

SUNSET COMMISSION DECISIONS



Education Agencies:

**TEXAS EDUCATION AGENCY
STATE BOARD FOR EDUCATOR CERTIFICATION
REGIONAL EDUCATION SERVICE CENTERS
WINDHAM SCHOOL DISTRICT**

January 2005

TEXAS EDUCATION AGENCY

**TEXAS EDUCATION AGENCY
AGENCY INFORMATION**

Agency at a Glance

The Legislature created the Central Education Agency in 1949 consisting of the State Board of Education (SBOE), the state Commissioner of Education, and the State Department of Education. In 1995, the Legislature abolished the Central Education Agency and transferred its duties to the Texas Education Agency (TEA), and specified powers and duties for the Commissioner of Education, and SBOE separately. TEA's current mission is to provide leadership, guidance, and resources to help schools meet the educational needs of all students. To accomplish its mission, the agency:

- Develops student educational program standards based on statewide curriculum requirements, the Texas Essential Knowledge and Skills (TEKS), set by SBOE;
- Administers statewide student assessments, including the Texas Assessment of Knowledge and Skills (TAKS);
- Develops and manages the state and federal performance accountability systems using student results from the statewide assessments;
- Distributes and ensures proper use of state and federal funding to public schools, including managing the school district financial accountability rating system;
- Monitors school districts, charter schools, and education service centers (ESCs) for the purposes of compliance with state and federal regulations, financial accountability, and data quality;
- Coordinates efforts leading to SBOE adoption of textbooks, as well as the purchase and distribution of these textbooks to school districts for use by Texas schoolchildren; and
- Supports SBOE's administration of the Permanent School Fund, which is used to fund the state's textbook purchases and an annual per capita distribution of state aid to all Texas school districts.

Key Facts

- **Public Education System.** The statewide public education system serves more than four million students at more than 7,700 campuses located in 1,037 independent school districts and 204 charter schools.
- **Reorganization.** In September 2003, TEA underwent major downsizing and reorganization as a result of the state's budget crisis that reduced TEA's operating budget by about \$40 million and its total number of full-time equivalents (FTEs) by approximately 200. The reorganization was designed to make the agency operate more efficiently, and to focus more on results, rather than processes.
- **Funding.** The Legislature appropriated about \$15 billion in fiscal year 2004 for public school programs and TEA administration. TEA distributed the majority of the funds, about \$10 billion, to schools through the Foundation School Program to provide all students a quality education. About \$68 million went to support the operations of the agency.
- **Staffing.** The agency is authorized to employ a total of 766 employees, but because of budget constraints currently employs only about 630 after its downsizing and reorganization efforts. The employees are all located in Austin.

- **Student Assessment.** TEA oversees a \$55 million contract to manage and oversee the development and administration of the TAKS and other statewide tests.
- **Accountability.** TEA develops and manages both the state and federal performance accountability systems that rate schools based on their ability to improve student performance.

**TEXAS EDUCATION AGENCY
ISSUES / RECOMMENDATIONS**

Issue 1 TEA Does Not Systematically Evaluate School Districts and Charter Schools to Ensure Overall Academic and Fiscal Effectiveness.

Recommendations

Change in Statute

- 1.1 Require TEA to develop and implement a comprehensive, integrated framework for school district and charter school monitoring and interventions.**
- 1.2 Require TEA to develop a matrix of minimum standards and resulting interventions and sanctions for school districts and charter schools.**

These recommendations would require TEA to develop a comprehensive, integrated framework to monitor, intervene, and sanction school districts and charter schools. The framework would set clear performance expectations, incorporating program effectiveness and data integrity indicators, as well as other measures of school district or charter school effectiveness such as fiscal compliance; state and federal accountability; complaints and governance issues; and previous compliance history from across agency divisions to provide a comprehensive assessment of each school district and charter school.

This framework would include a matrix of interventions and sanctions, developed by TEA in rule, to produce improvement and change for schools and students. The framework would appropriately relate interventions and sanctions to performance-based indicators, and coordinate them across the agency's accountability and monitoring systems. The matrix would identify a range of interventions and sanctions available when performance expectations are not met. TEA would determine the appropriate intervention or sanction based on consideration of all relevant circumstances, taking into account both the extent and the duration of the specific areas of low performance. For example, a district that TEA identifies as high risk in more than one area such as data integrity and fiscal compliance would receive a higher level of intervention or sanction than a district that TEA identifies as high risk in only one area.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. TEA currently has statutory direction to monitor school districts and charter schools to ensure they provide a quality education to students, are fiscally responsible, and meet other state and federal requirements. TEA is in the process of developing a performance-based monitoring system to improve the agency's monitoring efforts with current staff and resources. The requirements of this recommendation would be consistent with the commitment of resources TEA has already put in place.

Responses

Agency

The Texas Education Agency concurs with these recommendations and has already begun implementation. A new comprehensive monitoring system is under development but could be strengthened with clearer statutory authority. The design of a comprehensive ratings system necessary to accomplish the overarching integration of school effectiveness measures will require either time or additional resources. Any expansion of monitoring responsibilities beyond current law would also have fiscal implications.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Roger A. Webb, Executive Director – Texas Council for Developmental Disabilities, Austin

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Amy Beneski, Associate Executive Director for Government Relations – Texas Association of School Administrators, Austin

Supports Recommendation 1.1: Barbara Senter, Waxahachie

Supports Recommendations 1.1 and 1.2: Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD

Against

None received.

