program deficiencies and improving the performance of candidates in that group. The action plan must be sent by the chief executive officer of the entity to the executive director no later than 45 calendar days following the entity's receipt of the letter from the executive director.]~~

~~[(ii) — Impact of data from small groups:]~~

- ~~[(I) — If both the initial and final pass rates of the previous cohort were unacceptable, the current group's performance shall cause the entity to be rated Accredited Under Review. However, the entity may request reconsideration of that status by the executive director. In evaluating the reconsideration request, the executive director shall consider the advice of a subcommittee of members of the ASEP Advisory Committee. The executive director may award the status of Accredited. If the executive director does not award the Accredited status, the entity may request reconsideration from the Board. The Board's decision shall be final.]~~
- ~~[(II) — If the executive director or Board awards the entity Accredited status, the executive director shall send a letter to the entity's chief executive officer concerning the group's low performance and directing the entity to develop an action plan for addressing program deficiencies and improving the performance of candidates in that group. The executive director may prescribe information to be included in the action plan. The action plan must be sent by the chief executive officer to the executive director no later than 45 calendar days following the entity's receipt of the letter from the executive director.]~~
- ~~[(5) — The agency shall evaluate the accuracy of an entity's ASEP data and data submitted for the purpose of meeting reporting requirements under Title II of the Higher Education Act, Amendments of 1998, 20 U.S.C. §1021, et. seq. If there are reasonable grounds to believe that the information provided by the entity has been inaccurately or fraudulently reported, the executive director is authorized to conduct an investigation. The entity shall cooperate with the investigation and provide the information and documentation requested by the executive director.]~~
- ~~[(A) — If the entity does not cooperate in the investigation, the executive director may determine the entity's annual accreditation status based on available, accurate data, as determined by the executive director by a preponderance of the evidence.]~~
- ~~[(B) — If, upon investigation, it is determined that ASEP or Title II data submitted by the entity are inaccurate and are not corrected by the entity within the time and in the form set by the executive director, or the data have been fraudulently submitted by the entity, the executive director may sanction the educator preparation program, up to and including a reduction in the accreditation rating.]~~
- ~~[(h) — An entity not meeting ASEP performance standards shall receive the rating of Accredited Under Review. An entity receiving the rating of Accredited Under Review for three consecutive years, and which does not meet ASEP standards for a fourth consecutive year, shall be rated Not Accredited for the fourth consecutive and subsequent years, except as provided by subsections (i) and (j) of this section.]~~
- ~~[(i) — If an entity disagrees with its accreditation status, the entity may appeal the accreditation status to the executive director. If the entity does not agree with the executive director's decision, the entity may appeal the decision to the Board. The Board's decision shall be final.]~~
- ~~[(j) — An entity that is rated Not Accredited because of failure to meet ASEP standards shall be rated Not Accredited for at least one academic year. During or subsequent to the year of being rated Not Accredited, the program may apply for reinstatement and the Board may reinstate the program as Accredited Preliminary Status for the following academic year. If reinstated, the entity shall continue to be rated Accredited Preliminary Status until the first accreditation rating is issued following the academic year in which one or more of the program's new candidates (i.e., candidates admitted to the program subsequent to the program's reinstatement) completes the program; at that point, based on the performance of the new candidates under ASEP, the program shall be rated Accredited or Accredited Under Review.]~~
- ~~[(k) — An entity must notify persons enrolled in an educator preparation program of any change of accreditation status. Candidates enrolled in an entity that is rated Accredited Under Review but then becomes Not Accredited may complete their program and be recommended for certification.]~~

§229.4. Continuing Approval of Certification Field.

- ~~[(a) — This section becomes effective with accreditation ratings issued in spring 2007.]~~
- ~~[(b) — If the performance of the group of "all students" within a certification field represents low performance as demonstrated through both unacceptable initial pass rates and unacceptable final pass rates for three consecutive academic years, and each unacceptable pass rate represents the performance of more than 10 completers, the entity may no longer admit persons for preparation in that field. Candidates already admitted to the program for preparation in that field may continue in the program and be recommended by the entity for certification in that field. An entity may request reconsideration for continuing approval to offer that field from the executive director based on relevant factors if a field is no longer approved.]~~
- ~~[(c) — If the performance of the group of "all students" within a certification field represents low performance as demonstrated through both unacceptable initial pass rates and unacceptable final pass rates for three consecutive academic years, and at least one of the unacceptable initial or final pass rates during the three consecutive academic years represents the performance of 10 or fewer completers, the entity may request reconsideration for continuing approval to offer that field from the executive director.]~~
- ~~[(d) — In evaluating a reconsideration request, the executive director shall consider the advice of a subcommittee of members of the ASEP Advisory Committee. The executive director may reinstate the field. If the executive director does not reinstate the field, the entity may apply to offer certification in that field during or subsequent to the year of loss of approval. The executive director shall consider the entity's overall accreditation status when evaluating the request to reinstate a field or to offer preparation in new fields. The executive director's decision under this section shall be final.]~~

§229.5. Commendations for Success.

~~[An entity may receive commendations for success in identified areas if the entity is rated Accredited. The Board will establish standards for the following areas in which an entity may be commended:]~~

- ~~[(1) — Preparation of persons for high need teaching fields. Based upon the Board's determination of fields of statewide and regional need, a commendation shall be awarded to an entity that successfully prepares a significant proportion of its candidates for certification in the fields of highest need. Areas of need will be established by the Board for periods of five years with the first period beginning September 1, 1997 through September 1, 2002.]~~
- ~~[(2) — Diversity of candidates recommended for certification by an entity. A commendation shall be awarded to an entity meeting either of the following:]~~
- ~~[(A) — The entity recommends for certification a percent of ethnic minority candidates that is commendable based on a comparison with the distribution of the respective groups in the public school student population. The diversity of the student population of either the state or the education service center region in which the entity is located is the basis for the comparison; or]~~
- ~~[(B) — The entity recommends for certification a percent or number of ethnic minority candidates that, when compared to the percent or number of minority candidates recommended by the entity in the one or two academic previous years, shows growth that is commendable.]~~
- ~~[(3) — Certification pass rate. A commendation shall be awarded to an entity that demonstrates success through meeting a designated certification pass rate. Based on the most recent completer cohort, the certification pass rate is the percent of the candidates who completed a program for an initial (base) teacher certification during the academic year that passed all tests required for at least one initial (base) teacher certification. Test performances through December 31 following the year of completion of the program for the initial (base) certificate are used in calculating the certification pass rate.]~~

§229.6. Oversight of Entity Rated Accredited Under Review.

