

Sunset Advisory Commission



Texas Education Agency

**State Board for
Educator Certification**

**Regional Education
Service Centers**

**Windham
School District**

Staff Report
November 2004

STATE BOARD FOR EDUCATOR CERTIFICATION

**SUNSET STAFF REPORT
NOVEMBER 2004**


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SUMMARY

State Board for Educator Certification

The Legislature created the State Board for Educator Certification (SBEC) in 1995 to provide educators with a strong role in governing their profession. Before 1995, the State Board of Education and the Texas Education Agency (TEA) were responsible for teacher certification. However, since that time, policymakers have implemented higher academic standards and expectations that require better prepared and qualified teachers to ensure students are successful in the classroom. SBEC oversees educator preparation programs to ensure that educators are well trained; certifies that individuals have demonstrated the knowledge and skills to enter the classroom; and enforces professional standards of conduct of educators. The State Board of Education has a continued role with the profession through its veto authority of SBEC rule proposals.



*SBEC continues to
accomplish its mission
and should be
continued for 12 years.*

The State Board for Educator Certification underwent a full Sunset review in 2002. The Sunset Commission recommended continuing SBEC for 12 years and forwarded 16 recommendations to improve the agency to the Legislature in 2003. The legislation containing the Sunset Commission's recommendations did not pass. Instead, the Legislature continued the agency for two years and required a special-purpose Sunset review focused on the appropriateness of the Sunset Commission's 2002 recommendations.

This report includes the results of that special-purpose review. Sunset staff evaluated the status of issues identified in 2002 and whether any changes have occurred to affect the appropriateness of the Sunset Commission's original recommendations. The *Status of Recommendations* chart on page 91 summarizes the agency's progress implementing the 2002 Sunset Commission recommendations.

Overall, SBEC continues to accomplish its mission and should be continued for 12 years. In 2002, the Sunset review considered organizational alternatives but did not identify significant financial or functional advantages to such a transfer. For example, other agencies, such as TEA, could perform the regulatory functions of SBEC. However, no significant changes have occurred since the Sunset Commission's 2002 recommendation that would provide new or distinct advantages that would justify a transfer of SBEC's regulatory functions.

In 2003, the Legislature required SBEC and TEA to enter into an agreement to consolidate administrative functions and services, and the Sunset Commission to review the agencies' compliance with the agreement. Sunset staff was unable to evaluate the agencies' compliance because no final agreement was in place during the review. The agencies have taken some steps to share resources and staffing, but have not implemented a formal agreement. Requiring SBEC and TEA to submit regular status reports would

ensure that the agencies are taking the steps necessary to streamline administrative services that will allow SBEC to focus on its core mission of regulating educators.

In 2002, the Sunset Commission recommended that SBEC fingerprint prospective educators. While SBEC now conducts fingerprint-based national criminal history checks for new educators, statutory changes are still necessary to ensure the agency continues to implement this Sunset recommendation in the future. Sunset staff found that no other significant changes have occurred to affect the 2002 Sunset Commission recommendations.

Finally, in addition to its statutory recommendations, the Sunset Commission made a series of recommendations that required management action. SBEC did not need statutory authorization to implement these recommendations and therefore was still required to comply with them during the past two years. The chart, *Status at a Glance*, summarizes the agency's status in complying with the recommendations requiring management action.

Status at a Glance 2002 Sunset Management Actions	
Implemented	2
Partially Implemented	1
Not Implemented	2
Total	5

A summary of recommendations contained in this report is provided in the following material.

Issues/Recommendations

Issue 1

Texas Has a Continuing Need for the State Board for Educator Certification.

Key Recommendations

- Continue the State Board for Educator Certification for 12 years.
- SBEC and the Texas Education Agency should submit regular reports to the Sunset Commission detailing the agencies' progress on implementing an agreement to consolidate administrative functions and services.

Issue 2

SBEC's Rulemaking Process Does Not Effectively Ensure Stakeholder Input.

Key Recommendations

- Expand the State Board of Education's authority to allow it to reject portions of SBEC rules.
- Require SBEC to develop guidelines for the early involvement of stakeholders in its rulemaking process.

Issue 3

SBEC Has Taken Steps to Implement National Criminal History Checks, but Changes Are Still Needed to Address Delays in Certification of Educators.

Key Recommendations

- Require SBEC to collect fingerprints and conduct national criminal history checks of all applicants for educator certification.
- SBEC should extend background checks to all currently certified or credentialed educators by using Social Security numbers to search all available criminal conviction databases.
- SBEC should allow students in educator preparation programs to begin the applicant criminal history check process before completing the preparation program.

Issue 4

SBEC Rules Do Not Ensure Consistent Prioritization, Investigation, and Resolution of Disciplinary Complaints Against Educators.

Key Recommendations

- Require SBEC to propose rules outlining the process for investigating traditional disciplinary violations.
- SBEC should include educators in the development of the new disciplinary process rules.

Issue 5

SBEC Does Not Have Statutory Authority Over Some Permits, Waivers, and Diagnosticians, Limiting Its Ability to Carry Out Its Mission.

Key Recommendations

- Transfer responsibility for approving school district teaching permits, which allow non-certified individuals to be hired by a school district, from the Commissioner of Education to the State Board for Educator Certification.
- Transfer responsibility for issuing certification waivers, which allow a certified teacher to teach outside his or her area of certification, from the Commissioner of Education to SBEC.
- Add educational diagnosticians to the statutory list of educators required to hold an SBEC-issued certificate in that specialty to be employed in public schools.
- Authorize SBEC to accept gifts, donations, and non-federal grants.

Fiscal Implication Summary

Overall, this report contains recommendations that would have no net fiscal impact to the State. Issue 5 would transfer authority over issuing school district teaching permits from TEA to SBEC and thus subject individuals seeking a permit to SBEC's national criminal history search. Based on the number of individuals TEA approved for permits in fiscal year 2004, SBEC would conduct about 286 background checks at a cost of \$12,870. However, SBEC would recover these costs through the standard \$45 fee imposed on all new applicants for initial permits and certification. Because of the small number of applicants, an increased workload related to increased enforcement efforts would not require additional staff. All other recommendations to improve SBEC's operations would not have a fiscal impact.

**STATUS OF 2002
SUNSET COMMISSION RECOMMENDATIONS**

Status of Recommendations

Status of 2002 Sunset Commission Recommendations on the State Board for Educator Certification	
2002 Recommendation	Status
Issue 1 – SBEC’s Rulemaking Process Delays Implementation of Rules and Does Not Ensure the Input of Stakeholders.	
Change in Statute	
1.1 Expand State Board of Education’s authority to allow it to reject portions of proposed SBEC rules.	Not Implemented – This recommendation requires a change in statute, as discussed in Issue 2 of this report.
1.2 Require SBEC to develop guidelines for the early involvement of stakeholders in its rulemaking process.	Not Implemented – This statutory recommendation is discussed in Issue 2 of this report. The agency has not taken steps on its own to implement this recommendation.
Issue 2 – SBEC’s Limited Background Searches May Allow Unsuitable Individuals to Teach Texas Schoolchildren.	
Change in Statute	
2.1 Require SBEC to collect fingerprints and conduct national criminal history checks of all applicants for educator certification, and all individuals teaching under temporary certifications and permits.	Implemented – The agency received the necessary budget authority from the 78th Legislature to conduct fingerprint-based national criminal history checks, and has implemented this recommendation. Statutory changes are still appropriate to ensure the process continues, as discussed in Issue 3 of this report.
2.2 Require SBEC to adopt rules setting fees for fingerprinting and national criminal history background checks.	Implemented – The agency has adopted rules and currently collects a \$45 fee to conduct the background checks. Statutory changes are still appropriate to ensure the process continues, as discussed in Issue 3 of this report.
2.3 Authorize SBEC to retain educators’ fingerprints at the Department of Public Safety (DPS).	Implemented – SBEC now retains educators’ fingerprints at DPS. Statutory changes are still appropriate to ensure the process continues, as discussed in Issue 3 of this report.
Management Action	
2.4 SBEC should develop information on situations that may prevent certification for distribution to all students in preparation programs.	Not Implemented – SBEC has taken no action to implement this management recommendation. Statutory changes are now appropriate to ensure that prospective educators receive sufficient information about the criminal history check process, as discussed in Issue 3 of this report.

**Status of 2002 Sunset Commission Recommendations on the
State Board for Educator Certification**

2002 Recommendation	Status
2.5 SBEC should extend background checks to all currently certified or credentialed educators by using Social Security numbers to search all available criminal conviction databases.	Partially Implemented – SBEC has only extended the background checks using Social Security numbers to currently certified educators that renew their credentials. Educators certified before 1999, however, are not subject to renewal, leaving a large pool of educators who will not undergo a criminal history check by the agency, as discussed in Issue 3 of this report.
Issue 3 – SBEC’s Disciplinary Rules Do Not Ensure Consistent Investigation of Complaints Against Educators.	
Change in Statute	
3.1 Require the Board to adopt rules comprehensively outlining the process for investigating disciplinary violations.	Not Implemented – SBEC has not adopted rules for investigating disciplinary violations, as discussed in Issue 4 of this report. SBEC formed a disciplinary rules revision committee in January 2003, but has taken no other action.
Management Action	
3.2 SBEC should include educators in development of the new disciplinary process rules.	Not Implemented – The agency has not developed new disciplinary rules.
Issue 4 – Educator Certification and Permitting Is Inconsistent and Split Between Two Separate Agencies.	
Change in Statute	
4.1 Transfer responsibility for approving school district teaching permits which allow non-certified individuals to be hired by a school district, from the Commissioner of Education to SBEC.	Not Implemented – This recommendation requires a statutory change, as discussed in Issue 5 of this report.
4.2 Transfer responsibility for issuing certification waivers which allow a certified teacher to teach outside his or her area of certification, from the Commissioner of Education to SBEC.	Not Implemented – This recommendation requires a statutory change, as discussed in Issue 5 of this report.
Issue 5 – Alternative Educator Certification Programs May Not Ensure That Texas Has Enough Educators to Teach Future Student Populations.	
Management Action	
5.1 The Board should accelerate the expansion of alternative educator certification programs.	Implemented – Since fiscal year 2002, SBEC has approved 26 new alternative certification programs. The number of teachers trained by alternative certification programs has nearly doubled since 2002 to an all-time high of 8,400 in fiscal year 2004.