Modifications

1. Require TEA to conduct random, on-site visits of school districts and campuses, with a minimal amount of advance notice, as part of the monitoring system. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
2. Require the new monitoring system to include ways for TEA to obtain honest and accurate information from school staff, such as a follow-up survey distributed after any kind of monitoring visit, or a public meeting to garner input on how well the district is performing. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Require the following indicators to form the basis for the standards and matrix (Rec. 1.2), particularly in the area of special education.
 - An indicator flagging repeated Admission, Dismissal, and Review (ARD) committee overrides of teacher removals of special education students from classrooms.
 - An indicator showing whether a school district has established a procedure by which a teacher can request assistance in implementing a special education student’s Individual Education Program.
 - An indicator regarding the number and percentage of certified teachers teaching special education and bilingual students.
 - An indicator regarding class sizes of classes with special education and bilingual students in them.
 - An indicator showing the number of special education students assigned to each regular education teacher.
 - An indicator regarding the number of complaints filed by school district staff (and other parties) against a school district with TEA.

(Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

Staff Comment: The staff recommendations would allow TEA to consider these indicators in the development of the framework and matrix of minimum standards.

4. Require TEA to have a meaningful, clear and consistent process for stakeholders to submit complaints to the agency regarding problems in schools and for the agency to respond to such complaints. The process should include investigation by TEA and not be designed to favor district administration. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
5. Include an initial on-site visit for new public charter schools in the framework (Rec. 1.1) for the purpose of offering focused, constructive assistance early in a school’s formation to avoid the escalation of problems to the degree that would warrant sanctions. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
6. Include appropriate indicators for measuring growth in student achievement as well as absolute performance goals in the matrix (Rec. 1.2). (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)

Recommended Action: Adopt Recommendations 1.1 and 1.2.

Commission Decision: Adopted Recommendations 1.1 and 1.2.

Issue 2 TEA Cannot Ensure Charter Schools Effectively Educate Students or Properly Use State Funds.

Recommendations

Change in Statute

2.1 Require TEA to implement a financial accountability rating system for charter schools.

This recommendation would provide financial monitoring and accountability similar to FIRST audits in traditional schools. TEA would adopt a financial accountability rating system specifically for charter schools, possibly using TEA's new financial accountability rating system. The system should take into account the differences in funding and expenditures between charter and traditional schools. As contemplated in the Commissioner's rules, the financial accountability rating system should encourage charter schools to better manage their finances to provide the maximum allocation possible for direct instructional purposes.

2.2 Direct TEA to closely monitor charter schools that do not receive accountability ratings.

This recommendation would require TEA to monitor TAKS scores, dropout data, and high school completion rates for charter schools that will not receive accountability ratings for two or more consecutive years. Although TEA would not formally rate the schools under the state accountability system, TEA would be apprised of necessary performance information. This recommendation would be an instructional provision expiring September 1, 2007. Since TEA is not expected to have the alternative accountability system in place until 2005, TEA needs to closely monitor other accountability data until 2007. Monitoring accountability information would assist TEA in identifying financial and student performance problems on the front end, and prevent future performance problems.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. TEA was given statutory direction to develop a financial accountability rating system for all schools, and intends to expand the system to charter schools. Effective fiscal oversight of charter schools could prevent the loss of state funds, but an amount could not be estimated for this report. With better monitoring information, TEA could see an increase in the need for audits and closer financial oversight of certain schools. Alternatively, early warnings raised by the financial monitoring system allow for TEA to identify and help correct problems with minimal intervention.

Responses

Agency

The Texas Education Agency concurs that the agency is limited in its ability to ensure charter schools effectively educate students or properly use state funds. The agency lacks clear statutory authority to impose sanctions in a timely manner on charter schools and school districts for non-academic problems. The agency needs clarity in the ability of a charter school or school district to appeal or litigate state sanctions and interventions. Current law is unclear as to whether sanctions under the Texas Education Code, Chapter 39 Public School System Accountability, may be appealed to the Commissioner, or litigated in court.

Additionally, the specific abuses cited in the staff report can only be prevented by the state if there is continuous monitoring of each charter school financial transaction and decision to allocate resources. This type of intervention would require substantial field work, a major expansion of staff, and a significant intrusion into daily charter school affairs. The Sunset Advisory Commission should consider requiring more oversight from truly independent local charter holder boards, since TEA is unable to apply appropriate resources at the state level.

Agency Modification

1. Add specific statutory authority language to the Texas Education Code (TEC) authorizing the Commissioner of Education to specify by rule the process for providing appeal opportunities involving accreditation ratings and sanctions under TEC, Chapter 39 Public School System Accountability, Subchapters D Accreditation Status and G Accreditation Sanctions, and state funding determinations under TEC, Chapters 41 Equalized Wealth Level, 42 Foundation School Program, and 46 Assistance with Instructional Facilities and Payment of Existing Debt.

Staff Comment: Appeal opportunities only under the Texas Education Code, Chapter 39 Public School System Accountability, Subchapters D Accreditation Status and G Accreditation Sanctions relate to charter school accountability.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Coalition for Public Schools, Austin

Supports Recommendation 2.1: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Supports Recommendation 2.1: Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin

Supports Recommendation 2.1: Amy Beneski, Associate Executive Director for Government Relations – Texas Association of School Administrators, Austin

Supports Recommendations 2.1 and 2.2: Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD

Against

None received.