- ~~[(a) — The executive director of the Board shall appoint an oversight team to make recommendations and provide assistance to an entity that is rated Accredited Under Review.]~~

 - ~~[(1) — The executive director shall notify in writing the chief executive officer of the entity of the appointment of an oversight team.]~~
 - ~~[(2) — Members of the oversight team, including the chair, are appointed by the executive director. The entity under review shall be responsible for the reasonable and necessary expenses of the oversight team and, when appropriate, for the expenses of any person assigned to administer and manage the educator preparation program.]~~
 - ~~[(3) — With the cooperation of the entity, the oversight team shall collect information about the program and develop strategies for improvement. All recommendations and reports of the progress of the program toward improvement must be provided in writing to the entity and to the executive director. The executive director shall verify whether the entity is attempting to implement the recommendations of the oversight team.]~~
 - ~~[(4) — No later than 30 calendar days after receiving the recommendations of an oversight team, the entity shall submit to the executive director an action plan for addressing the recommendations.]~~
 - ~~[(5) — No later than May 31 of each year that an entity is Accredited Under Review, the entity must submit to the executive director a progress report related to the recommendations of the oversight team.]~~
 - ~~[(6) — The executive director shall notify Texas public school districts of the change in accreditation status of a certification program.]~~
- ~~[(b) — If, after one year, the executive director determines that an entity rated Accredited Under Review has not fulfilled the recommendations of the oversight team, the executive director shall appoint a person to administer and manage the operations of the program.]~~
- ~~[(c) — The executive director shall appoint a person to administer and manage the operations of a program that has been rated Accredited Under Review for two consecutive academic years and will be rated Accredited Under Review for a third consecutive year.]~~
- ~~[(d) — The executive director shall, based upon the type and severity of the problems of the preparation program, inform the chief executive officer of the entity of the powers and duties a person assigned to administer and manage the program shall have. The powers and duties of the person appointed to administer and manage the program may include overseeing daily programmatic decisions, supervising staff or budget, and making curriculum related decisions. The administrator may disapprove actions proposed by the program staff.]~~
- ~~[(e) — An entity must achieve acceptable performance, as set by the Board, on standards required for accreditation no later than December 31 during the third academic year of being rated Accredited Under Review.]~~
- ~~[(f) — Considering input of the oversight team, the executive director may at any time, prior to revocation of an entity's accreditation, request that the Board limit the entity to only preparing candidates for certification in specified fields and collaborate with another entity to fully manage the program.]~~

§229.7. Reporting Requirements.

- ~~[(a) — Each entity must file an annual performance report of its educator preparation program with the Board no later than October 15 following each academic year. The performance report shall comply with statutory requirements.]~~
- ~~[(b) — The annual performance report provides program data that demonstrate the entity's level of attainment on the data elements required or authorized by TEC §21.045(b) (relating to Annual Performance Reports by Educator Preparation Programs). These elements do not affect accreditation status unless adopted by the Board as performance measures.]~~

~~[(c) — Program data shall be disaggregated by gender and ethnicity (male, female, African American, Hispanic, white, and other). Program data to be reported by an educator preparation program to the Board for an academic year include information for:]~~

~~[(1) — the number of candidates who apply: the number of persons who apply to enter the program, as documented through evidence such as, but not limited to, the candidate's enrollment in professional development courses and other relevant academic coursework or preservice training undertaken to meet program admission requirements;]~~

~~[(2) — the number of candidates admitted: the numbers of and identifying information for persons who met all minimum admission criteria of the preparation program and those criteria established by the Board during an academic year;]~~

~~[(3) — the number of candidates retained: the numbers of and identifying information for persons who have been admitted and who, during the academic year, were enrolled in coursework, field-based experiences, or other activities undertaken to make progress towards meeting program requirements;]~~

~~[(4) — the number of candidates completing the program: the numbers of and identifying information for persons who became program completers during an academic year;]~~

~~[(5) — the number of candidates employed in the profession after completing the program: the numbers of and identifying information for persons employed in a public school district in Texas within two academic years of completing a program, who may or may not be assigned in an area in which they completed their program. A person may be assigned in any role requiring a certificate in a Texas public school (both teaching and non-teaching roles).]~~

~~[(6) — the number of candidates retained in the profession: the numbers of and identifying information for persons employed in a public school district in Texas within two academic years of completing a program and also employed at five years after completion, who may or may not be assigned in an area in which they completed their program. A person may be assigned in any role requiring a certificate in a Texas public school (both teaching and non-teaching roles).]~~

§229.8. Definitions.

~~[The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:]~~

~~[(1) — Academic year — September 1 through August 31.]~~

~~[(2) — Acceptable — A minimum criterion set by the Board.]~~

~~[(3) — Beginning teacher — A person employed in a public school district within two academic years of completion of educator preparation program requirements in an initial teaching field, and who was assigned in his or her field of preparation.]~~

~~[(4) — Certification field or area — Professional development (elementary and secondary) and delivery system fields, academic or career and technology content fields, special education fields, specializations, or professional fields in which an entity is approved to offer certification.]~~

~~[(5) — Combined pass rate — The combined success of the first year or cumulative test takers from two or three consecutive academic years. Formula: The sum of the dividends used in calculating each individual academic year's pass rate divided by the sum of the divisors used in calculating each individual academic year's pass rate.]~~

~~[(6) — Cumulative (two-year) pass rate — The success of the previous academic year's initial test takers over the two-year period. The rate reflects a candidate's success on the last attempt on that test within the two academic years. Formula: For tests initially attempted during the previous academic year, the number of successful (i.e., passing) last attempts within the two-year academic period divided by the total number of last attempts within the two-year academic period.]~~

- ~~[(7) Educator preparation program—An entity approved by the Board to recommend candidates in one or more certification fields. For the purposes of this chapter, "program" and "entity" are used interchangeably.]~~
- ~~[(8) First year pass rate—Candidates' success on tests during the academic year in which those tests are initially attempted. The rate reflects a candidate's success on the last attempt on that test within the academic year in which the test was taken for the first time. Formula: For tests initially attempted during the current academic year, the number of successful (i.e., passing) last attempts within the year divided by the total number of last attempts.]~~
- ~~[(9) Program data—Data elements reported to meet requirements under TEC §21.045(b) (relating to Annual Performance Reports by Educator Preparation Programs).]~~

§229.9. The Accreditation Process.

- ~~[(a) Annually, beginning September 1, 1998, an entity must meet the accreditation standards at acceptable levels of performance set by the Board.]~~
- ~~[(b) An entity shall be rated "Accredited," "Accredited Under Review," "Not Accredited," or "Accredited-Preliminary Status."]~~
- ~~[(c) Accreditation ratings shall be based on an entity's performance over the appropriate period under TEC §21.045(d) (Relating to Oversight of Educator Preparation Programs) and shall be issued in the fall of each year to be in effect during the current academic year.]~~
- ~~[(d) Upon initial approval by the Board of an entity desiring to prepare educators for certification, an entity will be rated Accredited Preliminary Status. Program completers may be recommended for certification while an entity is rated Accredited Preliminary Status. New entities shall be rated Accredited Preliminary Status until the first accreditation ratings are issued following the academic year in which one or more of the entity's candidates completes the program; at that point, based on the performance of the candidates who completed the program and candidates in the program, the entity will be held accountable and shall be rated Accredited or Accredited Under Review.]~~
- ~~[(e) An entity is accountable for the performance of all candidates for certification. Performance on a content-area assessment taken for the first time by a degree candidate who earned a baccalaureate degree from another entity shall be excluded from an entity's ASEP performance. This exclusion applies only to an individual's first attempt on the content-area assessment for the certificate being sought; subsequent attempts will be used for evaluating an entity's accreditation status under this chapter. For purposes of calculating the first year pass rate, these individuals' second attempt on the content area test will be considered their first attempt. The executive director shall identify the specific assessments subject to exclusion under this subsection. Pass rates on examinations and the performance of beginning teachers determine the accreditation rating.]~~
- ~~[(f) Accreditation relating to test performance will be based upon first year and cumulative pass rates. In no event shall the first year or cumulative pass rates provided for in this section be less than 66 2/3%.]~~
- ~~[(g) Accreditation of entity]~~
- ~~[(1) For an entity to be rated Accredited to prepare educators, performance for each demographic group (all students, African American, Hispanic, white, other, male, female) must be as follows:]~~
- ~~[(A) acceptable first year pass rates or acceptable cumulative pass rates; and]~~
- ~~[(B) effective following approval by the Board of an appraisal of beginning teachers as required by TEC §21.045(a), acceptable performance on an appraisal of beginning teachers.]~~
- ~~[(2) Based upon performance required by paragraph (1)(A) of this subsection, an entity rated Accredited Under Review may request reconsideration of that status by the executive director if the status is based upon less than ten candidates in the "all students" demographic group. In evaluating the reconsideration request, the executive director shall consider the advice of a subcommittee of members of the ASEP Advisory Committee. The executive director may award~~

the status of Accredited. If the executive director does not award the Accredited status, the entity may request reconsideration from the Board. The Board's decision shall be final.]