**Status of 2002 Sunset Commission Recommendations on the
State Board for Educator Certification**

2002 Recommendation	Status
Issue 6 – Some Experienced Professionals Cannot Easily Obtain a Teaching Certificate.	
Management Action	
6.1 The Board should explore establishing a “Master Teacher” program.	Generally Implemented – In 2004, SBEC created the Temporary Teacher Certificate to provide another route to full certification. Individuals must possess a bachelor’s degree in the academic area they will teach for grades 8-12, pass the pedagogy and content exam, and then receive appropriate training from the employing school district. The school district can recommend the individual for a Standard Certificate after two years.
Issue 7 – SBEC Does Not Have the Authority to Accept Gifts, Donations, and Non-federal Grants.	
Change in Statute	
7.1 Authorize SBEC to accept gifts, donations, and non-federal grants.	Not Implemented – This recommendation requires a change in statute, as discussed in Issue 5 of this report.
Issue 8 – Texas Statutes Do Not Require That Educational Diagnosticians be Certified.	
Change in Statute	
8.1 Add educational diagnosticians to the statutory list of educators required to hold an SBEC-issued certificate in that specialty to be employed in public schools.	Not Implemented – This recommendation requires a change in statute, as discussed in Issue 5 of this report.
Issue 9 – Continue the State Board for Educator Certification for 12 Years.	
Change in Statute	
9.1 Continue the State Board for Educator Certification for 12 years.	Not Implemented – This recommendation requires a change in statute, as discussed in Issue 1 of this report.

ISSUES

Texas Has a Continuing Need for the State Board for Educator Certification.

Summary

Key Recommendations

- Continue the State Board for Educator Certification for 12 years.
- SBEC and the Texas Education Agency should submit regular reports to the Sunset Commission detailing the agencies' progress on implementing an agreement to consolidate administrative functions and services.

Key Findings

- The State Board for Educator Certification's mission is to ensure the highest level of educator preparation and practice to achieve student excellence.
- No significant changes have occurred to affect the 2002 Sunset Commission recommendation to continue SBEC.
- SBEC and TEA have not implemented an agreement to consolidate administrative functions and services as required by the Legislature.

Conclusion

Texas has a continuing need to ensure that elementary and secondary public schools have access to well prepared educators. The Legislature and federal government have set high standards and expectations for student achievement that require better prepared and qualified teachers to ensure students are successful in the classroom. The Sunset review evaluated the Sunset Commission's 2002 recommendation to continue the State Board for Educator Certification (SBEC) for 12 years and found that no significant changes have occurred that would make the original recommendation inappropriate. SBEC has continued to generally accomplish its mission and should be continued.

In 2003, the Legislature directed SBEC and the Texas Education Agency (TEA) to enter into a memorandum of understanding (MOU) to consolidate administrative functions and services, and directed the Sunset Commission to evaluate the agencies' compliance with the MOU. Sunset staff was unable to evaluate the agencies' compliance because no final agreement was in place during the review. The agencies have taken some steps to share resources and staffing, but have not implemented a formal agreement. Requiring SBEC and TEA to submit regular status reports to the Sunset Commission would ensure that the agencies are taking the steps necessary to streamline administrative services as directed by the Legislature.

Support

The State Board for Educator Certification's mission is to ensure the highest level of educator preparation and practice to achieve student excellence.

- The Legislature created SBEC in 1995 to provide educators with a strong role in governing the preparation and standards of their profession.

SBEC Board Composition – 14 Members

Eleven Governor-appointed, voting members.

- Four teachers
- Two administrators
- One counselor
- Four public members

Three ex-officio, non-voting members.

- Commissioner of Education-appointed employee of TEA
- Commissioner of Higher Education-appointed employee of the Higher Education Coordinating Board
- Governor-appointed dean of a college of education

The Board's composition places a majority of educators in a policymaking position while ensuring representation of other key state entities, such as the Texas Education Agency. The textbox, *SBEC Board Composition*, details the structure of the Board. The State Board of Education also has a role in educator certification through its authority to reject SBEC rule proposals.

- SBEC oversees more than 250,000 educators teaching more than 4 million public school students. To carry out its mission, SBEC accredits educator preparation programs to ensure that educators are well trained; certifies that individuals have demonstrated the knowledge and skills to enter the classroom; and enforces professional standards of conduct.
- In 2003, the Legislature required SBEC and the Texas Education Agency to enter into a memorandum of understanding to consolidate administrative functions and services. The Legislature also required the Sunset Commission to evaluate the agencies' compliance with the agreement.

No significant changes have occurred to affect the 2002 Sunset Commission recommendation to continue SBEC.

- In 2002, the Sunset Commission recommended that the Legislature continue SBEC for 12 years. This recommendation is still appropriate. Texas has a continuing interest in preparing and certifying educators. The growth in population of school children, combined with looming retirements of baby boom-age teachers requires continued efforts on the part of the state to train and certify sufficient numbers of individuals to teach. The Legislature and federal government have set high standards and expectations for student achievement that require better prepared and qualified teachers to ensure student success.
- SBEC has generally accomplished its mission of ensuring the state has suitable, well-prepared individuals to teach Texas children. More than 92 percent of teachers are fully certified, and the annual number of beginning certified teachers has increased steadily from about 11,500 in 2000 to almost 20,000 in 2004. Since 2002, SBEC has increased accessibility for individuals wishing to enter the teaching profession by adding 26 new alternative educator preparation programs and creating a new temporary teacher certificate. In 2004, SBEC certified more




Texas has a continuing interest in preparing and certifying educators.

beginning teachers through alternative certification routes than the traditional university-based route. Finally, the agency continues to resolve about 93 percent of its disciplinary cases within its performance target of six months, despite a large increase in the number of Educators' Code of Ethics complaints from about 350 in fiscal year 2001 to more than 630 in fiscal year 2004.

- Staff concluded no substantial benefits would result from transferring the Board's functions to another agency. In 2002, the Sunset review considered organizational alternatives but did not identify significant financial or functional advantages to such a transfer. Other agencies, such as TEA, could perform the regulatory functions of SBEC. However, no significant changes have occurred since the Sunset Commission's 2002 recommendation that would provide new or distinct advantages that would justify a transfer of SBECs regulatory functions.

SBEC and TEA have not implemented an agreement to consolidate administrative functions and services as required by the Legislature.

- In 2003, the Legislature determined that SBEC would benefit from consolidating its administrative functions and services with TEA. However, SBEC and TEA have not yet implemented the memorandum of understanding to consolidate administrative functions and services required by the Legislature.
- The agencies have taken some steps to share administrative services. For example, the agencies have co-located their offices at the Travis Building in Austin, and SBEC receives its general counsel services from a member of TEA's Legal Department. SBEC's new Executive Director has hired a consultant to conduct an efficiency review to identify other administrative services or functions that the agency could outsource to TEA.


*The Legislature
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from consolidating its
administrative
functions with TEA.*

Recommendations

Change in Statute

1.1 Continue the State Board for Educator Certification for 12 years.

This recommendation would continue the State Board for Educator Certification as an independent agency responsible for the preparation, certification, and discipline of educators. SBEC and TEA should still consolidate administrative functions and services as required by the Legislature in 2003.

Management Action

1.2 SBEC and TEA should submit regular reports to the Sunset Commission detailing the agencies' progress on implementing an agreement to consolidate administrative functions and services.

SBEC and TEA should submit quarterly reports, beginning in January 2005, on the status of the required memorandum of understanding, including subsequent steps taken to implement the MOU. In December 2006, before the legislative session, the agencies would provide a final report to the Sunset Commission detailing the progress made to consolidate administrative functions and services.

Impact

These recommendations would continue SBEC as the agency responsible for ensuring that the individuals hired to educate Texas students are well prepared, have demonstrated knowledge in how and what to teach, and are safe to come into contact with children. Requiring SBEC and TEA to submit regular status reports would ensure that the agencies are taking the steps necessary to streamline administrative services, allowing SBEC to focus on its core mission of regulating educators.

Fiscal Implication

If the Legislature continues the current functions of SBEC, the agency's annual appropriation of approximately \$17 million would continue to be required for the operation of the agency. SBEC and TEA would use existing resources and staff to submit quarterly reports to the Sunset Commission.

SBEC's Rulemaking Process Does Not Effectively Ensure Stakeholder Input.

Summary

Key Recommendations

- Expand the State Board of Education's authority to allow it to reject portions of SBEC rules.
- Require SBEC to develop guidelines for the early involvement of stakeholders in its rulemaking process.


Key Findings

- The State Board of Education has authority to reject, but not modify, rules proposed by SBEC.
- No significant changes have occurred to affect the 2002 Sunset Commission recommendations to expand SBOE authority over SBEC rules, and to ensure the early involvement of stakeholders in developing rules.

Conclusion

In 2002, the Sunset Commission made a series of recommendations to expand the authority of the State Board of Education over rules governing educators, and ensure SBEC involves stakeholders early in the development of rules. No significant changes have occurred to affect these recommendations and they remain appropriate. These recommendations are intended to make SBEC a more responsive rulemaking body by ensuring the early involvement of stakeholders, while providing SBOE with better means to exercise its oversight of education policy.

Support



SBOE still lacks authority to veto only the unacceptable portions of SBEC rules.

The State Board of Education has authority to reject, but not modify, rules proposed by SBEC.

- SBEC must submit a written copy of each proposed rule to the State Board of Education (SBOE) for review. SBOE may reject, but not modify, a proposed rule by a vote of two-thirds of the members present. SBOE has exercised this statutory authority of veto three times since 1997. The proposal takes effect as a rule of SBEC if the Board of Education fails to reject, or takes no action, on the proposal after 90 days from receiving the rule.

No significant changes have occurred to affect the 2002 Sunset Commission recommendations to expand SBOE authority over SBEC rules, and to ensure the early involvement of stakeholders in developing rules.

- In 2002, the Sunset Commission found that SBOE should have better means to provide input on rules governing certification of educators. The State Board of Education still lacks the authority to veto only the unacceptable portions of SBEC proposed rules, and let the remaining acceptable portions go into effect. The Sunset Commission recommended that the Legislature expand the State Board of Education's authority to allow it to reject portions of SBEC proposed rules. This recommendation is still appropriate. The recommendation would have maintained the current requirement for SBOE to pass each rejection by a two-thirds majority vote within the 90-day review period.
- The 2002 Sunset review also found that SBEC did not consistently have a practice of including the input of educators in the development of rules, before proposing them to SBOE. The Sunset Commission recommended that the Legislature require the agency to develop guidelines for the early involvement of stakeholders in its rulemaking process. The recommendation is still appropriate.