Modifications

2. Eliminate the 2007 expiration date in Recommendation 2.2, and require TEA to closely monitor charter schools that do not receive an acceptable or higher accountability rating. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Add statutory language to ensure that no charter school goes longer than one year without an accountability rating. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

4. Prohibit renewal of charter schools that are low performing for a certain number of years. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
5. Identify and add other trends to form the basis for TEA monitoring standards such as compliance with laws regarding charter school governing board members and meetings, and charter school compliance with Teacher Retirement System requirements for charter school teachers. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
6. Increase TEA funding and FTEs to allow the agency to more closely and effectively monitor charter schools. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
7. Increase oversight of charter schools that are not rated by authorizing TEA to:
 - request copies of minutes of governing board meetings when warranted;
 - proactively follow up on complaints sent to the agency by parents, teachers, and vendors;
 - require that additions/deletions from charter school governing boards be reported to the agency within 30 days; and
 - require that the agency be notified if more than 25 percent (or some such number) of teachers resign during the school year.
 (Coalition for Public Schools, Austin)
8. Include a provision regarding “consumer protection” for parents of current and prospective students in the financial accountability system (Rec. 2.1). Require parents to be told before they enroll or re-enroll their children in charter schools the per-student expenditure in the budget for the following year and how that compares with similar charter schools in a comparison “campus group.” (Coalition for Public Schools, Austin)
9. Include charter operators who work with public charter school financial issues on a day-to-day basis in the development of the specifics of the financial accountability rating system (Rec. 2.1). (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
10. Simplify and clarify funding formulas for public charter schools before developing the financial accountability system (Rec. 2.1) to resolve the uncertainties that result in miscalculations that lead to overpayments. Also, provide a clearer mechanism for repayment of school funding that is not detrimental to school operations and instruction throughout the school year. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
11. Ensure sanctions and interventions for results of a “FIRST”-like system for public charters result in consequences identical to those of traditional public schools. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
12. Give TEA and SBOE clear statutory authority and sufficient financial resources to revoke the charters of charter schools that are persistently low performing (academically unacceptable). (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)

Recommended Action: Adopt Recommendations 2.1 and 2.2.

Commission Decision: Adopted Recommendations 2.1 and 2.2.

Issue 3 TEA's Grant System Is Inefficient and Does Not Regularly Assess Impact on Student Achievement.

Recommendations

Change in Statute

3.1 Require TEA to implement performance-based grants and report annually on their impact on student achievement.

TEA would have a system in place by 2009 to ensure grant activities and funding clearly support outcomes impacting student achievement and report that information annually to the Legislature. To ensure a smooth transition this recommendation would be phased in over four years and would require the following.

- Develop a comprehensive approach to collect and report grant performance and spending information. The agency would ensure that grant programs with similar objectives have common performance measures that directly support the State's goals for education and accountability. TEA should use existing object-of-expense budget elements to allow school districts to identify the amount of money spent on common grant activities, such as professional development or other academic interventions. As part of its approach, TEA would take the following actions.
 - Identify the mission, purpose and objectives of the agency's grant programs and how they relate to each other and support the State's goals for education.
 - Identify each area of data collected for grant programs and how the agency collects the data.
 - Determine whether the grant data is needed, supports the programs' objectives and state education goals, and is analyzed and disseminated efficiently.
 - Determine the best methods to align grant objectives, supporting activities, performance measures, and funding in the agency's grant application and reporting systems.
- Review and modify agency policies, procedures, and reporting requirements to streamline the grant application, award, and reporting processes for school districts. At a minimum, TEA should make it easier for school districts to access state funded grants through the following.
 - Implement a consolidated formula grants application and district progress report.
 - Authorize the agency to use existing data to identify and notify school districts eligible to apply for state-funded discretionary grants.
- Complete and submit a status report to the Legislature in 2007. The report would detail results of TEA's review of its grant programs, and any statutory changes needed to facilitate the full transition to a performance-based grant system.
- Begin to annually report the impact of grant funding on student achievement in January 2009. TEA should use the performance and spending information collected to regularly assess and report on the impact of grant funds on student achievement in its annual report to the Legislature. The agency should also make available comprehensive grant program information to lawmakers and the public.

In its report to the Legislature, TEA would make recommendations on changes needed for more effective use of state and federal grant funds. Such changes would include, at a minimum, whether to eliminate or modify ineffective programs; expand effective programs to other schools; or consolidate similar programs to maximize efficiencies.

3.2 Require the agency to identify promising practices from grant programs and disseminate that information to school districts via its Web site.

This recommendation would ensure all school districts, even those not receiving grant funding, have the opportunity to benefit from the state's investment. TEA would put information learned from successful grant programs, including formal evaluations the agency or school districts receiving grants conduct in a centralized clearinghouse on its Web site.

Management Action

3.3 TEA should make all grant application and award processes available online by 2007.

This recommendation would ensure TEA has a deadline for completing a full transition of all programs to its e-Grants system. The agency already has some of its grant application and reporting systems available online.

Fiscal Implication

These recommendations would have a positive fiscal impact, primarily to local school districts. Streamlining the administrative requirements for the 73 federal and state grant programs TEA oversees would result in substantial savings. School districts set aside portions of the \$3 billion they receive in grant funds for program administration. Sunset staff conservatively estimate a reduction of 0.5 percent in the total amount spent by school districts on administrative costs would result in savings of almost \$15 million. These local savings, mostly to federal funds, would be redirected from school district administration towards providing more services to schoolchildren.

The transition to performance-based grants would likely require changes to TEA's information systems. While TEA has already budgeted for the transition to a full e-Grant system, any other potential costs are dependent on TEA's approach to collect and report performance-based spending and outcome data, and cannot be estimated for this report. Savings from more efficient grant administration business processes at the agency could be used to offset any one-time costs. If necessary, TEA should request any other needed funding in its status report and legislative appropriations request to the Legislature in 2006, and identify possible funding sources, such as federal administrative funds, that could be used in the transition.

