

Item 13:**Consider and Take Appropriate Action on Proposed Amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss and propose amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility. The proposed amendments would implement the statutory requirements of Senate Bill (SB) 1839 and House Bills (HBs) 2039 and 1508, 85th Texas Legislature, Regular Session, 2017. The proposed amendments would also implement changes based on stakeholder input and Texas Education Agency (TEA) staff recommendations.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 227, Subchapter A, is the Texas Education Code (TEC), §§21.031; 21.041(b)(1); 21.044(a) and (g)(2) and (3); 21.0441; 21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017; 21.049(a); 21.050(a); and Texas Occupations Code (TOC), §§53.151, 53.152, and 53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017. The statutory authority for 19 TAC Chapter 227, Subchapter B, is the TOC, §53.105.

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

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

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

TEC, §21.044(g)(2) and (3), requires each educator preparation program (EPP) to provide certain information related to the effect of supply and demand forces on the educator workforce of the state and the performance over time of the EPP.

TEC, §21.0441, requires the SBEC to adopt rules setting certain admission requirements for EPPs.

TEC, §21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017, requires the SBEC to adopt rules establishing eligibility requirements for an Early Childhood: Prekindergarten-Grade 3 certificate.

TEC, §21.049(a), authorizes the SBEC to propose rules providing for educator certification programs as an alternative to traditional EPPs.

TEC, §21.050(a), requires a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under the TEC, Chapter 28, Subchapter A.

TOC, §53.151, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, sets the definitions of "licensing authority" and "occupational license" to have the meanings assigned to those terms by the TOC, Section 58.001.

TOC, §53.152, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, requires EPPs to provide applicants and enrollees certain notice regarding potential ineligibility for a certificate based on convicted offenses, the SBEC rules regarding the certificate eligibility of an individual with a criminal history, and the right of the individual to request a criminal history evaluation letter.

TOC, §53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, requires an EPP to refund tuition, application fees, and examination fees paid by an individual if the EPP failed to provide the required notice under the TOC, §53.152, to an individual who was denied a certificate because the individual was convicted of an offense.

TOC, §53.105, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017, specifies that a licensing authority may charge a person requesting an evaluation under the TOC, Chapter 53, Subchapter D, a fee adopted by the authority. Fees adopted by a licensing authority under the TOC, Chapter 53, Subchapter D, must be in an amount sufficient to cover the cost of administering this subchapter.

EFFECTIVE DATE: If approved for filing as proposed in December 2017 and if adopted, subject to State Board of Education (SBOE) review, at the March 2, 2018 SBEC meeting, the proposed effective date of the proposed amendments to 19 TAC Chapter 227, Subchapters A and B, would be June 1, 2018. This date is at least 20 days after filing as adopted with the *Texas Register* and would provide EPPs with approximately three months from the anticipated date of adoption to make changes to their admission processes. The proposed effective date is also based on the SBEC and SBOE meeting schedules.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 227 are organized as follows: Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility. These subchapters provide for rules that establish requirements for admission to an EPP and preliminary evaluation of certification eligibility. The four-year review of 19 TAC Chapter 227 was adopted by the SBEC at its October 2017 meeting. TEA staff prepared a discussion item with draft rule text for the October 2017 SBEC meeting, but the SBEC was not able to discuss the item due to a lack of a

quorum. No public comment was submitted to the SBEC during the review period for 19 TAC Chapter 227, and no individuals registered for public testimony on the discussion item at the October 2017 SBEC meeting. TEA staff continued to engage stakeholders after the meeting and has included several recommendations for changes for the SBEC to consider.

Following is a description of the proposed amendments included in Attachment II.

§227.1. General Provisions

Language would be amended to incorporate the requirements of the TOC, §§53.151, 53.152, and 53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017. New subsection (d) would require EPPs to notify applicants and admitted candidates about the potential ineligibility of an individual who had been convicted of an offense for issuance of a certificate upon completion of an EPP, the current SBEC rules regarding the eligibility of a person with a criminal history for a certificate, and their right to request a preliminary criminal history evaluation letter. This letter would provide the applicant or admitted candidate with an evaluation from TEA staff advising of potential ineligibility for educator certification based on the individual's self-reported criminal history. New subsection (e) would require an EPP to refund tuition, application fees, and examination fees paid by an individual if the EPP failed to provide the required notice to an individual who was denied a certificate because the individual was convicted of an offense prior to the EPP providing notice. Based on input from EPP stakeholders, TEA staff also recommends limiting the examination fee liability of an EPP to examinations that were required to be passed to meet the admission requirements of the EPP and/or examinations that the EPP approved a candidate to attempt to prevent an EPP from having to refund testing fees from examinations unrelated to the individual's participation in that EPP.

New subsection (f) is being proposed to address deadlines in this chapter that cannot be met because of a disaster that results in the governor of Texas declaring a state of disaster. This amendment would allow TEA staff to extend deadlines in this chapter for up to 90 days to accommodate persons in the disaster areas identified by the governor's declaration.

§227.5. Definitions

Language would be amended to add a definition for *undergraduate degree*. New paragraph (15) would define undergraduate degree as a bachelor's degree earned from and conferred by an accredited institution of higher education (IHE). This definition would clarify various requirements that require an undergraduate degree and to distinguish between a bachelor's degree and an associate's degree. The rules related to career and technology education certificates that allow a high school diploma or associate's degree for admission to an EPP would not be affected by the addition of this definition.