SBEC continues to lack a consistent practice of including input of educators in the development of rules. The agency has not taken action on its own to implement the Sunset recommendation to develop guidelines to ensure all interested parties have an opportunity to participate in the development of rules. While SBEC does solicit stakeholder input on some rule proposals, this practice is not regularly followed.



SBEC continues to lack a consistent practice of including educators' input in rule development.

Recommendations

Change in Statute

2.1 Expand the State Board of Education's authority to allow it to reject portions of SBEC rules.

The recommendation would authorize SBOE to reject all or part of an SBEC rule proposal, or take no action. As in current law, SBOE would need a two-thirds vote of members present to take action on an SBEC rule.

2.2 Require SBEC to develop guidelines for the early involvement of stakeholders in its rulemaking process.

SBEC would develop a process that ensures all interested parties have an opportunity to participate in the development of rules. The process would include methods for SBEC to follow to obtain the early advice and opinions of interest groups affected by a proposed rule, before it is published. At a minimum, the guidelines must include appropriate TEA staff and establish a means of identifying persons affected, including educators, other state agency personnel, school district administrators, and, if applicable, parents. SBEC should also develop a method to respond to stakeholder input, similar to response requirements on rulemaking in the Administrative Procedures Act.

Impact

These recommendations are intended to make SBEC more responsive to the public in its rulemaking, while providing SBOE with better means to exercise its oversight of education policy. Authorizing the State Board of Education to reject portions of SBEC rules would allow for a more efficient rulemaking process. Guidelines for developing rule proposals would ensure all interested parties have an opportunity to participate early in the development of SBEC's rules, and provide the education community with an opportunity for a stronger role in the rule development.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

SBEC Has Taken Steps to Implement National Criminal History Checks, but Changes Are Still Needed to Address Delays in Certification of Educators.

Summary

Key Recommendations

- Require SBEC to collect fingerprints and conduct national criminal history checks of all applicants for educator certification.
- SBEC should extend background checks to all currently certified or credentialed educators by using Social Security numbers to search all available criminal conviction databases.
- SBEC should allow students in educator preparation programs to begin the applicant criminal history check process before completing the preparation program.

Key Findings

- SBEC currently collects fingerprints and conducts criminal history checks on prospective educators.
- While SBEC has taken steps to implement many of the 2002 Sunset Commission recommendations, statutory changes are still appropriate.
- SBEC has not fully implemented all Sunset Commission management action recommendations.
- Prospective educators experience delays in obtaining the results of their criminal history checks and, therefore, their education credentials.

Conclusion

In 2002, the Sunset Commission made a series of recommendations regarding fingerprinting and conducting national criminal history checks of applicants for educator certification. The State Board for Educator Certification has taken steps to implement these recommendations, but has experienced implementation difficulties, resulting in extensive delays for educators applying for certification. The Sunset review found that SBEC needs additional statutory direction to ensure prospective educators have sufficient information about the criminal history check process before submitting certification applications.

Support

SBEC conducts criminal history background checks on prospective educators.

- SBEC regulates the certification of educators, and as such has the authority to evaluate the criminal history of applicants to prevent unsuitable individuals from having contact with Texas schoolchildren. In 2003, the Legislature, by rider, granted SBEC the necessary budgetary authority to begin fingerprinting prospective educators and conducting national criminal history background checks. Previously, SBEC did not have authority to expend fee revenues for this purpose. SBEC required applicants to submit fingerprints beginning October 1, 2003.
- SBEC works with the Department of Public Safety (DPS) to conduct the background checks. DPS uses a matching process to compare applicants' fingerprints to state and national criminal databases. Since the process began, SBEC has submitted more than 21,000 fingerprint records to DPS.
- SBEC's Professional Discipline Unit (PDU) investigates prospective educators found to have a criminal history. Applicants determined, through PDU investigations, unfit to serve as Texas educators do not receive a certificate from SBEC. SBEC has issued 63 administrative denials of credentials and 34 restricted approvals since fingerprinting began in late 2003. With this new process, DPS retains the applicants' fingerprint records in a database, allowing future criminal activity to generate a "hit" on the individual's record, triggering an SBEC investigation.

While SBEC has taken steps to implement many of the 2002 Sunset Commission recommendations, statutory changes are still appropriate.

- In 2002, the Sunset review concluded that SBEC's limited background searches might allow unsuitable individuals to teach Texas schoolchildren. In response, the Sunset Commission made a series of recommendations to the Legislature to improve SBEC's criminal history checks of applicants for educator certification. The chart, *Sunset Commission Recommendations to the 78th Legislature*, analyzes the 2002 Sunset Commission recommendations to the Legislature and SBEC's implementation efforts.

SBEC has not fully implemented all Sunset Commission management action recommendations.

- In 2002, the Sunset review found that SBEC did not distribute information illustrating what might be considered an acceptable or unacceptable criminal history for individuals seeking educator certification in Texas. The Sunset Commission recommended SBEC develop and distribute to students in educator preparation programs information on situations that might prevent certification. SBEC has not implemented the Sunset Commission recommendation.



SBEC conducts criminal history checks to prevent unsuitable individuals from having contact with Texas schoolchildren.


Sunset Commission Recommendations to the 78th Legislature	
Recommendation	Status
Require SBEC to collect fingerprints and conduct national criminal history checks of all applicants for educator certification and all individuals teaching under temporary certifications and permits.	<i>Implemented.</i> In October 2003 the agency began requiring all prospective educators to submit fingerprints for a national criminal history check. SBEC has the necessary budgetary authority to implement the recommendation, however, statutory changes would ensure the process continues.
Require SBEC to adopt rules setting fees for fingerprinting and national criminal history background checks.	<i>Implemented.</i> SBEC has adopted a rule setting the fee for a national criminal history background check for all first-time applicants for credentials at \$45, but a statutory change would ensure the Board continues to use fees to offset the costs of background checks.
Authorize SBEC to retain educators' fingerprints at the Department of Public Safety.	<i>Implemented.</i> SBEC retains fingerprints at DPS under the budgetary authority to conduct national criminal history background checks. Statutory changes would ensure that SBEC has continuing access to criminal records of applicants and certified educators.
SBEC should develop information on situations that may prevent certification for distribution to all students in educator preparation programs. (Management Action)	<i>Not implemented.</i> SBEC has taken no action to implement this management recommendation. Statutory changes are now appropriate to ensure that prospective educators receive sufficient information about the criminal history check process. The discussion below provides additional detail.
SBEC should extend background checks to all currently certified or credentialed educators by using Social Security numbers (SSN) to search all available criminal conviction databases. (Management Action)	<i>Partially implemented.</i> SBEC did not receive additional funds from the Legislature to conduct a full SSN-based sweep of all credentialed educators. The agency has, however, taken steps to ensure that all educators whose certificates are subject to five-year renewals undergo an SSN-based background check during the renewal process.

- Sunset staff found that the agency has not taken steps to ensure that students working toward a degree and educator certification are aware of SBEC's standards for entering the education profession. SBEC conducts criminal history checks after students complete educator preparation programs, but students going through the programs receive no information from SBEC clearly describing the types of past criminal activity that could prevent their certification.
- The 2002 Sunset review also found that SBEC performed only very limited background checks on Texas educators. The Sunset Commission recommended that, in addition to establishing a fingerprint-based


national criminal history check process, the agency use Social Security numbers (SSN) to conduct a one-time sweep of every credentialed educator in the state of Texas. SBEC last conducted a SSN-based sweep of all educators' criminal histories in 2000. The agency did not receive additional funding from the Legislature in 2003 to conduct the checks recommended by the Sunset Commission. SBEC has taken steps to use SSNs more frequently in criminal history checks, including a requirement beginning in 2004 that all educators whose certificates require five-year renewal pay a \$1 fee to undergo a SSN-based criminal history check as a part of the renewal process.

Prospective educators experience extensive delays in obtaining their criminal background checks and, therefore, their education credentials.

- SBEC has struggled to implement a coordinated and efficient system to conduct fingerprint-based national criminal history checks. Prospective educators, as a result, have experienced significant delays in receiving their full credentials, limiting their ability to teach in Texas schools. SBEC had not developed an effective method of receiving, logging, and forwarding fingerprint cards to DPS when the agency started the new background check process in October 2003. In one example, SBEC received a card and all fees by November 25, 2003, but did not send the card to DPS until January 20, 2004, a delay of almost two months. The delays have also caused difficulties for districts trying to hire qualified educators in areas of critical shortage.
- The time frames for processing fingerprint cards are improving. By July 2004, SBEC had reduced its turnaround time for fingerprint cards to seven days, and by September the turnaround time was 48-72 hours.
- SBEC does not cause all of the delays in the system. On average, DPS has rejected between 20 and 40 percent of applicants' fingerprint cards for poor quality, further delaying certification. Since October 2003, more than 4,300 prospective educators have had to submit additional sets of fingerprints at least a second time because DPS judged the originals to be of too poor quality to use for the criminal history checks. Sunset found one example where DPS had rejected an applicant's prints three times, delaying certification by almost six months. The two agencies continue to work together to streamline the process and reduce delays, and, as a result, fingerprint rejection rates and processing time have decreased.
- According to DPS staff, poor quality ink-based prints occur frequently because of inconsistencies between local law enforcement agencies and other entities around the state that capture applicant fingerprints onto the cards. DPS has indicated its intention to request proposals for a statewide livescan electronic fingerprint service that SBEC and other agencies could use to collect higher quality fingerprints. The livescan service would allow prospective educators to have their fingerprints scanned directly onto an electronic system that would immediately reject unreadable, poor quality prints for rescanning. However, until DPS establishes a new system, prospective educators must continue to use the traditional fingerprint cards.



Certification delays cause difficulties for teachers as well as school districts trying to fill critical shortage areas.



DPS is working towards obtaining fingerprints through an electronic scanning system.

Recommendations

Change in Statute

3.1 Require SBEC to collect fingerprints and conduct national criminal history checks of all applicants for educator certification.

This recommendation would ensure that SBEC continues to collect fingerprints from applicants for educator certification. This recommendation would also ensure that SBEC continues to use the fingerprints to access both state and national criminal history databases to fully determine the suitability of applicants for educator certification.