TEA would not need any additional staff to implement these recommendations. Existing TEA staff from various departments would collect and report comprehensive grant performance and spending information. TEA has already created two new divisions within the Grants Department to conduct business process improvements and coordinate research and evaluation efforts. Reducing administrative inefficiencies would free up staff to focus more attention on assessing the impact of grant funding on student success and disseminating information about successful programs to school districts.

Responses

Agency

The Texas Education Agency concurs with the general assessment of Sunset staff related to grants administration and grants performance data. TEA concurs that movement toward a performance-based grant management system that ties funding to student achievement is desirable and efforts are currently being made by the agency to that effect. The agency also concurs with the recommendation to determine more efficient ways to administer grants. Additional staff or contractors in program/evaluation will be required to create a performance-based grant management system, identify best practices, and widely disseminate results.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Supports Recommendations 3.2 and 3.3: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Against

None received.

Modification

1. Require TEA to ensure that additional reporting and more administrative burdens are not added to school districts when making changes to the grant application process. Require TEA to carefully consider current administrative burdens (time, cost, and labor) before adding requirements for districts to complete grant applications. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)

Recommended Action: Adopt Recommendations 3.1 through 3.3.

Commission Decision: Adopted Recommendation 3.1; Recommendation 3.2, as modified to require TEA to disseminate data related to grant programs to ESCs to analyze and provide best practice information to school districts; and Recommendation 3.3. Adopted Modification 1, as a management action, modified to require TEA to make every effort to ensure additional reporting and more administrative burdens are not added to school districts when making changes to the grant application process.

Issue 4 TEA Needs to Expand Its Efforts at Providing Best Practices Information to Schools and Districts.

Recommendations

Change in Statute

4.1 Require TEA to collect and disseminate best practices information.

This recommendation would require TEA to collect best practices information and make the information easily accessible on its Web site. TEA, with the assistance of education service centers, districts, teachers, education experts, and administrators, should identify best practices information for each of TEA's functional areas. TEA staff would collect and disseminate best practices within the course and scope of their current duties. Best practices information should include information about available programs, products, and policies; specific examples of what works; as well as any other resources available to assist schools and ensure compliance. TEA would not evaluate or endorse the best practices, only make the information available, acknowledging that the programs, products, or policies worked for others. The best practices should be posted on the TEA Web site in an easily accessible format.

Management Action

4.2 TEA should investigate effective uses of online courses and communicate best practices regarding the use of such courses.

This recommendation would require TEA to provide best practices to facilitate the use of online instruction. TEA should provide information to help schools investigate the quality of online courses, how online courses can provide curriculum solutions, and information about available funding sources for types of online instruction. TEA should also attempt to address on its Web site any other frequently asked questions about the availability and access of online instruction.

4.3 TEA should improve its Web site to be more user-friendly.

The TEA Web site should have individual portals on its home page for different users, such as students, parents, teachers, and administrators. TEA should conduct a review of its current Web site, focusing on improvements to make the site more user-friendly, and to make the information available on the site more easily searchable and accessible. This recommendation would make it easier for all users to find needed information on TEA's Web site, and would decrease the number of inquiries the agency receives by phone.

Fiscal Implication

These recommendations would not have a fiscal impact to the State, as TEA can develop the best practices and improve its Web site using current staff. TEA program staff would collect best practices within the course of their current duties, and work with others to compile information on successful programs, products, and policies. Limited assessment may be necessary to ensure the best practices are appropriate for dissemination; however, any additional time required for assessment would be dispersed throughout the agency so that additional staff would not be necessary. By providing best practices online, TEA could potentially see savings through decreased requests for direct assistance, however any savings should be redirected toward improving other services within the agency.

Responses

Agency

Collecting and disseminating best practices information with current TEA staff would be very limited within the current resources of the agency. The agency considers Regional Education Service Centers to be one of the agency's best vehicles for disseminating best practices information.

TEA concurs with the recommendation that the agency should investigate effective uses of online courses and communicate best practices regarding the use of such courses (Rec. 4.2). Maintaining the currency and accuracy of this information would be a challenge without human and financial resources to support the efforts in an on-going manner. The ability to seek, verify, and provide information to schools about the opportunities available would require additional staff and resources than what are currently available.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Roger A. Webb, Executive Director – Texas Council for Developmental Disabilities, Austin

Supports Recommendation 4.1: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Supports Recommendation 4.1: Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin

Supports Recommendation 4.3: Barbara Senter, Waxahachie

Supports Recommendation 4.3 with Modification 7: Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD

Against

None received.

Modifications

1. Require that any promotion of online courses as recommended in Rec. 4.2 would contain requirements that the courses be provided through school districts only and that state funding for such courses occur only for courses operating a full school day. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
2. Require TEA to identify online professional development opportunities for teachers. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Require that any technology-based instructional materials be implemented gradually, and provide school districts with additional funding to pay for ongoing technology infrastructure needs and maintenance. (Amy Beneski, Associate Executive Director for Government Relations – Texas Association of School Administrators, Austin)

4. In disseminating best practices information, require TEA to provide an array or menu of approaches as a resource to all districts, rather than providing only one standard view or approach to each situation that all districts would be forced to use. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)
5. As discussed in TEA’s response, continue to use ESCs to deliver best practices information, technical assistance, and guidance to school districts. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)
6. To improve TEA’s Web site, require TEA to install a useful search engine; provide links to other organizations that serve similar roles; and don’t recreate web and print information that already exists elsewhere. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)

Recommended Action: Adopt Recommendations 4.1 through 4.3.