§227.10. Admission Criteria

Language would be amended in §227.10(a)(3)(B)(ii) and (a)(4)(D) to clarify admission criteria for applicants who had previously been admitted to an EPP and are seeking to be re-admitted to the same EPP. Current rules prohibit TEA staff from providing test approval through the Pre-Admission Content Test (PACT) route if an individual is seeking admission to an EPP that had previously provided test approval to the individual. The proposed amendment would prohibit

TEA staff from providing test approval through the PACT route if an individual is seeking admission to an EPP that had previously provided test approval for any certification examination within the same certification class. Classes of certification include superintendent, principal, classroom teacher, reading specialist, master teacher, school librarian, school counselor, and educational diagnostician. This proposed amendment would strengthen the Accountability System for Educator Preparation (ASEP) as it relates to the performance standard for certification examination results by requiring EPPs to be accountable for all tests for which they provided test approval.

Language would be added in proposed §227.10(a)(5) to require an EPP to check the credentials of an applicant who is seeking an initial certificate in a class other than classroom teacher to determine if the applicant already meets the admission requirements and the certification, experience, and/or degree requirements for issuance of a standard certificate. The EPP would need to inform an applicant in writing prior to admission of any deficiency that exists at the time of admission that would cause the individual to be ineligible for a standard certificate if the requirement is not met at the time the individual applies for a standard certificate. This proposed amendment would decrease the number of individuals who complete an EPP and pass the certification examination but are ineligible for a standard certificate because they do not meet the certification, experience, and/or degree requirement for the standard certificate.

Language would be amended in proposed new subsections (f) and (g) to incorporate the requirements of the TEC, §21.0489(c), as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017. New subsection (f) would set an admission requirement for educators who want to add the Early Childhood: Prekindergarten-Grade 3 certificate to their credentials. An EPP may admit an educator to its program for the purpose of completing the course of instruction that is required for the issuance of an Early Childhood: Prekindergarten-Grade 3 certificate if the educator holds a valid standard, provisional, or one-year classroom teacher certificate that has been issued by the SBEC and allows them to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3. New subsection (g) would set admission requirements for educators who do not hold a certificate that allows them to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3. An educator who is not already certified to teach all subjects in these grades must complete the program requirements for an initial certificate, including clinical teaching or an internship, to be eligible for issuance of an Early Childhood: Prekindergarten-Grade 3 certificate. Provisional and professional certificates are lifetime certificates that were issued prior to September 1, 1999. Standard certificates are certificates that were issued on or after September 1, 1999, and are required to be renewed every five years.

§227.15. Contingency Admission

Based on EPP stakeholder input, language would be amended in §227.15(e) to allow an EPP at an IHE to contingently admit an applicant who had been provided coursework and training by the IHE into a master's degree program leading to initial certification if the coursework and training was provided by the IHE at the undergraduate level to fulfill prerequisites for the post-baccalaureate program. Language would also be amended in this subsection to allow an EPP at an IHE to contingently admit an applicant who had been provided coursework and training by the IHE into a post-baccalaureate or alternative certification program if the coursework and training was provided by the IHE at the post-baccalaureate level as part of another program of study. This proposed amendment would allow an EPP at an IHE to contingently admit

candidates who had completed coursework or training at the undergraduate or graduate level at the same IHE.

§227.17. Formal Admission

Based on EPP stakeholder input, language would be amended in §227.17(f) to allow an EPP at an IHE to formally admit an applicant who had been provided coursework and training by the IHE into a master's degree program leading to initial certification if coursework and training was provided by the IHE at the undergraduate level to fulfill prerequisites for the post-baccalaureate program. Language would also be amended in this subsection to allow an EPP at an IHE to formally admit an applicant who had been provided coursework and training by the IHE into a post-baccalaureate or alternative certification program if the coursework and training was provided by the IHE at the post-baccalaureate level as part of another program of study. This proposed amendment would allow an EPP at an IHE to formally admit candidates who had completed coursework or training at the undergraduate or graduate level at the same IHE.

§227.20. Incoming Class Grade Point Average

The statute that created this section went into effect September 1, 2015, and this section took effect on February 28, 2016. The incoming class grade point average (GPA) for all EPPs has increased from 3.20 during the 2014-2015 academic year to 3.22 during the 2015-2016 academic year. The number of EPPs that had an incoming class GPA of less than 3.00 decreased from ten EPPs in 2014-2015 to five EPPs in 2015-2016. There are no recommendations for changes to §227.20 at this time.

§227.20. Implementation Date

Language would be amended so that the rules that were in effect on the date an EPP candidate was admitted to an EPP would determine the admission requirements applicable to that candidate. This proposed amendment would make the implementation of this chapter consistent with the implementation of the requirements for EPPs as provided in Chapter 228.

Subchapter B. Preliminary Evaluation of Certification Eligibility

Language would be amended in §227.103(a) to cite the correct rule reference for the preliminary criminal history evaluation fee. The current fee for this evaluation is \$50. No other changes are recommended to Subchapter B.

FISCAL IMPACT: The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendments. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed amendments do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT: The TEA staff has determined that the proposed amendments do have a government growth impact pursuant to Texas Government Code, §2001.0221, as follows.