[(3) — Based upon performance required by paragraph (1)(A) of this subsection, if an ethnic or gender group's current performance is acceptable, the group's current performance shall be used for determining the ASEP rating, regardless of the number of candidates in that group. If the group's current performance is unacceptable and the pass rate represents the performance of 30 or more candidates, the group's current performance shall be used for determining the ASEP rating. If the group's current performance is unacceptable and the pass rate represents the performance of fewer than 30 candidates, the group's current performance shall be combined with data for that same demographic group from one or two prior reporting periods as follows:]

[(A) — The group's current performance shall be combined with the performance of the same group from the previous ASEP report. If the combined performance is acceptable, the combined performance shall be used for determining the ASEP rating, regardless of the number of candidates represented in the combined performance.]

[(B) — If the combined performance is unacceptable and represents the performance of 30 or more candidates, the combined performance shall be used for determining the ASEP rating. If the combined performance is unacceptable and represents the performance of fewer than 30 candidates, the combined performance shall be combined with data from the second previous ASEP report.]

[(C) — If that resulting combined performance (current performance combined with data from the two previous ASEP reports) is acceptable, then that combined performance shall be used for determining the ASEP rating, regardless of the number of candidates represented in that combined performance. If that resulting combined performance is unacceptable and represents more than 30 candidates, that combined performance shall be used for determining the ASEP rating. If that resulting combined performance is unacceptable, represents fewer than 30 candidates, and would potentially cause the entity to be rated Accredited Under Review, the entity may request reconsideration of that status by the executive director. In evaluating the reconsideration request, the executive director shall consider the advice of a subcommittee of members of the ASEP Advisory Committee. The executive director may award the status of Accredited. If the executive director does not award the Accredited status, the entity may request reconsideration from the Board. The Board's decision shall be final.]

[(4) — The agency shall evaluate the accuracy of an entity's ASEP data and data submitted for the purpose of meeting reporting requirements under Title II of the Higher Education Act, Amendments of 1998, 20 U.S.C. §1021, et. seq. If there are reasonable grounds to believe that the information provided by the entity has been inaccurately or fraudulently reported, the executive director is authorized to conduct an investigation. The entity shall cooperate with the investigation and provide the information and documentation requested by the executive director.]

[(A) — If the entity does not cooperate in the investigation, the executive director may take action against the entity's annual accreditation status based on available, accurate data, as determined by the executive director by a preponderance of the evidence.]

[(B) — If, upon investigation, it is determined that ASEP or Title II data submitted by the entity are inaccurate and are not corrected by the entity within the time and in the form set by the executive director, or the data have been fraudulently submitted by the entity, the executive director may sanction the educator preparation program, up to and including a reduction in the accreditation rating.]

[(h) — An entity not meeting ASEP performance standards shall receive the rating of Accredited Under Review. An entity receiving the rating of Accredited Under Review for three consecutive years, and which does not meet ASEP standards for a fourth consecutive year, shall be rated Not Accredited for the fourth consecutive and subsequent years, except as provided by subsections (i) and (j) of this section.]

- ~~[(i) — If an entity disagrees with its accreditation status, the entity may appeal the accreditation status to the executive director. If the entity does not agree with the executive director's decision, the entity may appeal the decision to the Board. The Board's decision shall be final.]~~
- ~~[(j) — An entity that is rated Not Accredited because of failure to meet ASEP standards shall be rated Not Accredited for at least one academic year. During or subsequent to the year of being rated Not Accredited, the program may apply for reinstatement and the Board may reinstate the program as Accredited Preliminary Status for the following academic year. If reinstated, the entity shall continue to be rated Accredited Preliminary Status until the first accreditation rating is issued following the academic year in which one or more of the program's new candidates (i.e., candidates admitted to the program subsequent to the program's reinstatement) completes the program; at that point, based on the performance of the new candidates under ASEP, the program shall be rated Accredited or Accredited Under Review.]~~
- ~~[(k) — An entity must notify persons enrolled in an educator preparation program of any change of accreditation status. Candidates admitted to a program rated Accredited Under Review which becomes Not Accredited may complete their program and be recommended for certification. Any candidate admitted into the certification program during the period that the entity is rated Not Accredited the candidate can not be recommended for certification by that program.]~~

§229.10. Commendations for Success.

~~[An entity may receive commendations for success in identified areas if the entity is rated Accredited. The Board will establish standards for the following areas in which an entity may be commended:]~~

- ~~[(1) — Preparation of persons for high need teaching fields. Based upon the Board's determination of fields of statewide and regional need, the entity successfully prepares a significant proportion, as established by the Board, of its candidates for certification in the fields of highest need. Areas of need will be established by the Board for periods of five years with the first period beginning September 1, 1997 through September 1, 2002.]~~
- ~~[(2) — Diversity of candidates recommended for certification by an entity. A commendation will be awarded to entities meeting either of the following:]~~
- ~~[(A) — The entity recommends for certification a percent of ethnic minority candidates that is commendable based on a comparison with the distribution of the respective groups in the public school student population. The diversity of the student population of either the state or the education service center region in which the entity is located is the basis for the comparison; or]~~
- ~~[(B) — The entity recommends for certification a percent or number of ethnic minority candidates that, when compared to the percent or number of minority candidates recommended by the entity in the one or two previous years, shows growth that is commendable.]~~

§229.11. Oversight of Entity Rated Accredited Under Review.

- ~~[(a) — The executive director of the Board shall appoint an oversight team to make recommendations and provide assistance to an entity that is rated Accredited Under Review.]~~
- ~~[(1) — The executive director shall notify in writing the chief executive officer of the entity of the appointment of an oversight team.]~~
- ~~[(2) — Members of the oversight team, including the chair, are appointed by the executive director. The entity under review shall be responsible for the reasonable and necessary expenses of the oversight team and, when appropriate, for the expenses of any person assigned to administer and manage the educator preparation program.]~~
- ~~[(3) — With the cooperation of the entity, the oversight team shall collect information about the program and develop strategies for improvement. All recommendations and reports of the progress of the program toward improvement must be provided in writing to the entity and to the executive~~

director. The executive director shall verify if the entity is attempting to implement the recommendations of the oversight team.]

- [(4) — No later than 30 calendar days after receiving the recommendations of an oversight team, the entity shall submit to the executive director an action plan for addressing the recommendations.]
- [(5) — No later than May 31 of each year that an entity is Accredited Under Review, the entity must submit to the executive director a progress report related to the recommendations of the oversight team.]
- [(6) — The executive director shall notify Texas public school districts of the change in accreditation status of a certification program.]
- [(b) — If, after one year, the executive director determines that an entity rated Accredited Under Review has not fulfilled the recommendations of the oversight team, the executive director shall appoint a person to administer and manage the operations of the program.]
- [(c) — The executive director shall appoint a person to administer and manage the operations of a program that has been rated Accredited Under Review for two consecutive academic years and will be rated Accredited Under Review for a third consecutive year.]
- [(d) — The executive director shall, based upon the type and severity of the problems of the preparation program, inform the chief executive officer of the entity of the powers and duties a person assigned to administer and manage the program shall have. The powers and duties of the person appointed to administer and manage the program may include overseeing daily programmatic decisions, supervising staff or budget, and making curriculum related decisions. The administrator may disapprove actions proposed by the program staff.]
- [(e) — An entity must achieve acceptable performance, as set by the Board, on standards required for accreditation no later than August 31 of the third year of being rated Accredited Under Review.]
- [(f) — Considering input of the oversight team, the executive director may at any time, prior to revocation of an entity's accreditation, request that the Board limit the entity to only preparing candidates for certification in specified fields and collaborate with another entity to fully manage the program.]