Commission Decision: Adopted Recommendations 4.1 and 4.2, as modified to require TEA and ESCs to partner to collect and disseminate best practices information, and to enter into a Memorandum of Understanding (MOU) setting out the duties of each of the entities. The MOU must include investigating effective uses of online courses and communicating best practices regarding the use of such courses, and developing incentives for schools that successfully adopt and deploy best practices. Adopted Recommendation 4.3.

Issue 5 TEA’s Administration of the Textbook System Does Not Ensure the Highest Quality Textbooks at the Best Value to the State.

Recommendations

Change in Statute

5.1 Authorize the agency to establish a statewide textbook credit system.

This recommendation would provide for a statewide textbook credit system. The agency should establish the system as a voluntary incentive for all school districts and charter schools throughout the state to examine price of textbooks as a factor when selecting books for their schools. Districts and charter schools selecting textbooks priced lower than the established maximum cost would receive 50 percent of the difference between the price paid by the State and the maximum cost, to be used to purchase additional instructional materials of the district’s choice. The State would retain the other half of the difference, which would revert to the state textbook fund for use in future textbook purchases. TEA should use its findings on savings from the current textbook credit pilot program as a basis for constructing the larger statewide program.

5.2 Require TEA to recommend a prorated maximum cost for nonconforming textbooks to SBOE.

This recommendation would require the agency to estimate a cost limit that is prorated downward to account for the missing TEKS elements in nonconforming textbooks. TEA staff should recommend this prorated maximum cost to SBOE along with the maximum cost suggestion for conforming textbooks. SBOE will retain the authority to adopt the maximum cost the State will pay for any adopted textbook on the conforming or nonconforming list, but would have additional information available on which to base the price of nonconforming textbooks.

Management Action

5.3 The agency should work with SBOE to ensure the development of clear guidelines for determining adequate TEKS coverage in textbooks.

The agency should work with SBOE to ensure clear and consistent guidelines for determining full TEKS coverage in textbooks. The guidelines should include the number or range of TEKS examples to be identified, as well as a concrete definition of the depth of coverage that an example must contain, addressing the issues of captions, illustrations, and other areas of a textbook. TEA should make clear coverage guidelines available to publishers during preliminary discussions regarding Proclamation 2006.

5.4 The Commissioner should include at least one subject expert on each textbook review panel for all curriculum areas.

This recommendation should direct the Commissioner of Education, when appointing the members of the state textbook review panels, to include at least one academic or professional expert on each panel evaluating textbooks in the both the foundation and enrichment curriculum areas. While the expert could assist the other panel members in identifying TEKS for coverage requirements, their primary role would be to identify factual errors in the textbooks for science, math, English/language arts, and social studies courses.

5.5 Direct TEA to expand its current processes for updating textbooks.

TEA should evaluate the best method to allow publishers of textbooks in all curriculum areas to update textbooks as necessary between adoptions. TEA staff should work with an ad hoc committee of interested stakeholders to develop an expanded plan of integrating updates into Texas textbooks. The agency should use this planning process to identify subject areas where updating is most appropriate and should first be implemented. TEA should consider directing publishers to indicate in their submission of textbooks for adoption whether the publisher is willing to provide updated content during the course of the adoption.

The textbook updating plan should include a format for publishers to submit material to update previously adopted books where appropriate, and should provide for certain periods during the adoption when updates will be accepted. Publishers submitting updates to TEA should include a description of TEKS coverage contained in the updated materials. Staff should consider permitting publishers to submit updates through either electronic or additional paper insert materials. TEA should establish a method for the agency and, if appropriate, SBOE, to review and adopt update submissions for TEKS coverage and factual errors.

Fiscal Implication

Establishing a statewide textbook credit system would generate an estimated annual savings of \$4.8 million to the State Textbook Fund.

Responses

Agency

The Texas Education Agency concurs with these recommendations.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Supports Recommendations 5.1, 5.3, 5.4, and 5.5: Joe Bill Watkins – Association of American Publishers, Austin

Against

None received.

Modification

1. Statutorily require textbook review panels be composed of content experts, including classroom teachers, as well as academic or professional experts. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

Recommended Action: Adopt Recommendations 5.1 through 5.5.

Commission Decision: Adopted Recommendations 5.1 through 5.3, and 5.5. Adopted Recommendation 5.4 as a management action, modified to direct the Commissioner to include a majority of subject experts on each textbook review panel for all curriculum areas.

Issue 6 Regulation of Private Driver Training Programs Is Not an Appropriate Duty of TEA.

Recommendations

Change in Statute

6.1 Transfer the Driver Training program to the Texas Department of Licensing and Regulation.

This recommendation would eliminate the Driver Training division at TEA and transfer its functions to TDLR. The recommendation would align all regulatory provisions in the Driver Training program section of the Education Code with TDLR's enabling statute, ensuring that licensing processes for driver training entities conform closely to the State's preferred regulatory functions for licensing agencies. In-school driver education functions, including developing and administering the curriculum for driver education courses, would remain at TEA.

Both agencies would develop a transition plan, including a timetable with specific steps and deadlines needed to carry out the transfer in compliance with the effective date of the transfer provision; a method for transfer of all program records; the possible transfer of employees; and any additional specific steps necessary to complete the transfer of the program.

6.2 Require driver training schools to provide all students with the Driver Training program's Web site address for complaint filing.