3.2 Require SBEC to adopt rules setting fees for fingerprinting and national criminal history checks.

This recommendation would ensure that the costs of fingerprint-based criminal history checks for educator certification applicants are paid by the applicant. The fee should be sufficient to include the costs of submitting the fingerprints to DPS and the FBI. The current rule sets the fee at \$45, but any future changes to the fingerprint process may result in a modification to the fee. The Board should have statutory authority to make such adjustments as necessary as the criminal history check process evolves.

3.3 Authorize SBEC to retain educators' fingerprints at the Department of Public Safety.

This recommendation would provide for a database of educators' fingerprints linking the records to the state criminal history database, allowing DPS to notify SBEC of criminal activity by educators in the future. Upon such notification, SBEC would open an investigation into that educator's continued suitability for certification.

3.4 Require SBEC to develop information on situations that may prevent certification, for distribution to all students in educator preparation programs.

This recommendation would ensure that students working toward a degree with the goal of educator certification, or working through an alternative certification program, are aware of SBEC's standards for entry into the profession. The Sunset Commission included this recommendation as a non-statutory management action in 2002, however, SBEC has not implemented the recommendation and students in preparation programs remain unaware of situations that could prevent certification. SBEC should assist educator preparation programs in providing standard information to students to help ensure that an individual with a criminal history that might prevent certification does not invest unnecessary time and expense toward the possibly unreachable goal of an educator certificate.

Management Action

3.5 SBEC should extend background checks to all currently certified or credentialed educators by using Social Security numbers to search all available criminal conviction databases.

This recommendation would allow SBEC to expand its methods of conducting criminal history checks on current educators, to include the use of Social Security numbers to search all state and federal criminal conviction databases for any indication of criminal activity on the part of Texas educators.

3.6 SBEC should allow students in educator preparation programs to begin the criminal history check process before completing the preparation program.

This recommendation would reduce the delays for prospective educators seeking certification by allowing students in educator preparation programs to begin the background check process at the beginning of their final semester in a university or alternative certification program. The fingerprint retention database at DPS would ensure that SBEC knew of any criminal activity occurring between the completion of the background check and final certification.

Impact

Requiring SBEC to continue to fingerprint all new and out-of-state applicants for educator certification would help prevent Texas from certifying educators who could be harmful to children. Authorizing the agency to retain fingerprints at DPS and instructing DPS to notify SBEC of an educator's arrest allows SBEC to act independently of school districts or the educators themselves to learn of criminal activity. SBEC could then act quickly to conduct an investigation and levy sanctions on the educator if appropriate.

Providing comprehensive information on required criminal history checks to participants in educator preparation programs would allow these individuals to be aware of situations that might prevent their certification before they enroll in more courses and pay additional fees. Allowing students in educator preparation programs to begin the fingerprint process early would ensure timely certification before the start of the next school year.

Fiscal Implication

These recommendations would not result in a fiscal impact to the State. The agency already collects fees sufficient to cover all costs of applicant criminal history checks. The fee required by a local law enforcement agency for the fingerprint capturing is paid directly to those entities by the applicants.

*SBEC Rules Do Not Ensure Consistent Prioritization,
Investigation, and Resolution of Disciplinary Complaints
Against Educators.*

Summary

Key Recommendations

- Require SBEC to propose rules outlining the process for investigating traditional disciplinary violations.
- SBEC should include educators in the development of the new disciplinary process rules.

Key Findings

- SBEC oversees the certification and regulation of educators to ensure the highest standards of professional conduct among certified individuals.
- SBEC has not adopted rules to implement the Sunset Commission's 2002 recommendations to improve complaint investigations, and statutory changes are still appropriate.

Conclusion

In 2002, the Sunset Commission recommended that the Board adopt rules outlining and clarifying the process for addressing disciplinary violations, to ensure a more consistent and transparent process for investigating educators; and to ensure SBEC includes educators in the development of the rules. SBEC has not adopted rules to address this issue; therefore, these recommendations remain appropriate.

Support

SBEC oversees the certification and regulation of educators to ensure the highest standards of professional conduct among certified individuals.

- SBEC regulates Texas educators by investigating and resolving complaints alleging disciplinary violations by educators, and applying sanctions when necessary. The Education Code requires SBEC to conduct disciplinary proceedings for traditional violations of statute and rules, and for the Educators' Code of Ethics. SBEC uses two separate processes to investigate complaints against educators. The textbox, *SBEC Complaint Proceedings*, provides more information. In fiscal year 2004, SBEC received 1,256 total complaints in the professional discipline unit (PDU). PDU staff resolved 1,015 complaints in 2004, in an average of 180.5 days for resolution.

SBEC Complaint Proceedings

- ***Disciplinary Complaints*** can include the most egregious cases. The Professional Discipline Unit (PDU) receives allegations of educator misconduct from a variety of sources. SBEC notifies an educator when an investigation begins. If an educator can show compliance with the law, the case is closed. If sanctions are appropriate, investigators are empowered to settle the case informally. Otherwise, a PDU attorney sends a voluntary settlement offer; if the educator does not accept the offer, SBEC files a petition at SOAH for a contested case hearing. Neither statute nor rules provides a timeline for disciplinary cases.
- ***Educators' Code of Ethics*** cases follow stringent timelines. These complaints are filed in writing by either an educator or the parent/guardian of a student. The agency Executive Director must act on valid complaints within 130 days, either approving or dismissing the complaint. Approved cases go to hearings at SOAH, while dismissed cases may be appealed to an SBEC Board Review Committee within 30 days.

The Board has not adopted rules to implement the Sunset Commission's 2002 recommendations to improve complaint investigations, and statutory changes are still appropriate.

- In 2002, the Sunset review found that SBEC rules did not ensure consistent investigation of complaints against educators. The review concluded that SBEC's procedures for investigating traditional disciplinary violations were incomplete, leading to misconceptions and educators' lack of confidence in the process. In comparison, SBEC has rules delineating a clear process for Code of Ethics complaints.
- As a result of these findings, the Sunset Advisory Commission recommended that the Board adopt rules outlining the process for investigating disciplinary violations, to ensure a more consistent and more transparent process for investigating educators. The Commission also recommended that SBEC include educators in the development of the rules. Since SBEC has not adopted rules to address this problem, these recommendations are all still appropriate.


SBEC continues to lack rules ensuring consistent investigation of complaints against educators.

- Although the Sunset bill did not pass, SBEC formed a committee in 2002 to examine revising the agency's disciplinary rules. The committee met in January 2003 and October 2004. However, SBEC has still not taken action to propose any rules to streamline or clarify its disciplinary processes. As a result, SBEC continues to lack comprehensive rules for prioritizing and completing investigations of educator disciplinary violations.

Recommendations

Change in Statute

4.1 Require the Board to propose rules outlining the process for investigating disciplinary violations.

This recommendation would require SBEC to propose rules for a complete investigation process for complaints regarding traditional disciplinary violations. The rules should define time frames for all actions and notification requirements. The rules should also define case severity to ensure prioritization of investigations is risk-based.

Management Action

4.2 SBEC should include educators in the development of the new disciplinary process rules.

As discussed in Issue 2 of this report, SBEC should provide stakeholders with adequate opportunities to participate in the development of all rules affecting the education profession in Texas. Given the potential for misconceptions regarding the investigation and resolution of complaints regarding educator misconduct, SBEC should fully include the education community in the early development of rules affecting the disciplinary process.

Impact

Establishing agency processes in rule ensures that both the members of the regulated profession and the public have an opportunity to guide the development of the rules. Further, disciplinary rules help ensure consistent application of investigatory processes and decisions, even if agency personnel change over time.

Formal rule development may ease educator misconceptions about the investigative process. Involving educators in rulemaking should also help to increase awareness of SBEC's procedures for investigating disciplinary violations throughout the education community, alleviating concerns about the process.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

SBEC Does Not Have Statutory Authority Over Some Permits, Waivers, and Diagnosticians, Limiting Its Ability to Carry Out Its Mission.

Summary

Key Recommendations

- Transfer responsibility for approving school district teaching permits, which allow non-certified individuals to be hired by a school district, from the Commissioner of Education to the State Board for Educator Certification.
- Transfer responsibility for issuing certification waivers, which allow a certified teacher to teach outside his or her area of certification, from the Commissioner of Education to SBEC.
- Add educational diagnosticians to the statutory list of educators required to hold an SBEC-issued certificate in that specialty to be employed in public schools.
- Authorize SBEC to accept gifts, donations, and non-federal grants.

Key Finding

- No significant changes have occurred to affect the Sunset Commission's 2002 recommendations to consolidate oversight of teaching permits and certification waivers at SBEC; require persons employed as educational diagnosticians to hold an SBEC-issued certificate; and authorize SBEC to accept non-federal grants, gifts, and donations.

Conclusion

In 2002, the Sunset Commission made a series of recommendations to grant SBEC specific statutory authority over school district teaching permits and waivers, educational diagnosticians, and authority to accept non-federal gifts, grants and donations. The Sunset review evaluated the current appropriateness of these recommendations and found that no changes have occurred to affect the recommendations, and they are all still appropriate.

Support

No significant changes have occurred to affect the Sunset Commission's 2002 recommendations to consolidate oversight of teaching permits and certification waivers at SBEC.

- In 2002, the Sunset Commission recommended transferring the authority to approve school district teaching permits and waivers of certification requirements from the Commissioner of Education to SBEC. These recommendations are still appropriate. Allowing another agency to authorize an educator to teach without a certificate, or to teach outside their area of certification, prevents SBEC from fully carrying out its responsibility of ensuring that only competent, quality educators are teaching in Texas classrooms. Individuals employed under a school district teaching permit are not subject to SBEC's national criminal history background check, potentially putting children at risk.
- Currently, some educators do not hold an SBEC certificate. SBEC's statute allows a school district to hire a degreed but uncertified individual, provided the school district notifies TEA. Unless the Commissioner of Education rejects the notification, the permit is valid only in the issuing school district until revoked by that district. In fiscal year 2004, TEA approved 459 school district teaching permits covering 286 teachers. Teachers employed under a permit are not considered highly qualified under the federal No Child Left Behind Act.
- Some school districts allow certified teachers to teach classes outside of their certification area to address a teacher shortage. The school district may apply to the Commissioner of Education for a waiver of educator certification requirements, including those in SBEC's statute. Waivers are valid for three years. TEA issued certification waivers to 22 school districts in 2003, and to 20 districts in 2004.