The proposed rules in §227.1(d) and (e) would create a new regulation to incorporate the requirements of the TOC, §§53.151, 53.152, and 53.153, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017. The proposed rule in §227.1(d) would require EPPs to notify applicants and admitted candidates about the potential ineligibility of an individual who had been convicted of an offense for issuance of a certificate upon completion of an EPP, the current SBEC rules regarding the eligibility of a person with a criminal history for a certificate, and their right to request a criminal history evaluation letter. The proposed rule in §227.1(e) would require an EPP to refund tuition, application fees, and examination fees paid by an individual if the EPP failed to provide the required notice to an individual who was denied a certificate because the individual was convicted of an offense.

The proposed rules in §227.15(e) and §227.17(f) would limit an existing regulation that prohibits an EPP at an IHE to admit individuals who had previously completed coursework or training at an IHE. The proposed rules would also decrease the number of individuals who would not be eligible for admission to an EPP at an IHE because they were subject to the rule's applicability. The proposed rules would allow an EPP at an IHE to admit an applicant into a master's degree program leading to initial certification if coursework and training was provided by the IHE at the undergraduate level to fulfill prerequisites for the post-baccalaureate program. The proposed rules would also allow an EPP at an IHE to admit an applicant into a post-baccalaureate or alternative certification program if coursework and training was provided by the IHE at the post-baccalaureate level as part of another program of study.

PUBLIC AND STUDENT BENEFIT: The proposed amendments to 19 TAC Chapter 227 would result in clear guidance for applicants and EPPs on requirements for admission to EPPs as well as eligibility for a preliminary evaluation of certification eligibility. The proposed amendments do not impose a cost on persons required to comply with the rules.

PROCEDURAL AND REPORTING IMPLICATIONS: The proposed amendment to §227.1(d) would have an additional procedural requirement because an EPP would be required to develop a procedure to notify applicants and admitted candidates about the potential ineligibility of an individual who had been convicted of an offense for issuance of a certificate upon completion of an EPP, the current SBEC rules regarding the eligibility of a person with a criminal history for a certificate, and their right to request a preliminary criminal history evaluation letter.

The proposed amendment to §227.10(a)(5) would have an additional procedural requirement because an EPP would be required to develop a procedure to check the credentials of an applicant who is seeking an initial certificate in a class other than classroom teacher to determine if the applicant already meets the certification, experience, and/or degree requirements for issuance of a standard certificate.

LOCALLY MAINTAINED PAPERWORK REQUIREMENTS: The proposed amendment to §227.1(d) would have an additional locally maintained paperwork requirement because an EPP would be required to notify applicants and admitted candidates about the potential ineligibility of an individual who had been convicted of an offense for issuance of a certificate upon completion

of an EPP, the current SBEC rules regarding the eligibility of a person with a criminal history for a certificate, and their right to request a preliminary criminal history evaluation letter.

The proposed amendment to §227.10(a)(5) would have an additional locally maintained paperwork requirement because an EPP would be required to check the credentials of an applicant who is seeking an initial certificate in a class other than classroom teacher to determine if the applicant already meets the certification, experience, and/or degree requirements for issuance of a standard certificate.

PUBLIC COMMENTS: The public comment period on the proposal begins January 5, 2018, and ends February 5, 2018. The SBEC will take registered oral and written comments on this item at the March 2, 2018 meeting in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION: I recommend that the State Board for Educator Certification:

Approve the proposed amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility, to be published as proposed in the *Texas Register*.

Staff Members Responsible: Tim Miller, Director
Educator Preparation and Program Accountability

Tam Jones, Director
Educator Preparation

Attachments:

- I. Statutory Citations
- II. Text of Proposed Amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility

ATTACHMENT I**Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter A, Admission to Educator Preparation Programs, and Subchapter B, Preliminary Evaluation of Certification Eligibility****Texas Education Code, §21.031, Purpose (excerpt):**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.
- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

Texas Education Code, §21.041, Rules; Fees (excerpt):

- (b) The board shall propose rules that:
 - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

Texas Education Code, §21.044, Educator Preparation (excerpt):

- (a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The board shall specify the minimum academic qualifications required for a certificate.
- (g) Each educator preparation program must provide information regarding:
 - (2) the effect of supply and demand forces on the educator workforce in this state;
 - (3) the performance over time of the educator preparation program;

Texas Education Code, §21.0441, Admission Requirements for Educator Preparation Programs:

- (a) Rules of the board proposed under this subchapter must provide that a person, other than a person seeking career and technology education certification, is not eligible for admission to an educator preparation program, including an alternative educator preparation program, unless the person:
 - (1) except as provided by Subsection (b), satisfies the following minimum grade point average requirements:
 - (A) an overall grade point average of at least 2.50 on a four-point scale or the equivalent on any course work previously attempted at a public or private institution of higher education; or
 - (B) a grade point average of at least 2.50 on a four-point scale or the equivalent for the last 60 semester credit hours attempted at a public or private institution of higher education; and
 - (2) if the person is seeking initial certification:
 - (A) has successfully completed at least:

- (i) 15 semester credit hours in the subject-specific content area in which the person is seeking certification, if the person is seeking certification to teach mathematics or science at or above grade level seven; or
 - (ii) 12 semester credit hours in the subject-specific content area in which the person is seeking certification, if the person is not seeking certification to teach mathematics or science at or above grade level seven; or
 - (B) has achieved a satisfactory level of performance on a content certification examination, which may be a content certification examination administered by a vendor approved by the commissioner for purposes of administering such an examination for the year for which the person is applying for admission to the program.
- (b) The board's rules must permit an educator preparation program to admit in extraordinary circumstances a person who fails to satisfy a grade point average requirement prescribed by Subsection (a)(1)(A) or (B), provided that:
 - (1) not more than 10 percent of the total number of persons admitted to the program in a year fail to satisfy the requirement under Subsection (a)(1)(A) or (B);
 - (2) each person admitted as described by this subsection performs, before admission, at a satisfactory level on an appropriate subject matter examination for each subject in which the person seeks certification; and
 - (3) for each person admitted as described by this subsection, the director of the program determines and certifies, based on documentation provided by the person, that the person's work, business, or career experience demonstrates achievement comparable to the academic achievement represented by the grade point average requirement.
- (c) The overall grade point average of each incoming class admitted by an educator preparation program, including an alternative educator preparation program, may not be less than 3.00 on a four-point scale or the equivalent or a higher overall grade point average prescribed by the board. In computing the overall grade point average of an incoming class for purposes of this subsection, a program may:
 - (1) include the grade point average of each person in the incoming class based on all course work previously attempted by the person at a public or private institution of higher education; or
 - (2) include the grade point average of each person in the incoming class based only on the last 60 semester credit hours attempted by the person at a public or private institution of higher education.
- (d) A person seeking career and technology education certification is not included in determining the overall grade point average of an incoming class under Subsection (c).

Texas Education Code, §21.0489, Early Childhood Certification, as added by SB 1839 and HB 2039, 85th Texas Legislature, Regular Session, 2017 (excerpt):

- (c) To be eligible for a certificate established under this section, a person must:
- (1) either:

- (A) satisfactorily complete the course work for that certificate in an educator preparation program, including a knowledge-based and skills-based course of instruction on early childhood education that includes:
- (i) teaching methods for:
 - (a) using small group instructional formats that focus on building social, emotional, and academic skills;
 - (b) navigating multiple content areas; and
 - (c) managing a classroom environment in which small groups of students are working on different tasks; and
 - (ii) strategies for teaching fundamental academic skills, including reading, writing, and numeracy; or
- (B) hold an early childhood through grade six certificate issued under this subchapter and satisfactorily complete a course of instruction described by Paragraph (A):
- (2) perform satisfactorily on an early childhood certificate examination prescribed by the board; and
 - (3) satisfy any other requirements prescribed by the board.

Texas Education Code, §21.049, Alternative Certification (excerpt):

- (a) To provide a continuing additional source of qualified educators, the board shall propose rules providing for educator certification programs as an alternative to traditional educator preparation programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of educators in a school district or subject area.

Texas Education Code, §21.050, Academic Degree Required for Teaching Certificate; Internship (excerpt):

- (a) A person who applies for a teaching certificate for which board rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28.

Texas Occupations Code, §53.105, Fees:

A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

Texas Occupations Code, §53.151, Definitions, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017:

Notwithstanding Section 53.001, in this subchapter, "licensing authority" and "occupational license" have the meanings assigned to those terms by Section 58.001.

Texas Occupations Code, §53.152, Notice by Entities Providing Educational Programs, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017:

- (a) An entity that provides an educational program to prepare an individual for issuance of an initial occupational license shall notify each applicant to and enrollee in the educational program of:
- (1) the potential ineligibility of an individual who has been convicted of an offense for issuance of an occupational license on completion of the educational program;
 - (2) the current guidelines issued under Section 53.025 by any licensing authority that may issue an occupational license to an individual who completes the educational program;
 - (3) any other state or local restriction or guideline used by a licensing authority described by Subdivision (2) to determine the eligibility of an individual who has been convicted of an offense for an occupational license issued by the licensing authority; and
 - (4) the right to request a criminal history evaluation letter under Section 53.102.
- (b) The entity shall provide the notice required under Subsection (a) to each applicant and enrollee regardless of whether the applicant or enrollee has been convicted of an offense.

Texas Occupations Code, §53.153, Refund and Ordered Payments, as added by HB 1508, 85th Texas Legislature, Regular Session, 2017:

A licensing authority that determines that an entity regulated by the licensing authority has failed to provide the notice required by Section 53.152 to an individual entitled to receive the notice and that the individual's application for an occupational license for which the entity's educational program prepares the individual was denied because the individual has been convicted of an offense shall order the entity to:

- (1) refund the amount of any tuition paid by the individual to the entity; and
- (2) pay to the individual an amount equal to the total of the following, as applicable:
 - (A) the amount of any application fees paid by the individual to the licensing authority; and
 - (B) the amount of any examination fees paid by the individual to the licensing authority or an examination provider approved by the licensing authority.

ATTACHMENT II
Text of Proposed Amendments to 19 TAC

Chapter 227. Provisions for Educator Preparation Candidates

Subchapter A. Admission to Educator Preparation Programs

§227.1. General Provisions.