This recommendation would expand the required information that driver training schools must provide to their students in the event the student has a complaint about the school, course provider, or instructor. Direction to the Driver Training program Web site would allow driver training students to easily ascertain the method of filing a complaint against a driver training entity, and would direct the students to the appropriate contact person and address for filing the complaint.

6.3 Eliminate fee caps in the Driver Training program statute.

This recommendation would provide more flexibility to the agency to set licensing fees at a level necessary to recover program costs. All fees would be set by rule, allowing for public comment on any fee adjustments. The Legislature would maintain control over fees by setting spending levels in the General Appropriations Act.

Management Action

6.4 Direct TDLR to develop and issue licensing guidelines regarding criminal activity.

As a state licensing authority, the Driver Training program should comply with Chapter 53, Occupations Code, "Consequences of Criminal Conviction" which directs licensing authorities to issue guidelines relating to licensing qualifications. Guidelines must state the reasons a particular crime is considered to relate to the licenses issued and include any other factors that affect the decisions of the licensing authority.

Fiscal Implication

Transferring the Driver Training program from TEA to the Texas Department of Licensing and Regulation would result in administrative savings of \$145,525 and a reduction of 3 employees.

Responses

Agency

The Texas Education Agency concurs with these recommendations.

Agency Modification

1. Transfer as many current employees as possible to the Texas Department of Licensing and Regulation to ensure a smooth transition and to ensure that sufficient staff resources are available to support the program.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

Affected Agency

The Texas Department of Licensing and Regulation is poised to accept and implement any new or transferred licensing programs that the Legislature deems appropriate. However, the agency is concerned with the assumption in the fiscal implication that three administrative positions would be redundant after the transfer. To the extent that the identified positions are providing day-to-day administrative services, this assumption may not be valid. (William H. Kuntz, Jr., Executive Director – Texas Department of Licensing and Regulation)

For

Kathleen Thomas, BA, MA – Parent Advocate and Speaker for the Magdalene Society, Conroe

Supports Recommendations 6.1 and 6.4: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Against

Terri Harwell, Farmers Branch

Recommended Action: Adopt Recommendations 6.1 through 6.4.

Commission Decision: Adopted Recommendations 6.1 through 6.4.

Issue 7 Texas Has A Continuing Need for the Texas Education Agency.

Recommendation

Change in Statute

7.1 Continue the Texas Education Agency for 12 years.

This recommendation would continue TEA as an independent agency responsible for supporting and overseeing the state's public education system.

Fiscal Implication

If the Legislature continues the current functions of the Texas Education Agency as discussed in this report, the agency would require continuation of its annual administrative appropriation of approximately \$68.4 million for agency operations.

Responses

Agency

The Texas Education Agency will continue to operate as directed by the Legislature.

(Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Amy Beneski, Associate Executive Director for Government Relations – Texas Association of School Administrators, Austin

Supports Recommendation 7.1 with Modification 3: Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD

Against

Kathleen Thomas, BA, MA – Parent Advocate and Speaker for the Magdalene Society, Conroe

Peyton Wolcott, Horseshoe Bay

Modifications

1. Privatize TEA. Transfer the funding/grant functions to the State Auditor's Office. Transfer monitoring functions to a contract management company, which does nothing but monitoring and compliance. (Kathleen Thomas, BA, MA – Parent Advocate and Speaker for the Magdalene Society, Conroe)
2. Consolidate TEA and the Regional Education Service Centers. (Peyton Wolcott, Horseshoe Bay)
3. Make the primary function of TEA to support Texas public school districts and charter schools in fulfilling the requirements in law and rule. Require TEA's role to be one of assistance through the following:
 - documents and tools that offer guidance and direction;

- clarification of laws and rules;
- interpretation of federal education policy and law;
- development of good tools to help school districts comply with federal law; and
- activities, tools, and consultation in support of fiscal accountability and school finance.

In defining TEA's role, require TEA to keep monitoring, compliance, and sanction activities to a minimum. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)

Recommended Action: Adopt Recommendation 7.1.

Commission Decision: Adopted Recommendation 7.1.

**TEXAS EDUCATION AGENCY
ACROSS-THE-BOARD RECOMMENDATIONS**

Texas Education Agency	
Recommendations	Across-the-Board Provisions
Not Applicable	1. Require public membership on the agency’s policymaking body.
Not Applicable	2. Require provisions relating to conflicts of interest.
Not Applicable	3. Require unbiased appointments to the agency’s policymaking body.
Not Applicable	4. Provide that the Governor designate the presiding officer of the policymaking body.
Not Applicable	5. Specify grounds for removal of a member of the policymaking body.
Not Applicable	6. Require training for members of the policymaking body.
Not Applicable	7. Require separation of policymaking and agency staff functions.
Not Applicable	8. Provide for public testimony at meetings of the policymaking body.
Apply	9. Require information to be maintained on complaints.
Modify	10. Require the agency to use technology to increase public access.
Modify	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

**TEXAS EDUCATION AGENCY
NEW ISSUES**

New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

TEA Administration and Authority

8. Require TEA, when implementing new rules, to undergo an assessment of additional paperwork requirements the rule would potentially impose upon educators. If the rule does impose additional paperwork requirements, TEA should revise the rule to minimize such paperwork requirements. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
9. Require TEA to establish a formal advisory committee composed of teachers and representatives of their organizations to regularly advise the agency. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
10. Give TEA specific statutory authority to adopt rules regarding implementation of federal programs, and require TEA to operate under the Administrative Procedures Act when issuing guidelines regarding federal programs. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
11. Eliminate restrictions in statute and rule on appeals to the Commissioner of Education from educators regarding school district decisions. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

Staff Comment: Eliminating these restrictions would make most local school district decisions appealable to the Commissioner of Education.