No changes have occurred to affect the Sunset Commission's 2002 recommendation to require persons employed as an educational diagnostician to hold an SBEC-issued certificate.

- In 2002, the Sunset Commission recommended that the Legislature add educational diagnosticians to the statutory list of educators required to hold an SBEC-issued certificate to be employed by a school district. No changes have occurred since 2002 that would affect or make the recommendation inappropriate. Educational diagnosticians diagnose the learning capabilities of Texas school children and are currently certified by SBEC. However, the statute does not specifically require that a school district employ only SBEC-certified educational diagnosticians. The recommendation would not change the section of state law concerning the state's minimum salary schedule.

No changes have occurred to affect the Sunset Commission's 2002 recommendation to authorize SBEC to accept non-federal grants, gifts, and donations.

- In 2002, the Sunset Commission recommended granting SBEC statutory authority to accept gifts, donations, and non-federal grants. This recommendation is still appropriate. Currently, SBEC can accept



Some educators do not hold an SBEC certificate.



In FY 2004, TEA approved 286 individuals to teach Texas schoolchildren without certification.

federal grants for purposes related to the agency's functions and mission. The Appropriations Act allows agencies, with the specific statutory authority, to accept gifts of money and non-federal grants. SBEC's statute does not give the agency this specific authority.

Recommendations

Change in Statute

5.1 Transfer responsibility for approving school district teaching permits, which allow non-certified individuals to be hired by a school district, from the Commissioner of Education to SBEC.

This recommendation would ensure that SBEC has oversight and responsibility for permitting or certifying all individuals teaching in Texas public schools. Individuals that school districts employ under a school district teaching permit would have to undergo a fingerprint-based national criminal history background check by SBEC.

5.2 Transfer responsibility for issuing certification waivers, which allow a certified teacher to teach outside his or her area of certification, from the Commissioner of Education to SBEC.

This recommendation would provide SBEC the responsibility for allowing educators to teach outside their certification areas. SBEC would have the authority to disallow a waiver if it were not in the best interest of the students.

5.3 Add educational diagnosticians to the statutory list of educators required to hold an SBEC-issued certificate in that specialty to be employed in public schools.

This recommendation would ensure that all individuals providing educational diagnostic services are certified by SBEC. The recommendation would not change the State's minimum salary schedule for teachers.

5.4 Authorize SBEC to accept gifts, donations, and non-federal grants.

This recommendation would allow SBEC to accept all gifts, donations and non-federal grants to use to further the agency's programs and functions.

Impact

Transferring authority over school district teaching permits and certification waivers would ensure that all of the State's certification functions are located at the state agency responsible for certification. Adding educational diagnosticians to the statutory list of educators would ensure that only SBEC certified individuals can provide diagnostic services to Texas schoolchildren. Finally, authorizing SBEC to accept gifts, donations and non-federal grants would expand the agency's ability to pursue other funding sources to carry out its mission.

Fiscal Implication

These recommendations would not have a net fiscal impact to the State. SBEC already has systems in place to review permits and waivers and could perform those functions within existing resources.

Based on the number of individuals TEA approved for school district teaching permits in fiscal year 2004, SBEC would conduct about 286 background checks at a cost of \$12,870. The agency would recover the cost of the background searches through the \$45 fee imposed on all new applicants for initial certification or permit holders. SBEC may incur some costs as a result of increased enforcement efforts. However, because of the small numbers of applications, the increased workload would not require additional staff.

<i>Fiscal Year</i>	<i>Cost to the General Revenue Fund</i>	<i>Revenue Generated by Fees</i>	<i>Change in FTEs from FY 2005</i>
2006	\$12,870	\$12,870	0
2007	\$12,870	\$12,870	0
2008	\$12,870	\$12,870	0
2009	\$12,870	\$12,870	0
2010	\$12,870	\$12,870	0

ACROSS-THE-BOARD RECOMMENDATIONS

State Board for Educator Certification	
Recommendations	Across-the-Board Provisions
	A. GENERAL*
Already in Statute	1. Require public membership on the agency's policymaking body.
Apply	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency's policymaking body.
Apply	4. Provide that the Governor designate the presiding officer of the policymaking body.
Modify	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require training for members of the policymaking body.
Already in Statute	7. Require separation of policymaking and agency staff functions.
Apply	8. Provide for public testimony at meetings of the policymaking body.
Apply	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

* In 2002, the Sunset Commission recommended applying two other across-the-board recommendations to SBEC. These recommendations are no longer necessary. The Legislature, through general law, requires all agencies to develop an equal employment opportunity policy; and provide information and training on the State Employee Incentive Program.

State Board for Educator Certification	
Recommendations	Across-the-Board Provisions
	B. LICENSING*
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Apply	2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Modify	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Modify	6. Authorize agencies to use a full range of penalties.
Do Not Apply	7. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	8. Require the policymaking body to adopt a system of continuing education.

* In 2002, the Sunset Commission made across-the-board recommendations, shown in the chart above, concerning SBEC's licensing functions. No significant changes have occurred to affect the recommendations and they are still appropriate. The Sunset Commission has since adopted the Sunset Licensing Model as the preferred method for assessing an agency's licensing functions, however this model was not in full use at the time of the 2002 review of SBEC. As such, Sunset staff evaluated SBEC based on the standards in use at the time of the 2002 Sunset Commission recommendations.

AGENCY INFORMATION

Agency Information

Agency at a Glance

The State Board for Educator Certification (SBEC) oversees the preparation and regulation of public school educators. The Legislature created SBEC in 1995 in a rewrite of the Texas Education Code. Before 1995, the Texas Education Agency (TEA) was responsible for teacher certification. The State Board of Education retains a 90-day veto authority over SBEC's rule proposals.

SBEC's major functions include:

- ensuring the quality of educators upon entry into the teaching profession through testing, certification, and the accreditation of educator preparation programs;
- enforcing the professional standards of conduct;
- creating and promoting strategies for the recruitment and retention of educators in the public school system; and
- promoting continuous professional development of educators.

Key Facts

- **Funding.** In fiscal year 2004, SBEC operated with an annual budget of \$17.5 million. For the first time since its creation the agency generates sufficient revenue, mostly through fees, to cover the cost of running the agency.
- **Staffing.** SBEC employed 63 staff in fiscal year 2004, all of whom work in Austin.
- **Accountability.** SBEC has approved 127 Texas educator preparation programs. All the programs are rated "accredited," meaning a program has met all SBEC accountability standards.
- **Certifications.** In fiscal year 2004, more than 253,000 individuals were certified as Texas educators; approximately 21,857 of those were new teachers. About 84 percent of all teachers are assigned to positions they are fully certified to teach.
- **Professional Discipline.** In fiscal year 2004, SBEC received a total of 1,127 jurisdictional complaints and issued disciplinary action in 37 percent of the cases. The recidivism rate of sanctioned educators was zero.



*On the Internet:
Information about SBEC is
available at
www.sbec.state.tx.us.*

Major Events in Agency History

- 1995** The 74th Legislature rewrites the Education Code and creates SBEC by transferring the educator preparation and certification functions from TEA to the new agency.
- 1997** SBEC becomes administratively independent of TEA.
- 2001** The 77th Legislature passes legislation requiring SBEC to issue certificates to out-of-state certified teachers who have passed examinations as rigorous as those given by Texas, thereby making it easier for qualified educators to relocate to Texas. As a result, SBEC begins a study of educator certification exams nationwide to determine which out-of-state applicants could be exempted from further testing.
- 2002** SBEC undergoes Sunset review. The Sunset Commission issues a series of recommendations, including continuing SBEC as an independent agency, and expanding the State Board of Education's authority over SBEC rulemaking.
- 2003** Senate Bill 265, containing the Sunset Commission recommendations for SBEC, fails to pass the 78th Legislature. However, separate legislation continues SBEC for two years, and requires the Sunset Commission to focus its follow-up review on the appropriateness of the original recommendations. The bill also requires SBEC to consolidate administrative functions with TEA.

Organization

Policy Body

In 2003, the Legislature reduced the size of the Board, by removing one public member, to comply with the Constitutional requirement for boards to have an odd number of voting members. The 14-member Board is composed of 11 voting members, appointed by the Governor with the advice and consent of the Senate; and three non-voting members – one employee of the Texas Education Agency appointed by the Commissioner of Education, one employee of the Texas Higher Education Coordinating Board appointed by the Commissioner of Higher Education, and one dean of a Texas college of education appointed by the Governor. The chart, *State Board for Educator Certification*, details the Board's membership.

Texas law requires that SBEC submit all proposed rules to the State Board of Education (SBOE) for a 90-day review period. SBOE may reject a proposed rule by a two-thirds vote, but may not modify the rule. Unless rejected, the rule becomes effective after the review period. SBOE rejected three proposed SBEC rules within the last six years, two of which were passed at a later date after modifications.

Staff

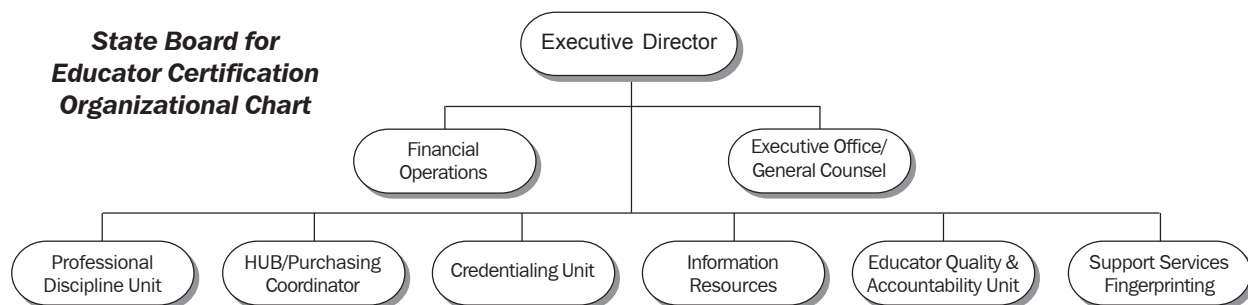
The *State Board for Educator Certification Organizational Chart*, depicts the structure of the agency. In fiscal year 2004, SBEC employed 63 employees, all of whom work in its Austin headquarters. The agency no



SBEC must submit all proposed rules to SBOE, which can veto the rules with a two-thirds vote.