§229.12. Reporting Requirements.]

- [(a) — Each entity must file an annual performance report of its educator preparation program with the Board no later than October 15 following each academic year. The performance report shall comply with statutory requirements.]
- [(b) — The annual performance report provides program data which includes the level of attainment on the data elements required or authorized by TEC §21.045(b) (relating to Annual Performance Reports by Educator Preparation Programs). These indicators do not affect accreditation status unless adopted by the Board as performance measures.]
- [(c) — Program data shall be disaggregated by gender and ethnicity (male, female, African American, Hispanic, white, and other). Program data to be reported by an educator preparation program to the Board for an academic year include information for:]
 - [(1) — the number of candidates who apply: the number of persons who apply to enter the program, as documented through evidence such as, but not limited to, the candidate's enrollment in professional development courses and other relevant academic coursework or pre-service training undertaken to meet program admission requirements;]
 - [(2) — the number of candidates admitted: the numbers of and identifying information for persons who met all minimum admission criteria of the preparation program and those criteria established by the Board during an academic year;]
 - [(3) — the number of candidates retained: the numbers of and identifying information for persons who have been admitted and who, during the academic year, were enrolled in coursework, field-based experiences, or other activities undertaken to make progress towards meeting program requirements;]

- ~~[(4) — the number of candidates completing the program: the numbers of and identifying information for persons who became program completers during an academic year:]~~
- ~~[(5) — the number of candidates employed in the profession after completing the program: the numbers of and identifying information for persons employed in a public school district in Texas within two academic years of completing a program, who may or may not be assigned in an area in which they completed their program. A person may be assigned in any role requiring a certificate in a Texas public school (both teaching and non-teaching roles):]~~
- ~~[(6) — the number of candidates retained in the profession: the numbers of and identifying information for persons employed in a public school district in Texas within two years of completing a program and also employed at five years after completion, who may or may not be assigned in an area in which they completed their program. A person may be assigned in any role requiring a certificate in a Texas public school (both teaching and non-teaching roles):]~~

Text of Proposed New 19 TAC

Chapter 229. Accountability System for Educator Preparation Programs

§229.1. General Provisions and Purpose of Accountability System for Educator Preparation Programs.

- (a) The State Board for Educator Certification (SBEC) is responsible for establishing standards to govern the continuing accountability of all educator preparation programs (EPPs). The rules adopted by the SBEC in this chapter govern the accreditation of each EPP that prepares individuals for educator certification. No candidate shall be recommended for any Texas educator certification field except by an EPP that has been approved by the SBEC pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs) and is accredited as required by this chapter.
- (b) The purpose of the accountability system for educator preparation is to assure that each EPP is held accountable for the readiness for certification of candidates completing the programs.
- (c) An accredited EPP may receive commendations for success in areas identified by the SBEC.

§229.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Academic year--A period of 12 consecutive months, starting September 1 and ending August 31.
- (2) ACT@--The college entrance examination from ACT@.
- (3) Administrator--For purposes of the surveys and information required by this chapter, an educator whose certification would entitle him or her to be assigned as a principal or assistant principal in Texas, whether or not he or she is currently working in such an assignment.
- (4) Alternative certification program--An approved educator preparation program, delivered by entities described in §228.20(a) of this title (relating to Governance of Educator Preparation Programs), specifically designed as an alternative to a traditional undergraduate certification program, for individuals already holding at least a baccalaureate degree.
- (5) Beginning teacher--For purposes of this chapter, [~~an educator who is required by State Board for Educator Certification rules to receive field supervision during an internship, student teaching, or clinical teaching or~~] a classroom teacher with less than three years experience.
- (6) Campus-based mentor--A certified educator assigned by the campus administrator who has completed mentor training; who guides, assists, and supports the beginning teacher; and who reports the beginning teacher's progress to that teacher's educator preparation program.
- (7) Candidate--An individual who has been admitted into an educator preparation program, including an individual who has been accepted on a contingency basis; also referred to as an enrollee or participant.
- (8) Certification field--Professional development (elementary and secondary) and delivery system fields, academic or career and technical content fields, special education fields, specializations, or professional fields in which an entity is approved to offer certification.
- (9) Clinical teaching--A 12-week full-day teaching practicum in an alternative certification program at a public school accredited by the Texas Education Agency or a Texas Education Agency-recognized private school that may lead to completion of a standard certificate.
- (10) Completer--According to the Higher Education Act, "A person who has met all the requirements of a state-approved educator preparation program." The term completer is no longer used to define the class of educator preparation program candidates subject to a determination of certification examination pass rate.
- (11) Cooperating teacher--The campus-based mentor teacher for the student teacher or clinical teacher.

- (12) Demographic group--Male and female, as to gender; the aggregate reporting categories established by the Higher Education Act, as to race and ethnicity. Each educator preparation program will assign a candidate to one gender demographic group and at least one Higher Education Act-established race or ethnicity group.
- (13) Educator preparation program provider--An entity approved by the State Board for Educator Certification to recommend candidates in one or more educator certification fields.
- (14) Educator preparation program data--Data elements reported to meet requirements under the Texas Education Code, §21.045(b).
- (15) Examination--An examination or other test 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.
- (16) Field supervisor--A certified educator, preferably with advanced credentials, who is hired by the educator preparation program to observe candidates, monitor their performances, and provide constructive feedback to improve their effectiveness as an educator. A campus mentor or cooperating teacher, assigned as required by §228.35(e) of this title (relating to Preparation Program Coursework and/or Training), may not also serve as a field supervisor.
- (17) First year in the classroom--For purposes of the Texas Education Code, §21.045(a)(4), and its implementation in this chapter, the first year of employment as a classroom teacher. [~~period during which field supervision of a beginning teacher is required.~~]
- (18) GPA--Grade point average.
- (19) GRE®--Graduate Record Examinations®.
- (20) Higher Education Act--Federal legislation consisting of the Higher Education Act of 1965 (20 United States Code, §1070 et seq.) and its subsequent amendments, which requires reports of educator preparation program performance data.
- (21) Highly qualified teacher--A teacher who has a baccalaureate degree and full state certification and has demonstrated competency in all subjects in which he or she teaches. A highly qualified teacher has not had any certification requirements waived on an emergency certificate or permit.
- (22) Highly qualified teacher in an alternative certification program--A teacher who is participating in an alternative certification program may be considered to meet the certification requirements of the definition of a highly qualified teacher (and not be counted on a waiver) if he or she is issued a probationary certificate whereby he or she is permitted to assume functions as a regular classroom teacher for a specified period of time not to exceed three years and he or she demonstrates satisfactory progress toward full certification. The teacher's alternative certification program must provide high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction before and while teaching. The teacher must receive intensive supervision that consists of structured guidance and regular ongoing support, as required by §228.35 of this title (relating to Preparation Program Coursework and/or Training).
- (23) IHE--Institution of Higher Education.
- (24) Institutional report--Educator preparation program data reported to the United States Department of Education and the Texas Education Agency as required under the Higher Education Act.
- (25) Internship--A one-year supervised professional assignment at a public school accredited by the Texas Education Agency or a Texas Education Agency-recognized private school that may lead to completion of a standard certificate.
- (26) Pass rate--For each academic year, the percent of tests passed by candidates who have finished all educator preparation program requirements for coursework; training; and internship, student teaching, clinical teaching, or practicum by the end of that academic year. For purposes of determining the pass rate, candidates shall not be excluded because the candidate has not been recommended for certification, has not passed a certification examination, or is not considered a