12. When a school employee is appealing a provision of an employment contract with a school district, allow an evidentiary hearing before the Commissioner of Education if no provision is made in the local hearing for an evidentiary hearing in matters pertaining to a property interest. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
13. Provide the Commissioner of Education authority to review a broader range of appeals than just those where a violation of school law or contract has resulted in monetary harm. Allow persons to appeal to the Commissioner of Education in cases involving classified employees and those affecting professional stature. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

Staff Comment: Currently, a person may only appeal to the Commissioner of Education if the person is aggrieved by the school laws of this state; or by actions or decisions of a school district board of trustees that violate school laws or a provision of an employment contract that causes monetary harm. (Texas Education Code, sec. 7.057)

14. Require TEA to provide more guidance to school districts in meeting the federal requirement to employ highly qualified paraprofessionals by identifying programs embodying best practices and informing all districts that individuals credentialed in those programs definitely meet the federal requirement. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

15. Require TEA to design a monitoring system to ensure that highly qualified teachers with appropriate training provide research-based instruction designed to meet the individual needs of the student that results in adequate yearly progress in the general curriculum. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)
16. Specify that the Records Retention Act applies only to financial records, student records, personnel records, and board officer meeting minutes. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
17. Require TEA to develop procedures to safeguard public money and ensure that documentation provided by school districts is true and accurate. When TEA is notified of a district's improper actions, require TEA to send representatives to the district to oversee, evaluate, correct false and/or inaccurate documentation, and terminate and prosecute all offending individuals. Require TEA to consistently refer violations of law to authorities for prosecution. (Barbara Senter, Waxahachie)
18. If TEA repeatedly receives complaints about the same school district, require sanctions to be stronger every time. Require sanctions to be stronger and to increase for every violation until all remedies have been exhausted, including the closure of schools. (Barbara Senter, Waxahachie)
19. Give TEA clear authority to remove school boards, address First Amendment violations, and abolish and consolidate school districts that repeatedly violate laws. TEA should ensure that conflicts of interest do not exist. (Barbara Senter, Waxahachie)

Charter Schools

20. Establish an advisory committee of charter holders or operators to make recommendations to the Commissioner of Education regarding the efficient regulation of public charter schools. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)

Staff Comment: The Commissioner of Education is statutorily authorized to appoint advisory committees and has appointed a 20-member, Commissioner's Charter Cabinet to advise the Commissioner on issues relating to current issues in the field. Participants include 18 Board members of the Association of Charter Educators (ACE), the Executive Director of ACE, and the Executive Director of the Charter School Resource Center.

21. Require all advisory committees to the Commissioner of Education to include members of the public charter school community such as charter holders or operators. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
22. Allow public charter schools to amend charters to reflect new laws or regulations without the pre-approval of the Commissioner of Education in order to comply with those laws or regulations. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
23. Require public charter school responsibilities to obtain criminal background checks to conform to the same requirements as traditional public schools. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
24. Establish procedures ensuring appropriate due process for public charter schools in hearings related to closure, modifications, placement on probation, revocation, or denial of renewal, or

amendment of a charter by applying the Administrative Procedures Act and adding open-enrollment public charter schools as an exception to the list of schools or school systems to which the Texas Non-Profit Corporation Act does not apply. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)

25. Establish a fuels tax exemption for public charter schools. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)
26. Provide facilities funding for public charter schools that demonstrate success, both fiscally and academically for schools that meet the following criteria:
 - in existence at least three years; and
 - been rated “Acceptable” or above, including comparable ratings under alternative education accountability procedures for any two of the preceding three years; or
 - shows average student performance growth to close the achievement gap for two out of the three years.

(Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)

27. Give public charter schools access to the Permanent School Fund for loan guarantees to allow them to secure preferred rates for bond issues. (Telca Karen Porras, Executive Director – Association of Charter Educators of Texas, Austin)

Staff Comment: Charter schools do not have tax revenues to back loans, making loan guarantees for charter schools a significantly riskier venture for the state.

28. Require TEA to provide a Web page with the times, dates, and places of charter school board meetings. Require charter schools to post online school board meeting agendas and minutes. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
29. Require at least one parent of a student at each charter school, elected by other parents, to serve on the charter school board. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
30. Require TEA to send observers unannounced to attend charter school board meetings. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
31. Require charter schools to quickly report to TEA changes in governance and administration, and mandate that agency staff intervene proactively when school leadership is unstable. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
32. Direct TEA to conduct rigorous research to determine the academic effectiveness of common instructional approaches in charter schools such as multi-grade grouping in one classroom with one teacher, four hour school days, self-paced instruction using correspondence school packets, and CD-ROM-based instruction. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
33. Increase TEA oversight and research of charter schools serving children living in foster care group homes, residential treatment centers, maternity homes, and wilderness camps. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

34. Require TEA to investigate instances of high turnover among students, teachers, or other charter school employees. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
35. Require TEA to deal directly with complaints from charter school parents, instead of steering the complaint to the charter school superintendent or principal. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
36. Increase TEA oversight of charter schools that offer “credit-by-exam” without taking a full high school course to ensure students actually master the subject, not just the exam. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
37. Mandate immediate sanctions when a charter school does not file its annual audit and compliance report by the statutory deadline. Provide TEA authority to stop state warrants from being issued by the Comptroller if the annual audit and compliance, or governance reports are not filed by the deadline, and if attendance accounting reports are grossly late. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
38. Give TEA subpoena powers for charter school financial and attendance records when a charter school does not voluntarily provide documents requested by auditors so that the agency doesn’t have to go to prosecutors in each county to execute such subpoenas. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
39. Require TEA to have an employee with criminal investigation skills on its charter schools auditing staff. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
40. Stipulate in law the types of financial problems that would justify a charter suspension, non-renewal or revocation. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

Staff Comment: The testimony did not indicate the specific types of financial problems that would justify charter suspension, non-renewal, or revocation.