State Board for Educator Certification		
Member Name	Term	Appointed By
Annette Griffin, Ed.D., Chair <i>Administrator</i> , Carrollton-Farmers Branch ISD	05-10-99 to 02-01-05	Governor
Cecilia Phalen Abbott, Vice Chair <i>Citizen</i> , Austin	11-30-01 to 02-01-07	Governor
Bonny L. Cain, Ed.D. <i>Administrator</i> , Pearland ISD	08-27-03 to 02-01-09	Governor
Patti Lynn Johnson <i>Citizen</i> , Canyon Lake	01-07-04 to 02-01-09	Governor
Adele M. Quintana <i>Teacher</i> , Dumas ISD	11-30-01 to 02-01-07	Governor
Cynthia M. Saenz <i>Teacher</i> , Austin ISD	08-27-03 to 02-01-09	Governor
Antonio Sanchez <i>Teacher</i> , Mission ISD	05-10-99 to 02-01-05	Governor
John Shirley <i>Counselor</i> , Dallas ISD	09-22-04 to 02-01-09	Governor
Troy Simmons, D.D.S. <i>Citizen</i> , Longview	11-30-01 to 02-01-07	Governor
James M. Windham <i>Citizen</i> , Houston	11-30-01 to 02-01-05	Governor
Judie Zinsser <i>Teacher</i> , Houston ISD	03-22-04 to 02-01-07	Governor
NON-VOTING MEMBERS		
John J. Beck, Jr., Ph.D. Dean of College of Education Texas State University, San Marcos	07-24-00 to 02-01-05	Governor
Mike Collins Assistant Commissioner – Participation Higher Education Coordinating Board, Austin	At will of Commissioner	Commissioner of Higher Education
Robert Scott Chief Deputy Commissioner Texas Education Agency, Austin	At will of Commissioner	Commissioner of Education

longer contracts with the Region 20 education service center in San Antonio to operate SBEC's Information and Support Center. SBEC staff now performs this function. A comparison of SBEC's workforce composition to the minority civilian labor force is provided in Appendix A.



Funding

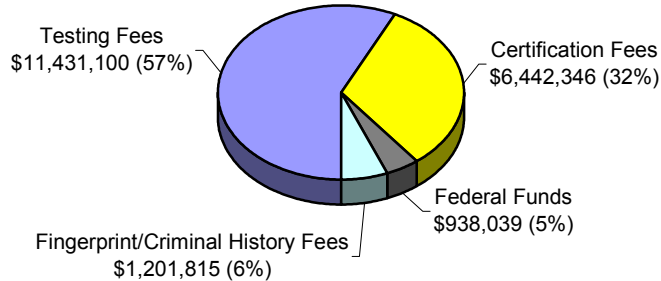
Revenues

In fiscal year 2004, SBEC generated \$20,013,300 in revenue as shown in the chart, *SBEC Sources of Revenue*. Fiscal year 2004 marked the first year SBEC derived its revenue solely from fees paid by educators and no longer received a subsidy from general state funds.

★

In FY 2004, SBEC no longer received a revenue subsidy from the general revenue fund.

**SBEC Sources of Revenue
Fiscal Year 2004**

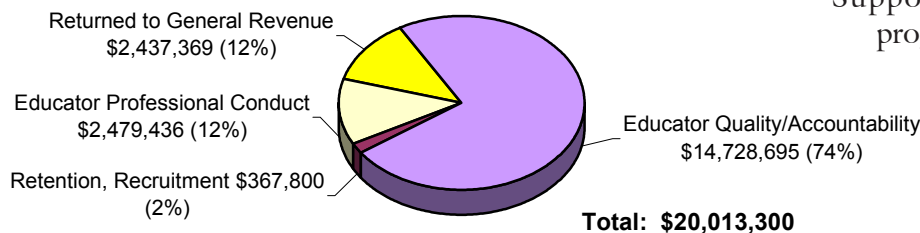


Total: \$20,013,300

Expenditures

SBEC spent funds on a single goal, divided into three strategies for fiscal year 2004: educator quality/accountability; retention/recruitment; and educator professional conduct. Expenditures by strategy are shown in detail in the chart, *SBEC Expenditures*. SBEC spent about \$4.3 million on salaries and agency operations. The remaining expenditures supported payments

**SBEC Expenditures
Fiscal Year 2004**



Total: \$20,013,300

to vendors for test development/administration, criminal history checks, and the Texas Beginning Educator Support System (TxBESS) program. The agency does not have authority to expend all of its revenue generated through certification and testing fees, and returns about \$2.4 million to the General Revenue Fund.

Appendix B shows SBEC's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services.

Agency Operations

SBEC's major programs described below fall into three main categories: educator quality and accountability; credentialing services; and professional discipline. These categories generally correspond with the agency's goal of ensuring the highest level of educator preparation to achieve student excellence.

Educator Quality and Accountability

The Educator Quality and Accountability unit oversees the accreditation of educator preparation programs, develops and administers teacher certification exams, coordinates educator recruitment efforts with other state agencies, and oversees beginning educator retention programs.

Educator Preparation Programs

SBEC rates and monitors all educator preparation programs through the Accountability System for Educator Preparation (ASEP). Certification preparation programs are provided by institutions of higher education, regional education service centers, public school districts, community colleges, or other entities. SBEC has approved 127 educator preparation programs. A program's accreditation is primarily based on an annual report of the performance of candidates on the state's educator certification exams.

In addition to ASEP, the federal government monitors the accountability of educator preparation programs. Title II of the Higher Education Act requires states to submit a report card containing institutional and state passage rates on certification exams, rankings of educator preparation programs by test performance, and designations of performance levels.

Certification Exams

Prospective educators must pass the state's educator certification exams, including at least one in the subject area in which they seek certification. These tests measure the prospective educator's knowledge of the content area and pedagogy (learning theories, classroom management, and "how to teach"), and ensure that a teacher's training is grounded in the Texas Essential Knowledge and Skills, Texas' required curriculum for public school students. In fiscal year 2004, candidates passed 73 percent of the certification exams. About 8 percent of certification examinations are now computer administered.

In 2001, the Legislature exempted educators certified in another state from additional testing if the original licensing state has a certification exam similar to or at least as rigorous as Texas' exams. SBEC has approved 96 out-of-state exams, and continues to conduct comparability studies to look at certification exams nationwide and internationally.

Educator Recruitment

SBEC works with the Texas Education Agency, the Higher Education Coordinating Board, and the Texas Workforce Commission to coordinate information, including Web sites, helpful for recruiting individuals into the teaching profession.

Retention of New Teachers

Traditionally, one in five beginning educators will leave the classroom after only one year. To combat the high attrition rate of new teachers, SBEC introduced the Texas Beginning Educator Support System in 1999, with the help of a three-year, \$10 million federal grant. Under the program, new teachers receive training, mentoring, and professional feedback from



*SBEC has approved
127 educator
preparation
programs.*



*Seventy-three percent
of candidates passed
SBEC's certification
exams.*

experienced teachers and principals. Since the inception of the program, SBEC has worked with over 5,000 beginning teachers. Teachers participating in the program for two years had a retention rate of 98 percent. In comparison, only 73 percent of beginning teachers not participating in the program stayed on the job during the same time period. With the expiration of the federal grant, SBEC has continued this program on a reduced scale with \$350,000 in funding from TEA.

Credentialing Services

The Texas Education Code authorizes SBEC to regulate the certification, continuing education, and standards of conduct of public school educators; and to specify the classes, period of validity, and requirements for issuance and renewal of all certificates. The Credentialing Services unit issues educator credentials, and reviews and approves emergency permits on a hardship basis. Most credentialing functions are now online, allowing educators to apply, sign up for testing, pay associated fees, or renew their certificates.

★
*Most credentialing
 functions are now
 online.*

SBEC reviews an educator’s criminal history to ensure that only qualified individuals are certified. In 2003, SBEC began conducting national, fingerprint-based, criminal history background checks on all prospective educators. SBEC works with the Department of Public Safety (DPS) to conduct the background checks, using a matching process to compare applicants’ fingerprints to state and national criminal databases.

The textboxes, *Classes of Certificates* and *Types of Certificates*, provide more specific details on certification. In fiscal year 2004, SBEC issued 23,006 certificates to new educators.

Classes of Certificates

The class of a certificate illustrates the particular characteristics of an educator’s position. SBEC issues the following classes of certificates.

- Superintendent
- Principal
- Master Teacher
- Classroom Teacher
- School Librarian
- School Counselor
- Educational Diagnostician
- Instructional Educator, including Reading Specialist

★
*In FY 2004, SBEC
 issued 23,006
 certificates to new
 educators.*

Types of Certificates

The type of certificate held by an educator prescribes the period of validity of a certificate.

Lifetime – Issued before September 1999; remains valid unless an educator chooses otherwise.

Standard – Issued after September 1999; valid for five years and replaces lifetime credentials.

One-year – Issued to and allows out-of-state educators to work in public schools while getting Texas credentials.

Probationary – Issued to educators in alternative certification programs or a post-BA program in conjunction with the teaching internship phase of a preparation program. Valid for one year.

Emergency – Issued to non-credentialed individuals to fill teaching positions on a hardship basis, valid not more than three years in the same school.

Temporary – Issued to individuals with bachelor’s degree or higher to teach grades 8 - 12. Valid for two years.

Routes to Educator Certification

Traditional *University-based Programs* are usually delivered as part of a university or college baccalaureate degree program in which a student studies a personally chosen major subject area plus no more than 18 credit hours of education courses. If an individual already has an undergraduate degree, they may complete a *post-baccalaureate* program at the university.

Alternative Certification Programs (ACP) place already degreed individuals who wish to become teachers in a classroom with mentor support and program supervision while they complete certification requirements, usually in one to two years.

The chart, *Beginning Teachers by Preparation Route*, shows a steady increase in the number of newly certified teachers trained through alternative certification programs. For the first time ever, more teachers received their training through non-traditional educator preparation programs.

SBEC may approve *Certification Based on Credentials from Another State* for individuals who hold acceptable certificates issued by another state or country without further testing.