"completer" for purposes of the Higher Education Act or other applicable law. The pass rate is based solely on the examinations required to obtain certification in the field(s) for which the candidate serves his or her internship, student teaching, clinical teaching, or practicum. Examinations not required for certification in that field or fields, whether taken before or after admission to an educator preparation program, are not included. The rate reflects a candidate's success only on the last attempt made on the examination by the end of the academic year in which the candidate finishes the coursework; training; and internship, student teaching, clinical teaching, or practicum program requirements, and does not reflect any attempts made after that year. The formula for calculation of pass rate is the number of successful (i.e., passing) last attempts made by candidates who have finished the specified educator preparation program requirements divided by the total number of last attempts made by those candidates.

- (27) Practicum--Practical work in a particular field; refers to student teaching, clinical teaching, internship, or practicum for a professional certificate that is in the school setting.
- (28) SAT®--The college entrance examination from the College Board.
- (29) Scaled score--A conversion of a candidate's raw score on an examination or a version of the examination to a common scale that allows for a numerical comparison between candidates.
- (30) Student teaching--A 12-week full-day teaching practicum in a program provided by an accredited university at a public school accredited by the Texas Education Agency or a Texas Education Agency-recognized private school that may lead to completion of a standard certificate.
- (31) Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the SBEC's administrative functions and services.
- (32) Willfully or recklessly--With conscious disregard for the requirements of complete and accurate reporting imposed by this chapter.

§229.3. Required Submissions of Information, Surveys, and Other Data.

- (a) Educator preparation programs (EPPs), educator preparation candidates, beginning teachers, field supervisors, school principals and administrators, campus mentors, and cooperating teachers shall provide to the Texas Education Agency (TEA) staff all data and information required by this chapter, as set forth in subsection (e) of this section and the Texas Education Code (TEC), §21.045 and §21.0452.
- (b) Any individual holding a Texas-issued educator certificate who willfully or recklessly fails to provide information required by this chapter and the TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, shall be subject to sanction of his or her certificate, including the placement of restrictions, inscribed or non-inscribed reprimand, suspension, or revocation.
- (c) Any Texas public school that willfully or recklessly fails to provide information required by this chapter and the TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, shall be **referred to the commissioner of education with a recommendation that [subject to] sanctions upon its accreditation status be imposed for failure to comply with this section and the TEC, §21.0452** .
- (d) Any open-enrollment charter school that willfully or recklessly fails to provide information required by this chapter and the TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, **shall be referred to the commissioner of education with a recommendation that sanctions be imposed for failure to comply with this section and the TEC, §21.0452 [may be considered to have committed a material violation of the school's charter pursuant to the TEC, Chapter 12]** .
- (e) All required EPP data for an academic year shall be submitted to the TEA staff annually on September 15 following the end of that academic year. All surveys and information required to be submitted pursuant to this chapter by school administrators and principals shall be submitted by June 15 of any academic year in which the school administrator and principal have had experience with a candidate or beginning teacher who was a participant in an EPP. All surveys and information required to be submitted pursuant to this chapter by EPP candidates shall be submitted by August 1 of each academic year in which it is required.
- (f) The following apply to data submissions required by this chapter.

(1) EPPs shall provide data for all candidates as specified in the figure provided in this paragraph.

[Figure: 19 TAC §229.3\(f\)\(1\)](#)

(2) Participants in an EPP shall complete a survey, in a form approved by the State Board for Educator Certification (SBEC), evaluating the preparation he or she received in the EPP. Completion and submission to the SBEC of the survey is a requirement for issuance of a standard certificate.

(3) Principals or designated administrators in Texas public schools and open-enrollment charter schools shall complete individual teacher performance surveys, in a form to be approved by the SBEC, for each beginning teacher under the supervision of an EPP.

(4) Principals or designated administrators in Texas public schools and open-enrollment charter schools shall complete surveys, in a form to be approved by the SBEC, evaluating the effectiveness of preparation for classroom success for each EPP with which the principals or designated administrators have had experience in the previous year.

§229.4. Determination of Accreditation Status.

(a) The accreditation status of an educator preparation program (EPP) shall be determined at least annually, based on performance standards established in rule by the State Board for Educator Certification (SBEC), with regard to the following EPP accountability performance indicators, disaggregated with respect to gender and ethnicity (according to the aggregate reporting categories for ethnicity established by the Higher Education Act), and other requirements of this chapter:

(1) the pass rate performance standard of certification examinations of EPP candidates shall be:

(A) 70% for the 2009-2010 academic year;

(B) 75% for the 2010-2011 academic year; and

(C) 80% for the 2011-2012 academic year;

(2) the results of appraisals of beginning teachers by school administrators, based on an appraisal document and standards that must be independently developed by the Texas Education Agency (TEA) staff and approved by the SBEC;

(3) to the extent practicable, as valid data becomes available and performance standards are developed, the improvement in student achievement of students taught by beginning teachers for the first three years following certification; and

(4) the results of data collections establishing EPP compliance with SBEC requirements [specified in §228.35\(f\) of this title \(relating to Preparation Program Coursework and/or Training\)](#), regarding the frequency, duration, and quality of field supervision of beginning teachers during their first year in the classroom.

(A) The 2009-2010 academic year will be a pilot year for these data collections.

(B) For the 2010-2011 academic year, the performance standard will be a 90% compliance rate with SBEC requirements as to the frequency, duration, and required documentation of field supervision for each EPP candidate.

(C) For the 2011-2012 academic year, the performance standard will be a 95% compliance rate with SBEC requirements as to the frequency, duration, and required documentation of field supervision for each EPP candidate.

(b) An EPP shall be assigned an Accredited status if the EPP has met the accountability performance standards described in subsection (a) of this section and has been approved by the SBEC to prepare, train, and recommend candidates for certification.

(c) An EPP shall be assigned Accredited-Not Rated status upon initial approval to offer educator preparation, until the EPP can be assigned a status based on the performance standards described in subsection (a) of

this section. An EPP is fully accredited and may recommend candidates for certification while it is in Accredited-Not Rated status.

(d) Accredited-Warned status. An EPP shall be assigned Accredited-Warned status if the EPP:

- (1) fails to meet the performance standards set by the SBEC for the overall performance of all its candidates on any of the four performance indicators set forth in subsection (a) of this section in any one year;
- (2) fails to meet the standards in any two gender or ethnicity demographic groups on any of the four performance indicators set forth in subsection (a) of this section in any one year; or
- (3) fails to meet the standards for a gender or ethnicity demographic group on any of the four performance indicators set forth in subsection (a) of this section for two consecutive years, regardless of whether the deficiency is in the same demographic group or standard.

(e) Accredited-Probation status. An EPP shall be assigned Accredited-Probation status if the EPP:

- (1) fails to meet the performance standards set by the SBEC for the overall performance of all its candidates on any of the four performance indicators set forth in subsection (a) of this section for two consecutive years;
- (2) fails to meet the standards in any three gender or ethnicity demographic groups on any of the four performance indicators set forth in subsection (a) of this section in any one year; or
- (3) fails to meet the standards for a gender or ethnicity demographic group on any of the four performance indicators set forth in subsection (a) of this section for three consecutive years, regardless of whether the deficiency is in the same demographic group or standard.