- (a) It is the responsibility of the education profession as a whole to attract applicants and to retain educators who demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.
- (b) Educator preparation programs should inform all applicants that:
 - (1) pursuant to the Texas Education Code (TEC), §22.083, candidates must undergo a criminal history background check prior to employment as an educator; and
 - (2) pursuant to the TEC, §22.0835, candidates must undergo a criminal history background check prior to clinical teaching.
- (c) Educator preparation programs (EPPs) shall inform all applicants, in writing, of the following:
 - (1) the admission requirements as specified in this chapter;
 - (2) the requirements for program completion as specified in Chapter 228 of this title (relating to Educator Preparation Requirements); and
 - (3) in accordance with TEC, §21.044(e)(3):
 - (A) the effect of supply and demand forces on the educator workforce in this state; and
 - (B) the performance over time of the EPP for the past five years.
- (d) EPPs shall notify, in writing by mail, personal delivery, facsimile, email, or an electronic notification, each applicant to and enrollee in the EPP of the following regardless of whether the applicant or enrollee has been convicted of an offense:
 - (1) the potential ineligibility of an individual who has been convicted of an offense for issuance of a certificate on completion of the EPP;
 - (2) the current State Board for Educator Certification (SBEC) rules prescribed in §249.16 of this title (relating to Eligibility of Persons with Criminal History for a Certificate under Texas Occupations Code, Chapter 53, and Texas Education Code, Chapter 21); and
 - (3) the right to request a criminal history evaluation letter as provided in Chapter 227, Subchapter B, of this title (relating to Preliminary Evaluation of Certification Eligibility).
- (e) If the SBEC determines that an EPP has failed to provide the notice required by subsection (d) of this section to an individual entitled to receive the notice and that the individual's application for a certificate for which the EPP prepares the individual was denied because the individual has been convicted of an offense prior to the EPP providing notice, the SBEC shall order the EPP to:
 - (1) refund the amount of any tuition paid by the individual to the EPP; and
 - (2) pay to the individual an amount equal to the total of the following, as applicable:
 - (A) the amount of any application fees paid by the individual to the SBEC; and
 - (B) the amount of any examination fees paid by the individual to the SBEC and/or to a provider of examinations required for certification. An EPP is not liable for examination fees if the examination was not required to be passed to meet the admission requirements of the EPP and/or the EPP did not provide test approval for the examination.

- (f) If the governor of Texas declares a state of disaster consistent with the Texas Government Code, §418.014, Texas Education Agency (TEA) staff may extend deadlines in this chapter for up to 90 days as necessary to accommodate persons in the affected disaster areas.

§227.5. Definitions.

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

- (1) Accredited institution of higher education--An institution of higher education that, at the time it conferred the degree, was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board.
- (2) 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 bachelor's degree from an accredited institution of higher education.
- (3) Applicant--An individual seeking admission to an educator preparation program for any class of certificate.
- (4) Candidate--An individual who has been formally or contingently admitted to an educator preparation program; also referred to as an enrollee or participant.
- (5) Certification category--A certificate type within a certification class; also known as certification field.
- (6) Certification class--A certificate, as described in §230.33 of this title (relating to Classes of Certification), that has defined characteristics; also known as certification field.
- (7) Clinical teaching--An assignment, as described in §228.35 of this title (relating to Preparation Program Coursework and/or Training).
- (8) Content certification examination--A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program or certification as an educator.
- (9) Contingency admission--Conditional admission to an educator preparation program when an applicant meets all admission requirements specified in §227.10 of this title (relating to Admission Criteria) except graduation and degree conferred from an accredited institution of higher education.
- (10) Educator preparation program--An entity that must be approved by the State Board for Educator Certification to recommend candidates in one or more classes of certificates.
- (11) Formal admission--Admission to an educator preparation program when an applicant meets all admission requirements specified in §227.10 of this title (relating to Admission Criteria).
- (12) Incoming class--Individuals contingently or formally admitted between September 1 and August 31 of each year by an educator preparation program.
- (13) Post-baccalaureate program--An educator preparation program, delivered by an accredited institution of higher education and approved by the State Board for Educator Certification to recommend candidates for certification, that is designed for individuals who already hold at least a bachelor's degree from an accredited institution of higher education and are seeking an additional degree.
- (14) Semester credit hour--One semester credit hour is equal to 15 clock-hours at an accredited institution of higher education.
- (15) Undergraduate degree--A bachelor's degree earned from and conferred by an accredited institution of higher education.

§227.10. Admission Criteria.