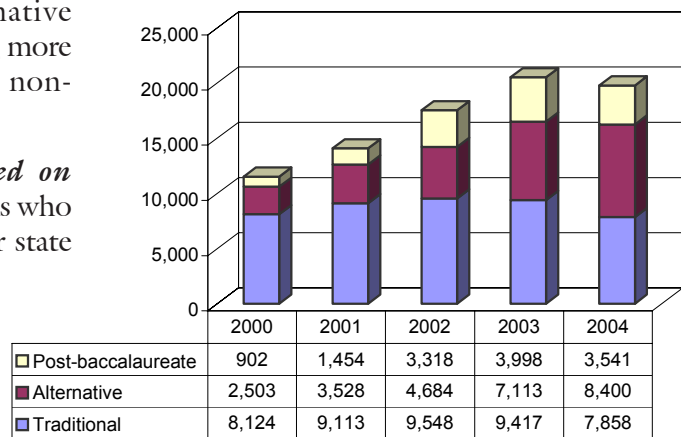
In 2004, SBEC created the *Temporary Teacher Certificate* to provide another route to full certification. Individuals must possess a bachelors' degree in the academic area they will teach, pass the pedagogy and content exam, and then receive appropriate training from the employing school district. The school district can recommend the individual for a Standard Certificate after two years.

Emergency Teaching Permits allow school districts to hire a non-certified individual to fill a vacancy when a certified individual is unavailable. Individuals who are employed on emergency permits must meet annual requirements for renewal of the permit and must be working toward standard certification in an ACP. A certified teacher may also receive an emergency permit to teach outside their area of certification. In fiscal year 2004, SBEC approved 907 emergency permits, down from a high of almost 9,000 in 2001. While similar, SBEC's emergency teaching permits are different than the school district teaching permits approved by the Commissioner of Education.

Professional Discipline

The Texas Education Code requires SBEC to provide disciplinary proceedings for violations of Texas education statutes and the Educators' Code of Ethics. The Professional Discipline Unit carries out this mandate by investigating complaints against an educator and, if necessary, prosecuting any discipline matters before the Board.

**Beginning Teachers by Preparation Route
Fiscal Years 2000 – 2004**



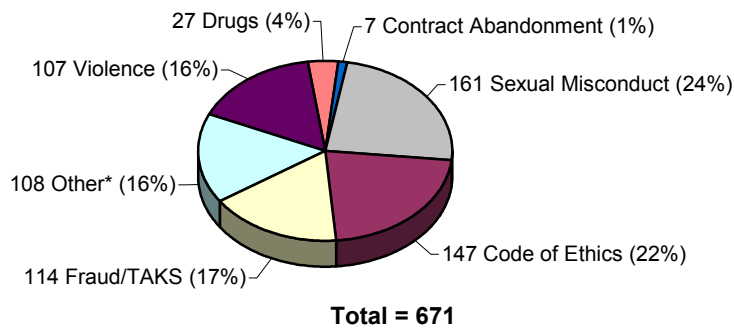
Complaint and Investigation Types

Depending upon the type or the source of a complaint against an educator, SBEC follows three separate processes of investigating and prosecuting complaints. During fiscal year 2004 the agency received 1,127 jurisdictional complaints.

Traditional Disciplinary Violations. These complaints include those filed by parents or others, and allege a violation of the statute and SBEC's rules outlining criminal behavior or fitness to practice as an educator. The Board issues sanctions for statutory violations that may include offenses related to violence or sexual misconduct. About 40 percent, or 268, open cases at SBEC allege statutory violations related to violence or sexual misconduct.¹ The chart, *Cases as of August 2004*, shows the cases by all types of violation categories.

★
About 40 percent of open cases allege statutory violations related to violence or sexual misconduct.

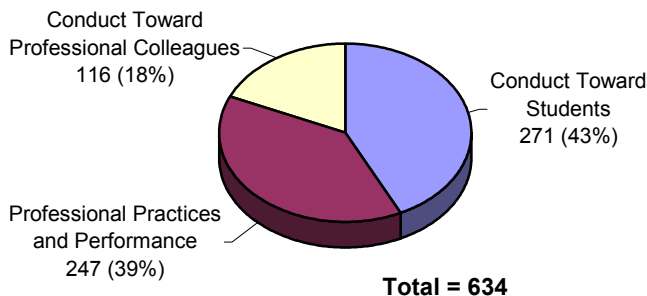
Cases as of August 2004



* Includes Sexual Harassment/Hazing, Official Misconduct, Burglary/Theft, Miscellaneous (Arson, DWI, etc.)

Investigations of Applicants. The criminal history background check of an applicant may reveal serious criminal infractions or misdemeanors. If so, SBEC notifies the applicant, and conducts an investigation of the record. Based upon established criteria, the applicant will either be denied or granted a certificate. Statistics on these types of cases are not separated from those of the traditional process.

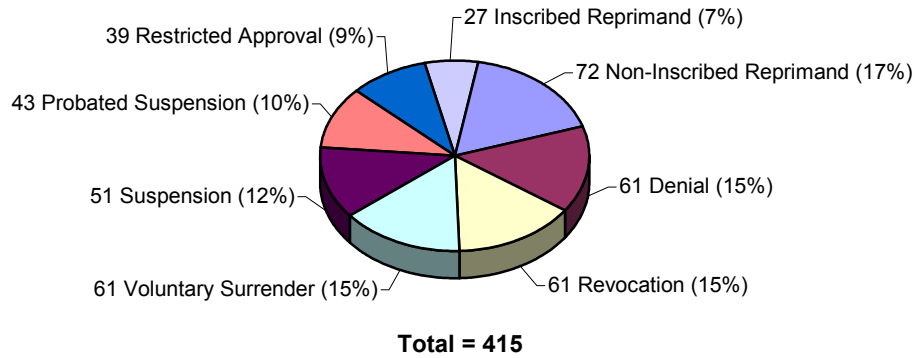
**Code of Ethics Complaints
Fiscal Year 2004**



Code of Ethics Complaints. SBEC also prosecutes complaints that allege violations of the Educators' Code of Ethics. The Code, found in Appendix C, defines the appropriate principles of conduct for educators. SBEC revised the Code in 2002 to better identify specific behaviors that violate an educator's ethical obligations and could lead to a sanction. About 147, or 22 percent, of open cases allege ethics violations.² The chart, *Code of Ethics Complaints*, shows the number of complaints by each standard of behavior category.

Results of Investigations. In fiscal year 2004, 415, or 37 percent of jurisdictional complaints resulted in disciplinary action. The chart, *Educator Sanctions*, shows the disposition of all 415 cases by type of sanction issued by the Board.

***Educator Sanctions
Fiscal Year 2004***



¹ As of August 31, 2004.

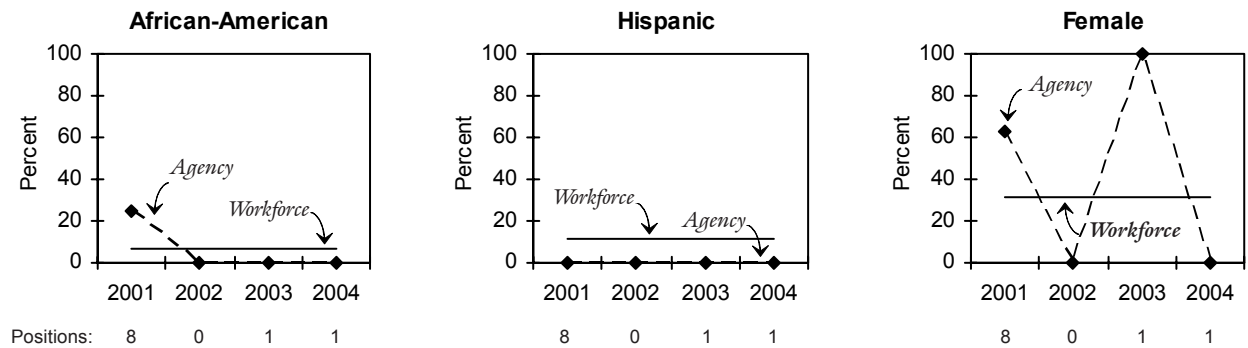
² Ibid.

APPENDICES

Equal Employment Opportunity Statistics 2001 to 2004

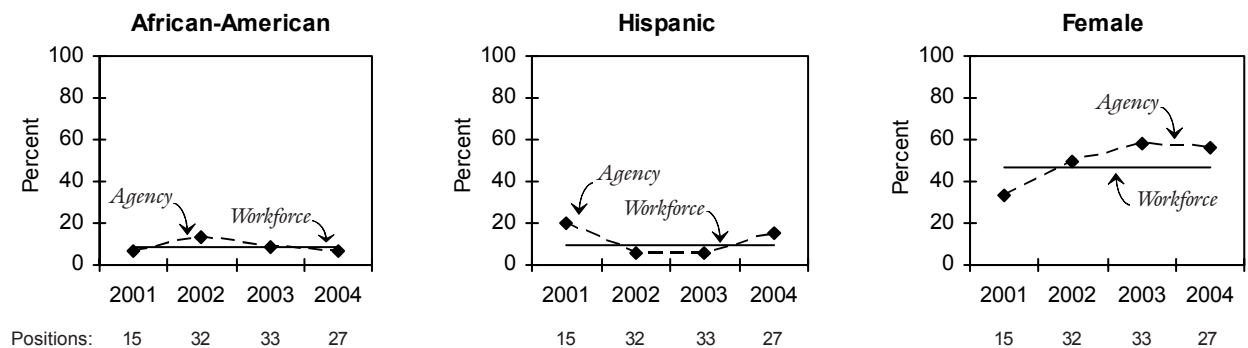
In accordance with the requirements of the Sunset Act, the following material shows trend information for the State Board for Educator Certification employment of minorities and females in all applicable categories.¹ The agency maintains and reports this information under guidelines established by the Texas Commission on Human Rights.² In the charts, the solid lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond-dashed lines represent the agency's actual employment percentages in each job category from 2001 to 2004.

Administration



The agency exceeded the percentages for female employment for two of the four years, but fell short for African-Americans three of the years and Hispanics all four years.

Professional



The agency generally met or exceeded the percentages for African-Americans and females for the last three years, and for Hispanics in 2004.