(f) Not Accredited-Revoked status.

- (1) An EPP shall be assigned Not Accredited-Revoked status and its approval to recommend candidates for educator certification revoked if it is assigned Accredited-Probation status for three consecutive years.
- (2) An EPP may be assigned Not Accredited-Revoked status if the EPP is assigned Accredited-Probation status for two consecutive years, and the SBEC determines that revoking the EPP's approval is reasonably necessary to achieve the purposes of the TEC, §21.045 and §21.0451.
- (3) An assignment of Not Accredited-Revoked status and revocation of EPP approval to recommend candidates for educator certification is subject to the requirements of notice, record review, and appeal as described in this chapter.
- (4) A revocation of an EPP approval shall be effective for a period of two years, after which a program may reapply for approval as a new EPP pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs).
- (5) Upon revocation of EPP approval, the EPP may not admit new candidates for educator certification, but may complete the training of candidates already admitted by the EPP and recommend them for certification. If necessary, TEA staff and other EPPs shall cooperate to assist the previously admitted candidates of the revoked EPP to complete their training.

(g) Small group exception.

- (1) If any EPP candidate group subject to the performance standards described in this chapter, including groups disaggregated by gender, ethnicity, and certification field, fails to meet the required academic year aggregate standard for any applicable class of performance indicators, and the group contains ten or fewer individuals, the failure to meet the performance standard shall not be counted for purposes of accreditation status determination for that academic year.
- (2) The next year's performance indicators of a group not counted the previous year shall be combined with the group's preceding year performance indicators, and if the cumulated performance indicators fail to meet the required aggregate standard for any applicable class of performance

indicators, the group shall be counted as failing to meet performance standards for that academic year, as long as the cumulative number of individual performance indicators exceeds ten.

- (3) If the two-year cumulated performance indicators fail to meet performance standards but still do not exceed ten individual performance indicators, the group shall not be counted again that year. The two-year cumulated performance indicators shall then be combined with the following year performance indicators of the group. The three-year cumulated performance indicators of the group must be measured against the standards in that third year, regardless of how small the cumulated number of individual performance indicators may be.
 - (4) The performance indicators of a group shall be measured against performance standards described in this chapter in any one year in which the number of individual performance indicators or cumulated number of individual performance indicators as provided herein exceeds ten.
 - (5) After a year in which a group has been counted as failing to meet a performance standard, the individual performance indicators of the group related to that standard shall be counted in each subsequent consecutive year thereafter in which the performance indicators of the group fail to meet the standard, regardless of how small the number of individual performance indicators in the group may continue to be.
 - (6) An EPP shall develop and file with TEA an action plan as required in subsection (h) of this section after one of its candidate groups fails to meet a performance standard regardless of whether the group contains less than ten performance indicators and is not counted for accreditation status purposes as failing to meet a performance standard.
- (h) An EPP that fails to meet a required performance standard shall develop an action plan addressing the deficiencies and describing the steps the program will take to improve the performance of its candidates, especially regarding the performance standard that was not met. TEA staff may prescribe the information that must be included in the action plan. The action plan must be sent to TEA staff no later than 45 calendar days following notification to the EPP of the failure to meet a performance standard.

§229.5. Accreditation Sanctions and Procedures.

- (a) If an educator preparation program (EPP) has been assigned Accredited-Warned or Accredited-Probation status, or if the State Board for Educator Certification (SBEC) determines that additional action is a necessary condition for the continuing approval of an EPP to recommend candidates for educator certification, the SBEC may take any one or more of the following actions, which shall be reviewed by the SBEC at least annually:
 - (1) require the EPP to obtain technical assistance approved by the Texas Education Agency (TEA) or SBEC;
 - (2) require the EPP to obtain professional services approved by the TEA or SBEC; and/or
 - (3) appoint a monitor to participate in the activities of the EPP and report the activities to the TEA or SBEC.
- (b) Notwithstanding the accreditation status of an EPP, if the performance of all candidates admitted to an individual certification field offered by an EPP fail to meet any of the standards in §229.4(a) of this title (relating to Determination of Accreditation Status) for three consecutive years, the approval to offer that certification field shall be revoked. Any candidates already admitted for preparation in that field may continue in the EPP and be recommended for certification after program completion, but no new candidates shall be admitted for preparation in that field unless and until the SBEC reinstates approval for the EPP to offer that certification field.
- (c) Performance indicators by gender and ethnic groups shall not be counted for purposes of subsection (b) of this section, relating to performance standards for individual certification fields. If the number of counted performance indicators for a certification field is ten or fewer, and the performance indicators fail to meet any of the standards in §229.4(a) of this title, those performance indicators shall not count that year, but shall be cumulated and counted in the same manner as provided in §229.4(c) and (d) of this title.

- (d) An EPP shall be notified in writing regarding any action taken pursuant to this section, or the assignment of an accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked. The notice shall state the basis on which the action is taken or the assignment of the accreditation status is made.
- (e) All costs associated with providing or requiring technical assistance, professional services, or the appointment of a monitor pursuant to this section shall be paid by the EPP to which the services are provided or required, or its sponsor.

§229.6. Continuing Approval.

- (a) The continuing approval of an educator preparation program (EPP) to recommend candidates for educator certification, which shall be reviewed pursuant to §228.10(c) of this title (relating to Approval Process), will be based upon the EPP's accreditation status and compliance with the State Board for Educator Certification (SBEC) rules regarding program admissions, operations, coursework, training, recommendation for certification, and the integrity of required data submissions.
- (b) After a continuing approval review pursuant to §228.10(c) of this title, if the Texas Education Agency (TEA) staff finds that an EPP has willfully or recklessly failed to comply with SBEC rules relating to the qualifications of candidates recommended for certification or to the integrity of reported program data, the TEA staff may issue a proposal for SBEC action relating to the EPP's approval to recommend candidates for educator certification. The proposal for SBEC action may include, but is not limited to, public reprimand, revocation of program approval, or the imposition of conditions upon continuing program approval.
- (c) TEA staff shall provide notice of the proposal for SBEC action relating to the EPP's continuing approval to recommend candidates for educator certification in the manner provided by §229.7 of this title (relating to Record Review of Certain Decisions), and an EPP shall be entitled to a record review of the proposal, under the conditions and procedures set out in §229.7 of this title, prior to the submission of the proposal for action to the SBEC.
- (d) Following the record review, a proposal for decision will be issued by the TEA representative and submitted to the SBEC for entry of a final order. The final order may include changes or additions to the proposed order and such modifications are not subject to another record review procedure. This order may be appealed only if the final order issued by the SBEC orders revocation of approval of an EPP to recommend candidates for educator certification, as provided by §229.8 of this title (relating to Accreditation Revocation Appeals).

§229.7. Record Review of Certain Decisions.