- (a) The educator preparation program (EPP) delivering educator preparation shall require the following minimum criteria of all applicants seeking initial certification in any class of certificate, unless specified otherwise, prior to admission to the program.
- (1) For an undergraduate university program, an applicant shall be enrolled in an accredited institution of higher education (IHE).
 - (2) For an alternative certification program or post-baccalaureate program, an applicant shall have, at a minimum, a bachelor's degree earned from and conferred by an accredited IHE.
 - (3) For an undergraduate university program, alternative certification program, or post-baccalaureate program, to be eligible for admission into an EPP, an applicant shall have a grade point average (GPA) of at least 2.5 before admission.
 - (A) The GPA shall be calculated from an official transcript as follows:
 - (i) 2.5 on all coursework previously attempted by the person at an accredited IHE:
 - (I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or
 - (II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred (alternative certification program formal admission or post-baccalaureate program formal admission); or
 - (ii) 2.5 in the last 60 semester credit hours on all coursework previously attempted by the person at an accredited IHE:
 - (I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission). If an applicant has less than 60 semester credit hours on the official transcript from the accredited IHE at which the applicant is currently enrolled, the EPP shall use grades from all coursework previously attempted by a person at the most recent accredited institution(s) of higher education, starting with the most recent coursework from the official transcript(s), to calculate a GPA for the last 60 semester credit hours; or
 - (II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred. If an applicant has hours beyond the most recent degree, an EPP may use grades from the most recent 60 hours of coursework from an accredited IHE (alternative certification program formal admission or post-baccalaureate program formal admission).
 - (B) An exception to the minimum GPA requirement may be granted by the program director only in extraordinary circumstances and may not be used by a program to admit more than 10% of any incoming class of candidates. An applicant is eligible for this exception if:
 - (i) documentation and certification from the program director that an applicant's work, business, or career experience demonstrates achievement equivalent to the academic achievement represented by the GPA requirement; and
 - (ii) in accordance with the Texas Education Code, §21.0441(b), an applicant must pass an appropriate content certification examination as specified in paragraph (4)(C) and (D) of this subsection for each subject in which the applicant seeks certification prior to admission. Applicants who do not meet the minimum GPA

requirement and have previously been admitted into an EPP may request permission to register for an appropriate content certification examination if the applicant is not seeking admission to the same EPP that previously granted test approval for a certification examination in the same certification class .

- (C) An applicant who is seeking a career and technical education (CTE) certificate that does not require a degree from an accredited IHE is exempt from the minimum GPA requirement.
 - (D) An applicant who does not meet the minimum GPA requirement and is seeking certification in a class other than classroom teacher must perform at or above a score equivalent to a 2.5 GPA on the Verbal Reasoning, Quantitative Reasoning, and Analytic Writing sections of the GRE® (Graduate Record Examinations) revised General Test. The State Board for Educator Certification will use equivalency scores established by the Educational Testing Service, and the Texas Education Agency (TEA) will publish those equivalency scores annually on the TEA website.
- (4) For an applicant who will be seeking an initial certificate in the classroom teacher class of certificate, the applicant shall have successfully completed, prior to admission, at least:
- (A) a minimum of 12 semester credit hours in the subject-specific content area for the certification sought, unless certification sought is for mathematics or science at or above Grade 7; or
 - (B) 15 semester credit hours in the subject-specific content area for the certification sought if the certification sought is for mathematics or science at or above Grade 7; or
 - (C) a passing score on a comparable content certification examination administered by a vendor on the TEA-approved vendor list published by the commissioner of education on the TEA website for the calendar year during which the applicant seeks admission; or
 - (D) for an applicant who has not previously been admitted into an EPP, a passing score on a content certification examination administered by a TEA-approved vendor. An applicant who has previously been admitted into an EPP may request permission to register for a content certification examination if an applicant is not seeking admission to the same EPP that previously granted test approval for a certification examination in the same certification class .
- ~~(5)~~ For an applicant who will be seeking an initial certificate in a class other than classroom teacher, the applicant shall meet the minimum requirements for admission described in Chapter 239 of this title (relating to Student Services Certificates); Chapter 241 of this title (relating to Principal Certificate); and Chapter 242 of this title (relating to Superintendent Certificate). If an applicant has not met the minimum certification, degree, and/or experience requirement(s) for issuance of a standard certificate prior to admission, the EPP shall inform the applicant in writing of any deficiency prior to admission.
- ~~(6)~~ ~~(5)~~ An applicant must demonstrate basic skills in reading, written communication, and mathematics by meeting the requirements of the Texas Success Initiative under the rules established by the Texas Higher Education Coordinating Board (THECB) in Part 1, Chapter 4, Subchapter C, of this title (relating to Texas Success Initiative), including one of the requirements established by §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).
- ~~(7)~~ ~~(6)~~ An applicant must demonstrate the English language proficiency skills as specified in §230.11 of this title (relating to General Requirements).
- (A) An applicant for CTE certification that does not require a bachelor's degree from an accredited IHE may satisfy the English language proficiency requirement with an associate's degree or high school diploma or the equivalent that was earned at an accredited IHE or an accredited high school in the United States.