Appendix A

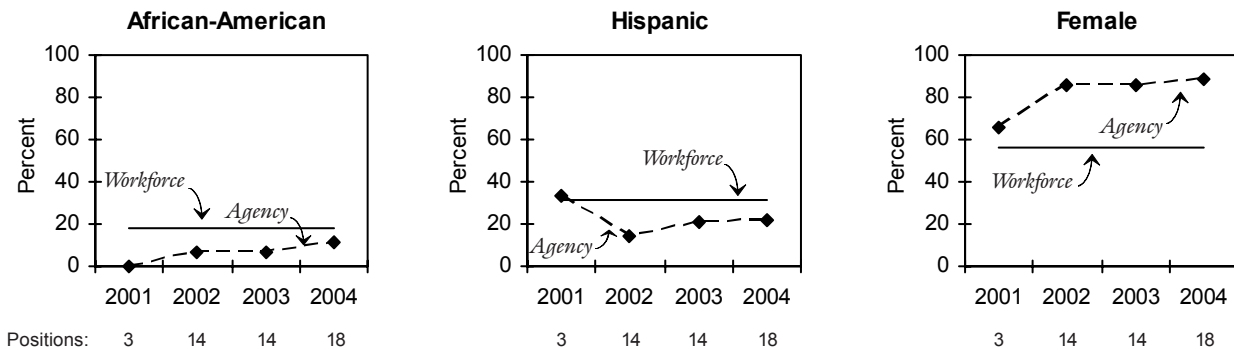
Equal Employment Opportunity Statistics

Technical



The agency exceeded the percentages for females for three years, and for African-Americans in 2004, but fell short for Hispanics all four years.

Para-Professionals

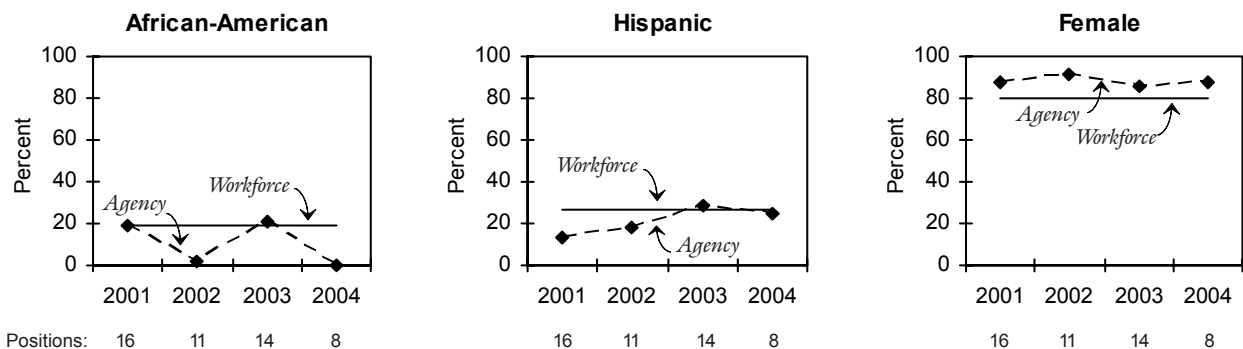


The agency exceeded the percentages for females all four years, but fell short for African-Americans all four years and Hispanics in three of the last four years.

Appendix A

Equal Employment Opportunity Statistics

Administrative Support



The agency exceeded the percentages all four years for females, but fell short for African-Americans and Hispanics for two of the years.

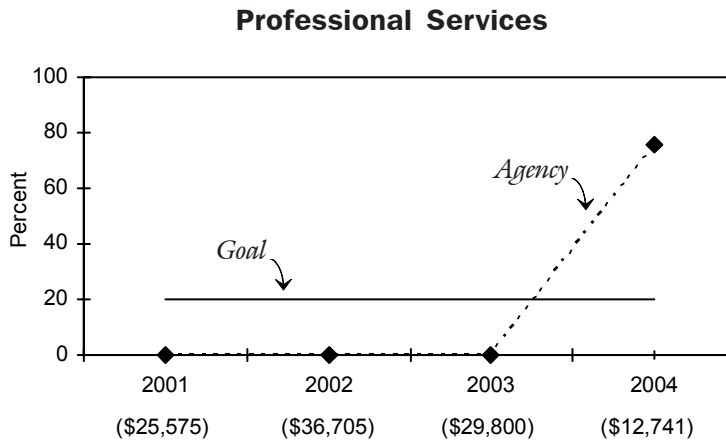
¹ Texas Government Code, sec. 325.011(9)(A).

² Texas Labor Code, sec. 21.501. The Texas Human Rights Commission (HRC) has been the agency responsible for collecting and distributing EEO data. During the 2003 Session, the Legislature passed HB 2933 transferring the functions of HRC to a new civil rights division within the Texas Workforce Commission (TWC). The legislation is to take effect upon certification of the TWC civil rights division by the appropriate federal agency; no specific date has yet been established.

Historically Underutilized Businesses Statistics 2001 to 2004

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹ The State Board for Educator Certification has taken steps to come into compliance since 2002 with requirements concerning HUB purchasing.

The following material shows trend information for the State Board for Educator Certification use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in the Texas Building and Procurement Commission's statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Texas Building and Procurement Commission. The diamond-dashed lines represent the percentage of agency spending with HUBs in each purchasing category from 2001 to 2004. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The agency did not make purchases in the heavy construction, building construction, or special trade categories in 2001-2004. The agency fell short of statewide goals all years for the other services category, but exceeded goals for professional services in 2004, and commodities in 2002-2004.

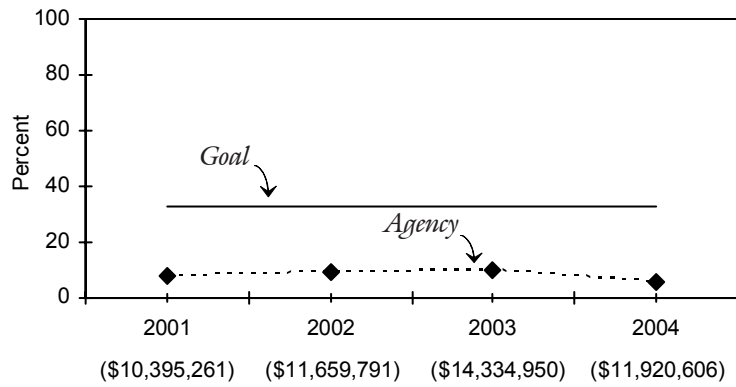


The agency exceeded the goal in 2004, but did not use HUBs for any expenditures in this category in 2001, 2002, and 2003.

Appendix B

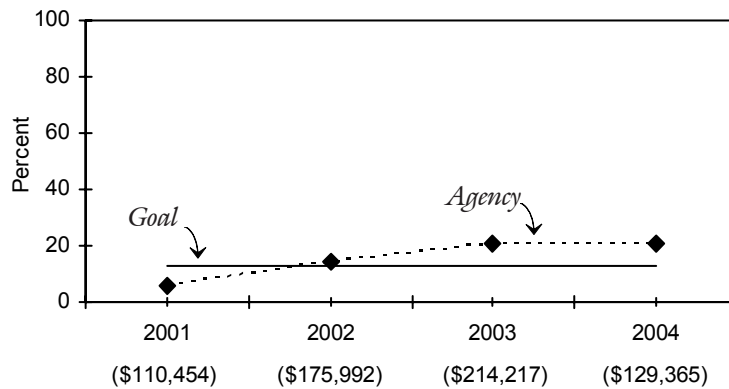
Historically Underutilized Businesses Statistics

Other Services



The agency fell below the goals all four years in this category.

Commodities



The agency exceeded the goals for the last three years, but fell short in 2001.

¹ Texas Government Code, sec. 325.011(9)(B).

² Texas Government Code, ch. 2161.

Educators' Code of Ethics

Statement of Purpose. The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community.

Enforceable Standards

Professional Ethical Conduct, Practices and Performance.

- Standard 1.1 The educator shall not knowingly engage in deceptive practices regarding official policies of the school district or educational institution.
- Standard 1.2 The educator shall not knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.
- Standard 1.3 The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- Standard 1.4 The educator shall not use institutional or professional privileges for personal or partisan advantage.
- Standard 1.5 The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents, or other persons or organizations in recognition or appreciation of service.
- Standard 1.6 The educator shall not falsify records, or direct or coerce others to do so.
- Standard 1.7 The educator shall comply with state regulations, written local school board policies, and other applicable state and federal laws.
- Standard 1.8 The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

Ethical Conduct Toward Professional Colleagues.

- Standard 2.1 The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
- Standard 2.2 The educator shall not harm others by knowingly making false statements about a colleague or the school system.
- Standard 2.3 The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.

Appendix C

Educators' Code of Ethics (cont.)

- Standard 2.4 The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.
- Standard 2.5 The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, sex, disability, or family status.
- Standard 2.6 The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.
- Standard 2.7 The educator shall not retaliate against any individual who has filed a complaint with the SBEC under this chapter.

Ethical Conduct Toward Students.

- Standard 3.1 The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.
- Standard 3.2 The educator shall not knowingly treat a student in a manner that adversely affects the student's learning, physical health, mental health, or safety.
- Standard 3.3 The educator shall not deliberately or knowingly misrepresent facts regarding a student.
- Standard 3.4 The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, sex, disability, national origin, religion, or family status.
- Standard 3.5 The educator shall not engage in physical mistreatment of a student.
- Standard 3.6 The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student.
- Standard 3.7 The educator shall not furnish alcohol or illegal/unauthorized drugs to any student or knowingly allow any student to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

Staff Review Activities

The Sunset staff engaged in the following activities during the review of the State Board for Educator Certification.

- Worked extensively with SBEC's Executive Director, executive management, and staff. Reviewed agency documents, reports, and publications.
- Met with individual SBEC members, and observed numerous board and committee meetings. Reviewed board documents, notes, and minutes of past meetings.
- Met with individual State Board of Education members, and observed numerous board and committee meetings. Reviewed board documents, notes, and minutes of past meetings.
- Worked extensively with executive staff at the Department of Public Safety's Crime Records Service.
- Interviewed representatives of several school districts, including superintendents, school board members, principals, and human resource directors.
- Interviewed and received written comments from educators, educational diagnosticians, administrators, education service centers, educator preparation programs, institutions of higher education, interest groups, and parents.
- Visited five education service centers including San Antonio, Austin, Houston, Waco, and Fort Worth.
- Attended education-related seminars and conferences.
- Met with staff and reviewed reports from the Governor's Office, Lieutenant Governor's Office, Speaker's Office, legislative committees charged with examining education-related issues, Legislative Budget Board, and State Auditor's Office. Attended Senate Education Committee, House Public Education Committee, House Appropriations Committee, and Senate Finance Committee hearings.
- Researched educator certification functions in other states.
- Performed background and comparative research using the Internet, and reviewed literature on educator certification and education issues.

**SUNSET REVIEW OF THE
STATE BOARD FOR EDUCATOR CERTIFICATION**

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