- (a) Applicability. This section applies only to a notice required under §229.5(d) of this title (relating to Accreditation Sanctions and Procedures) or under §229.6(c) of this title (relating to Continuing Approval) proposing to:
 - (1) require an educator preparation program (EPP) or a particular field of certification offered by an EPP to obtain technical assistance as provided by the Texas Education Code (TEC), §21.0451(a)(2)(A);
 - (2) require an EPP or a particular field of certification offered by an EPP to obtain professional services as provided by the TEC, §21.0451(a)(2)(B);
 - (3) appoint a monitor for an EPP or a particular field of certification offered by an EPP as provided by the TEC, §21.0451(a)(2)(C);
 - (4) assign an accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked, as specified in §229.4 of this title (relating to Determination of Accreditation Status);
 - (5) issue a public reprimand or impose conditions on the continuing approval of an EPP to recommend candidates for certification pursuant to §229.5(d) of this title;
 - (6) revoke the approval of an EPP to recommend candidates for certification in a particular field of certification; or

- (7) revoke the approval of an EPP to recommend candidates for certification.
- (b) Notice. Notice of a proposed order or change in accreditation status, subject to this section, shall be made as provided by §229.5(d) and §229.6(c) of this title, and this section.
- (1) The notice shall attach or make reference to all information on which the proposed order is based.
- (A) Information maintained on the Texas Education Agency (TEA) and State Board for Educator Certification (SBEC) websites may be referenced by providing a general citation to the information.
- (B) The TEA and SBEC reports previously sent to the EPP may be referenced by providing the title and date of the report.
- (C) On request, the TEA shall provide copies of, or reasonable access to, information referenced in the notice.
- (2) The notice shall state the procedures for requesting a record review of the proposed order or change in accreditation status under this section, including the name and department of the TEA representative to whom a request for record review may be addressed.
- (3) The notice shall set a deadline for requesting a record review, which shall not be less than ten calendar days from the date of receipt of the notice. The notice may be delivered by mail, personal delivery, facsimile, or email.
- (c) Request. The chief operating officer of the EPP may request, in writing, a record review under this section.
- (1) The request must be properly addressed to the TEA representative identified in the notice under subsection (b)(2) of this section and must be received by the TEA representative on or before the deadline specified in subsection (b)(3) of this section.
- (2) A timely and sufficient request for record review is a prerequisite for any appeal of the proposed order under §229.8 of this title (relating to Accreditation Revocation Appeals).
- (d) Preliminary matters.
- (1) In response to a request under subsection (c) of this section, the TEA representative shall provide written notice to the EPP of the date, time, and place for the record review.
- (A) In the written notice, the TEA representative may:
- (i) set time limits for presentations on the record review;
- (ii) set deadlines for exchanging documents prior to the record review;
- (iii) set deadlines for identifying participants who may present information or ask questions during the record review; and
- (iv) provide any other instructions on the conduct of the record review.
- (B) The TEA representative may consider reasonable requests to reschedule the record review and associated deadlines, but shall give primary importance to the need for a timely resolution of the matter under record review.
- (C) The record review shall be completed on or before the expiration of 30 calendar days following receipt of the request under subsection (c) of this section.
- (D) Timely completion of the record review under subsection (c) of this section is a prerequisite for an appeal of the proposed order under §229.8 of this title.
- (2) The EPP shall submit any written information to the TEA representative in advance of the record review. To be considered part of the record, such information must also be presented during the record review.

- (3) In its request for record review, or within a reasonable time thereafter, the EPP may request that specific TEA staff attend the record review to assist the TEA representative in reviewing the information presented.

 - (A) Such request shall be limited to TEA staff directly involved in the development of the information identified in the notice under subsection (b) of this section.
 - (B) If reasonable and practicable, the TEA representative shall schedule the record review so as to allow the requested TEA staff to attend.
 - (4) At all times prior to the record review, the EPP is encouraged to contact the office of the TEA representative to discuss the process and to facilitate preliminary matters. However, such communications will not be recorded and will not be considered part of the record.
 - (5) The EPP identification number of the affected entity must be included in all written correspondence on the record review, as well as the date the notice was issued under subsection (b) of this section. Correspondence relating to the record review may be made part of the record.
 - (6) All deadlines under this section shall be calculated from the date of actual receipt. No mailbox rule applies.
- (e) Record review.
- (1) The TEA representative shall meet with the chief operating officer and/or representatives of the EPP at the TEA headquarters in Austin, Texas, to receive oral and written information.
 - (2) The proceedings shall be recorded by audiotape or similar means. The audiotape and all written information presented during the record review shall comprise the official record of the proceedings.
 - (3) The EPP may have legal counsel present during the proceedings.
 - (4) The EPP may present information verbally and in writing and may rebut information presented by the TEA staff.
 - (5) The rules of evidence do not apply. Presentations need not follow question-and-answer format.
 - (6) The EPP may ask questions of the TEA staff. The TEA representative may designate a specific portion of the meeting for this purpose.
 - (7) The TEA representative may ask questions of any participant directly or through the TEA staff.
 - (8) The TEA representative shall strictly confine presentations and questions to the matters set forth in the notice and shall exclude information that is irrelevant, immaterial, or unduly repetitious.
 - (9) On request, the TEA representative shall include in the record a brief written proffer describing any information excluded under paragraph (8) of this subsection. In lieu of a written proffer, an oral statement may be recorded on a separate audiotape. If the excluded information is in writing, the document shall be identified as excluded and preserved with the record.
 - (10) The TEA representative may take official notice of generally recognized information within the TEA staff's area of specialized knowledge.

 - (A) Each party shall be notified, either before or during the record review, of the material officially noticed, including TEA staff memoranda or information.
 - (B) Any participant may present information to rebut information that is officially noticed.
 - (11) The special skills and knowledge of the TEA representative and staff shall be used in evaluating all information presented during the record review.
 - (12) At the request of the EPP, a record review may be conducted by telephone or similar means.
 - (13) A participant may present information via telephone or similar means during any record review.

- (f) Final order. Following the record review, a proposal for decision will be issued by the TEA representative and submitted to the SBEC for entry of a final order. The final order may include changes or additions to the proposed order and such modifications are not subject to another record review procedure. This order may be appealed only as provided by §229.8 of this title.
- (g) No request. If no record review is requested by the deadline specified in subsection (b)(3) of this section, a final order may be issued without record review. An order issued without record review may not be appealed under §229.8 of this title, or otherwise.
 - (1) The approval of an EPP to provide educator preparation is automatically:
 - (A) revoked, void, and of no further force or effect on the effective date of a final decision by the SBEC ordering the EPP closed under this subsection; and
 - (B) modified to remove authorization for an individual certification field on the effective date of a final decision by the SBEC ordering the EPP closed under this subsection.
 - (2) If sanctions other than revocation of approval and EPP closure are imposed on an EPP under the procedures provided by this subsection, an EPP is not entitled to any additional hearing or appeal.
- (h) Other law. Texas Government Code, Chapter 2001, and the TEC, §7.057, do not apply to a record review under this section.

§229.8. Accreditation Revocation Appeals.