- (B) An applicant to a university undergraduate program that leads to a bachelor's degree may satisfy the English language proficiency requirement by meeting the English language proficiency requirement of the accredited IHE at which the applicant is enrolled.
- ~~(8) [(7)]~~ An applicant must submit an application and participate in either an interview or other screening instrument to determine if the EPP applicant's knowledge, experience, skills, and aptitude are appropriate for the certification sought.
- ~~(9) [(8)]~~ An applicant must fulfill any other academic criteria for admission that are published and applied consistently to all EPP applicants.
- (b) An EPP may adopt requirements in addition to and not in conflict with those required in this section.
- (c) An EPP may not admit an applicant who:
- (1) has been reported as completing all EPP requirements by another EPP in the same certification category or class, unless the applicant only needs certification examination approval; or
 - (2) has been employed for three years in a public school under a permit or probationary certificate as specified in Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued), unless the applicant is seeking clinical teaching that may lead to the issuance of an initial standard certificate.
- (d) An EPP may admit an applicant for CTE certification who has met the experience and preparation requirements specified in Chapter 230 of this title (relating to Professional Educator Preparation and Certification) and Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).
- (e) An EPP may admit an applicant who has met the minimum academic criteria through credentials from outside the United States that are determined to be equivalent to those required by this section using the procedures and standards specified in Chapter 245 of this title (relating to Certification of Educators from Other Countries). An EPP at an entity that is accredited by an accrediting organization recognized by the THECB may use its own foreign credential evaluation service to meet the requirement described in §245.10(a)(2) of this title (relating to Application Procedures), if the entity is in good standing with its accrediting organization.
- ~~(f) An applicant is eligible to enroll in an EPP for the purpose of completing the course of instruction that is required for the issuance of an Early Childhood: Prekindergarten-Grade 3 certificate if the individual holds a valid standard, provisional, or one year certificate specified in §230.31 of this title (relating to Types of Certificates) in a certificate category that allows the applicant to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3.~~
- ~~(g) An applicant who does not hold a valid standard, provisional, or one year certificate specified in §230.31 of this title in a certificate category that allows the applicant to teach all subjects in Prekindergarten, Kindergarten, Grade 1, Grade 2, or Grade 3 must complete the program requirements for initial certification to be eligible for issuance of an Early Childhood: Prekindergarten-Grade 3 certificate.~~

§227.15. Contingency Admission.

- (a) An applicant may be accepted into an alternative certification program or post-baccalaureate program on a contingency basis pending receipt of an official transcript showing degree conferred, as specified in §227.10(a)(2) of this title (relating to Admission Criteria), provided that:
- (1) the applicant is currently enrolled in and expects to complete the courses and other requirements for obtaining, at a minimum, a bachelor's degree at the end of the semester in which admission to the program is sought;
 - (2) all other admission requirements specified in §227.10 of this title have been met;
 - (3) the EPP must notify the applicant of the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification; and
 - (4) the applicant must accept the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

- (b) The effective date of contingency admission shall be included in the offer of contingency admission.
- (c) An EPP must notify the Texas Education Agency within seven calendar days of a candidate's contingency admission.
- (d) An applicant admitted on a contingency basis may begin program training and may be approved to take a certification examination, but shall not be recommended for a probationary certificate until the bachelor's degree or higher from an accredited institution of higher education (IHE) has been conferred.
- (e) Except as provided by this section, an alternative certification program or post-baccalaureate program, prior to admission on a contingency basis, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an IHE may admit an applicant if coursework and training was provided by the same IHE as part of : ~~the degree to be conferred.~~
 - (1) the degree to be conferred;
 - (2) a prerequisite for a master's degree leading to initial certification; or
 - (3) a different post-baccalaureate program of study.
- (f) The contingency admission will be valid for only the fall, spring, or summer semester for which the contingency admission was granted and may not be extended for another semester. The end of each semester shall be consistent with the common calendar established by the Texas Higher Education Coordinating Board.

§227.17. Formal Admission.

- (a) For an applicant to be formally admitted to an educator preparation program (EPP), the applicant must meet all the admission requirements specified in §227.10 of this title (relating to Admission Criteria).
- (b) For an applicant to be formally admitted to an EPP, the EPP must notify the applicant of the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.
- (c) For an applicant to be considered formally admitted to the EPP, the applicant must accept the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.
- (d) The effective date of formal admission shall be included in the offer of formal admission.
- (e) An EPP must notify the Texas Education Agency within seven calendar days of a candidate's formal admission.
- (f) Except as provided by §227.15 of this title (relating to Contingency Admission), an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an institution of higher education (IHE) may admit an applicant if coursework and training was provided by the same IHE as part of : ~~a previous degree that was conferred.~~
 - (1) a previous degree that was conferred;
 - (2) a prerequisite for a master's degree leading to initial certification; or
 - (3) a different post-baccalaureate program of study.

§227.19. Incoming Class Grade Point Average.

- (a) The overall grade point average (GPA) of each incoming class admitted between September 1 and August 31 of each year by an educator preparation program (EPP), including an alternative certification program, may not be less than 3.00 on a four-point scale or the equivalent. In computing the overall GPA of an incoming class, an EPP may include:
 - (1) the GPA of each person in the incoming class based on all coursework previously attempted by the person at an accredited institution of higher education (IHE):

- (A) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or
 - (B) from which the most recent bachelor's degree or higher from an accredited IHE was conferred (alternative certification program formal admission or post-baccalaureate program formal admission); or
- (2) the GPA of each person in the incoming class based only on the last 60 semester credit hours of all coursework attempted by the person at an accredited IHE:
- (A) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission). If an applicant has less than 60 semester credit hours on the official transcript from the accredited IHE at which the applicant is currently enrolled, the EPP may use grades from all coursework previously attempted by a person at the most recent accredited IHE(s), starting with the most recent coursework from the official transcript(s), to calculate a GPA for the last 60 semester credit hours; or
 - (B) from which the most recent bachelor's degree or higher from an accredited IHE was conferred. If an applicant has hours beyond the most recent degree, an EPP may use grades from the most recent 60 hours of coursework from an accredited IHE (alternative certification program formal admission or post-baccalaureate program formal admission).
- (b) A person seeking career and technical education certification is not included in determining the overall GPA of an incoming class.

§227.20. Implementation Date.

The provisions of this chapter that were in effect on the date an educator preparation program (EPP) candidate was admitted to an EPP shall determine the program requirements applicable to that candidate. [This subchapter applies to an applicant who is admitted to an educator preparation program on or after January 1, 2017.]

Subchapter B. Preliminary Evaluation of Certification Eligibility

§227.101. Purpose.

- (a) This subchapter provides rules for the implementation of a preliminary criminal history evaluation as provided in the Texas Occupations Code, Chapter 53, Subchapter D.
- (b) The following words, terms, and phrases, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Criminal history--Criminal history record information that relates to convictions and deferred adjudications.
 - (2) Ineligibility--Unsuitability for certification, based on any of the grounds described in §249.12(b) of this title (relating to Administrative Denial; Appeal), as determined by the Texas Education Agency staff.
 - (3) Reasonably available--Provided in writing to Texas Education Agency staff by a requestor.
 - (4) Requestor--A person making a request for preliminary criminal history evaluation pursuant to this subchapter.
 - (5) Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.

- (c) A person who is enrolled or planning to enroll in a State Board for Educator Certification-approved educator preparation program or planning to take a certification examination may request a preliminary criminal history evaluation letter regarding the person's potential ineligibility for certification due to a conviction or deferred adjudication for a felony or misdemeanor offense.

§227.103. Application.

- (a) A request for preliminary criminal history evaluation must be preceded by payment of the required criminal history evaluation fee specified in §230.101 (a)(19) [~~(a)(20)~~] of this title (relating to Schedule of Fees for Certification Services).
- (b) A request for preliminary criminal history evaluation must include the following:
- (1) a signed and dated application, in the form provided on the Texas Education Agency (TEA) website, containing contact information and the date and description of each offense requested to be evaluated;
 - (2) an attached statement of the circumstances upon which the arrest is based and the disposition relating to each offense to be evaluated;
 - (3) court documentation relating to each offense, including, at a minimum, the formal disposition of the offense(s) and related charge(s) (e.g., Judgment, Order of Probation, Sentence, Deferred Adjudication Order, etc.); and
 - (4) a copy of the receipt for the request for preliminary criminal history evaluation fee.
- (c) All required documents and information specified in subsection (b) of this section must be provided with the request for preliminary criminal history evaluation. Any documents or information not provided in the original request will not be considered reasonably available.
- (d) The preliminary criminal history evaluation will be based solely on the application and court or law enforcement documents provided. Any information not provided by the requestor shall be considered not reasonably available at the time of the request and may be considered at the time the requestor subsequently applies for a certificate issued by the State Board for Educator Certification. Additional documentation that should be provided, if possible, includes the following:
- (1) the formal charge(s) (e.g., indictment, information, or complaint);
 - (2) evidence that the condition(s) of the court have been met (e.g., completion of probation, receipt for restitution, etc.); and
 - (3) any available law enforcement report(s) describing the offense or the investigation of the offense.
- (e) The application, the statement of circumstances, the required court documentation, and a copy of the receipt for the request for preliminary criminal history evaluation fee must be submitted to the TEA division responsible for educator investigations by United States certified mail, return receipt requested, to the address provided on the application or by facsimile to the facsimile number provided on the application.
- (f) A request for preliminary criminal history evaluation is incomplete unless it includes a copy of the receipt for the request for preliminary criminal history evaluation fee, a completed application, a statement of circumstances, and the required court documentation. The TEA staff will take no action on a request that is incomplete.
- (g) All documents submitted in connection with a request for preliminary criminal history evaluation, whether complete or incomplete, will not be returned to the requestor. All documents will be retained or destroyed by the TEA in accordance with the TEA records retention schedule.

§227.105. Preliminary Criminal History Evaluation Letter.

- (a) Within 90 calendar days of receipt of a complete request for a preliminary criminal history evaluation, the Texas Education Agency (TEA) staff will notify the requestor, by email to the email address provided on the requestor's application, of the TEA's determination with regard to the requestor's potential ineligibility based on the matters described in the request for preliminary criminal history evaluation.

- (b) The preliminary criminal history evaluation letter will be strictly limited to the facts stated and the documents submitted by the requestor, as of the date of the request. Any documents or information not provided by the requestor will not be considered reasonably available for purposes of evaluating the request. In the event that the requestor subsequently applies for certification by the State Board for Educator Certification, complete fingerprint-based national criminal history information will be required. The TEA staff may conduct a criminal history investigation at that time regarding the offense(s) that were the subject of the request, based on any misstatements, incomplete information, or missing documentation in the request for preliminary criminal history evaluation; additional or subsequent criminal history or inappropriate conduct; or changed circumstances.
- (c) The preliminary criminal history evaluation letter relates only to whether the specific information submitted constitutes grounds for ineligibility. The evaluation letter is not a guarantee of educator certification, admission to an educator preparation program, or employment as an educator.

§227.107. Fee for Request for Preliminary Criminal History Evaluation.

- (a) The fee to request a preliminary criminal history evaluation under this subchapter shall be in an amount sufficient to cover the cost of administration of the evaluation process and as provided in §230.101 of this title (relating to Schedule of Fees for Certification Services).
- (b) A new fee will be required to reactivate a request that is incomplete because of failure to submit the required documentation within 90 calendar days of receipt by the Texas Education Agency of the initial fee.