- (a) Applicability. This section applies only to a final order issued under §229.5 of this title (relating to Accreditation Sanctions and Procedures) or §229.6 of this title (relating to Continuing Approval) that orders revocation of approval and closure of an educator preparation program (EPP) and does not apply to a final decision or order assigning Accredited-Warned or Accredited-Probation status or ordering any other sanction, including, without limitation, withdrawing approval to offer a specific certification field, public reprimand, imposing conditions upon continuing approval, requiring technical assistance, requiring professional services, or appointing a monitor.
- (b) Applicability of other law. An appeal under this section shall be governed by the contested case procedures provided by Chapter 157, Subchapter EE, of this title (relating to Review by State Office of Administrative Hearings: Certain Accreditation Sanctions) and Texas Government Code, Chapter 2001. To the extent that a provision of this section conflicts with a rule or practice of the State Office of Administrative Hearings (SOAH), this section shall prevail.
- (c) Petition for review. An EPP subject to a decision (final order), made applicable to this section by subsection (a) of this section, may file with the State Board for Educator Certification (SBEC) a petition for review of that decision not later than 30 calendar days after the date the decision to be reviewed is received by the EPP. The decision may be delivered by mail, personal delivery, facsimile, or email.
 - (1) The petition for review shall include a copy of the challenged decision and any attachments or exhibits and incorporated documents.
 - (2) The petition for review shall concisely state, in numbered paragraphs:
 - (A) if alleging the decision was made in violation of a statutory provision, the statutory provision violated and the specific facts supporting a conclusion that the statute was violated by the decision;
 - (B) if alleging the decision was made in excess of the SBEC's statutory authority, the SBEC's statutory authority and the specific facts supporting a conclusion that the decision was made in excess of this authority;
 - (C) if alleging the decision was made through unlawful procedure, the lawful procedure and the specific facts supporting a conclusion that the decision was made through unlawful procedure;
 - (D) if alleging the decision was affected by other error of law, the law violated and the specific facts supporting a conclusion that the decision violated that law;

- (E) if alleging the decision was not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole, each finding, inference, conclusion, or decision that was unsupported by substantial evidence in the record;
 - (F) if alleging the decision was arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion, each finding, inference, conclusion, or decision affected and the specific facts supporting a conclusion that each was so affected; and
 - (G) for each violation, error, or defect alleged under subparagraphs (A)-(F) of this paragraph, the substantial rights of the EPP that were prejudiced by such violation, error, or defect.
 - (3) A petition for review shall further contain:
 - (A) a concise statement of the relief sought by the EPP (petitioner); and
 - (B) the name, mailing address, telephone number, and facsimile number of the petitioner's representative.
 - (4) A request for relief in a review under this section may not be made orally or as part of the record at a record review, prehearing conference, or hearing.
 - (5) Failure to comply with the requirements of this subsection shall result in dismissal of the petition for review. A petition for review may not be amended or supplemented after the deadline for filing a petition for review.
 - (6) The SBEC shall transmit the petition for review to the SOAH with a request that it be docketed.
 - (7) If the SBEC chooses to file an answer, the answer must be filed by the date the record is filed under subsection (l) of this section.
 - (d) Standard of review. A challenge under this section shall be governed by the substantial evidence rule as provided by the Texas Government Code, §2001.174 and §2001.175, and judicial case precedents construing those provisions.
 - (e) Matters within SBEC's discretion. The SOAH may not substitute the SOAH judgment for the judgment of the SBEC on questions committed to the SBEC's discretion. Questions committed to the SBEC's discretion include, but are not limited to, the following:
 - (1) any questions arising under a statute, rule, or other legal standard that requires or permits the SBEC to make a decision within general legal guidelines that do not mandate a specific result under the circumstances; and
 - (2) the execution of any act authorized or required to be taken by the SBEC.
 - (f) Weight of evidence. The SOAH may not substitute the SOAH judgment for the judgment of the SBEC on the weight to be assigned the evidence before the SBEC.
 - (g) SOAH decisions. The SOAH may affirm the SBEC decision in whole or in part. The SOAH shall reverse and remand the decision for further proceedings if substantial rights of the EPP have been prejudiced because the administrative findings, inferences, conclusions, or decisions of the SBEC are:
 - (1) in violation of a statutory provision;
 - (2) in excess of the SBEC's authority;
 - (3) made through unlawful procedure;
 - (4) affected by other error of law;
 - (5) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or
 - (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

- (h) Remand. An order of remand may not direct or control the SBEC's exercise of discretion on a matter committed to the SBEC's discretion by the Texas Education Code (TEC), Chapter 21, Subchapter B, and the SBEC shall continue to exercise that discretion after remand. On remand, the SBEC shall apply the facts and law as determined by the SOAH to reach a new decision in light of all the circumstances of the case.
- (i) Scope of review. The administrative law judge (ALJ) is confined to the SBEC record, except that the ALJ may receive evidence of procedural irregularities alleged to have occurred before the SBEC that are not reflected in the record.
- (j) Additional evidence. A party may apply to the ALJ to present additional evidence of procedural irregularities alleged to have occurred before the SBEC that are not reflected in the record. If the additional evidence is material to the outcome of the review, and if there were good reasons for the failure to present it in the proceeding before the SBEC, the ALJ may order that the additional evidence be taken before the SBEC or its TEA representative on conditions determined by the ALJ. The SBEC shall file the additional evidence and any changes, new findings, or decisions with the ALJ. The ALJ may not take testimony, question witnesses, administer oaths, rule on questions of evidence, or compel discovery or disclosure of evidence in any form.
- (k) Components of SBEC record. The SBEC record of proceedings shall include the following components, as specified under §229.7 of this title (relating to Record Review of Certain Decisions):
- (1) the notice of proposed order, including all information referenced in the notice;
 - (2) the request for record review, including any request for the attendance of specific TEA staff under §229.7(d)(3) of this title;
 - (3) any written correspondence made a part of the record by the TEA representative under §229.7(d)(5) of this title;
 - (4) any audiotapes or similar recordings made a part of the record by the TEA representative under §229.7(d) of this title;
 - (5) all audiotapes or similar recordings of the record review and any recorded telephone conferences, proffers of excluded information, or other recorded proceedings before the TEA representative under §229.7 of this title;
 - (6) all written information presented to the TEA representative during the record review;
 - (7) a description of all matters officially noticed; and
 - (8) the final order issued under §229.7(f) of this title.
- (l) Proceedings regarding SBEC record. The SBEC shall file the original or a certified copy of the entire record of the proceeding under review not later than 20 calendar days after the date the petition for review is filed, unless additional time is allowed by the ALJ. The record may be shortened by stipulation of all parties to the review proceedings. The ALJ may assess costs against a party who unreasonably refuses to stipulate to limit the record, unless that party is required to pay all costs of record preparation. The petitioner shall offer, and the ALJ shall admit, the TEA record into evidence as an exhibit. The ALJ may require or permit later corrections or additions to the record.
- (m) Enforcement of decision pending review. The pendency of a review under this section does not stay or otherwise affect the enforcement of the SBEC decision challenged under this chapter.
- (n) Expedited review. The SOAH shall expedite its review of a challenge under this section. The ALJ shall issue a pre-hearing order initially setting a date for closure of the record that is not later than 30 calendar days after the date the petition for review is filed. The ALJ may grant a continuance of the record closure date only for good cause shown. The ALJ may not order a settlement conference, mediation, or other form of alternative dispute resolution. The ALJ shall issue a final order not later than 30 calendar days after the date on which the record is finally closed.
- (o) Final decision. The decision of the ALJ is final and may not be appealed. The decision of the ALJ:
- (1) must rule on any mandatory sanction required by the TEC, §21.0451;

- (2) may not order a sanction or relief that the SBEC is not authorized to order under applicable law; and
- (3) may not change an accreditation status.

§229.9. Fees for Educator Preparation Program Approval and Accountability.

An educator preparation program requesting approval and continuation of accreditation status shall pay the applicable fee from the following list.

- (1) New educator preparation program application (nonrefundable; includes pre-approval visit)--\$1,000.
- (2) New educator preparation program approval (includes post-approval visit)--\$1,000.
- (3) Ten-year reapplication for an educator preparation program approved after August 31, 2008 (includes approval visit)--\$2,000.
- (4) Five-year continuing approval visit pursuant to §228.10(c) of this title (relating to Approval Process)--\$1,500.
- (5) Monitoring or technical assistance visit--\$1,500.
- (6) Addition of new certification field or addition of clinical teaching--\$500.
- (7) Addition of each new class of certificate--\$1,000.