41. Specify in law under what conditions the Commissioner may approve additional charter campuses and sites. For example, if TAKS scores are sub-par, teacher turnover is high, or a school has had irregularities in its finance or attendance reporting, expansions should not be allowed. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
42. Prohibit a charter school from selling a campus to another charter school. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
43. Add “consumer protection” provisions in law for parents and charter school students by requiring charter schools to:
 - disclose to parents debts they are repaying to TEA, the Internal Revenue Service, Teachers Retirement System, and other entities so parents are aware expenditures on instruction maybe less than optimal;
 - disclose to parents academic achievement and spending for each location in charter school districts with multiple sites or campuses; and
 - provide accountability information to parents before their students apply to attend
 (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

44. Require TEA to more closely monitor charter schools affiliated with religious institutions to ensure public tax dollars are not used in violation of the Constitution's establishment clause, and prohibit church-sponsored charter schools that use state or federal funds to build a classroom or playground from allowing the church to use the facilities. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)
45. If a charter school fails to achieve accreditation standards for three years, require TEA to close the charter school and revoke its charter. Prohibit the charter school board officers and senior administrators from charter school involvement for a certain number of years. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

Special Education

46. Transfer responsibility for special education due process hearings to the State Office of Administrative Hearings (SOAH) to ensure that the hearing process is unbiased and cost effective. (Roger A. Webb, Executive Director – Texas Council for Developmental Disabilities, Austin; Leah Rummel, Austin; Karen Yeaman, Dripping Springs; Steve Elliott, Attorney – Advocacy, Inc., Austin; Kathleen Thomas, BA, MA – Parent Advocate and Speaker for the Magdalene Society, Conroe)

Staff Comment: While Sunset staff could not prove a bias exists in the decisions of hearing officers, testimony showed that an appearance of bias or conflicts of interest exists. This appearance could be negated by transferring the due process hearings and associated funding to SOAH to perform the State's role in the special education due process hearings. Recent studies show that having SOAH perform these hearings would cost less than the current approach of using private attorneys as hearing officers.

47. Require TEA to monitor the amount of money a school district spends on special education due process hearings. Subject school districts spending excessive funds to oversight by TEA. (Leah Rummel, Austin)
48. Prohibit school districts from billing parents for a school's costs to defend or pursue special education due process. (Leah Rummel, Austin)

Staff Comment: School districts are not authorized to bill parents for a school's costs to defend or pursue special education due process. Federal law only authorizes courts to award attorneys' fees to parents of a child with a disability who is the prevailing party in a due process hearing.

49. Require Texas schools to use American Sign Language and bilingual/bicultural programs to educate deaf students. (Kathy Bartlett, parent – China Spring; Regina Davis – Tarrant County College Interpreters Training Program, Fort Worth)
50. Require enforcement of state regulations against certification waivers for interpreters and teachers of deaf students. (Regina Davis – Tarrant County College Interpreters Training Program, Fort Worth)

Staff Comment: The Texas Administrative Code requires interpreters for students who are deaf or hard of hearing to be either certified as interpreters or have emergency permits issued by TEA.

51. Professionals in deafness should receive a stipend to attract and retain them until shortages disappear. (Gabe Lomas, Counselor for the Deaf)

52. Improve public education for children with special educational needs, specifically deaf and hard of hearing children, by forming a committee, ASK (The Empowerment of Education through Advocacy, Support and Knowledge). The committee would be made up of the Hear Me Foundation, in conjunction with other educational and medical professionals. The committee would assist TEA, Regional Day Schools for the Deaf and Hard of Hearing, and public schools in meeting the goals of high standards and high expectations of every child. (Tamala Irish, Executive Director – Hear Me Foundation, Houston)
53. Specify that restraint of special education students is not limited to emergencies and that imminent, physical harm does not have to be serious to justify restraint. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

Staff Comment: State law grants the Commissioner of Education rulemaking authority regarding the use of restraint for special education students. Limitations on the use of restraint of special education students are set by rule, not statute.
54. Allow parents to independently provide information to the Texas Education Agency regarding concerns about school districts not providing education to children with special needs. (Leah Rummel, Austin)
55. Require TEA to collect annual data on why children with special needs leave a school district, make this information public, and take appropriate action on the underlying causes. (Leah Rummel, Austin)
56. Require school districts to disclose all testing information to parents when requested, and require school districts to provide to the parent the name and type of all tests to be performed on a child with special needs prior to testing the child. (Leah Rummel – Austin)
57. In the Memorandum of Understanding Concerning Interagency Coordination of Special Education Services for Students with Disabilities in Residential Facilities, remove the exception that residential facilities operating as open-enrollment charter schools do not have to provide notice to the local education agency when a person 22 years of age or younger is placed in that residential facility. (Kay Lambert, Education Policy Specialist – Advocacy, Inc., Austin)

Staff Comment: Both the referenced Memorandum of Understanding and state law (Texas Education Code, sec. 29.012(a)) include the exception that residential facilities operating as open-enrollment charter schools do not have to notify the school district in which the facility is located when a person between the ages of 3 and 22 is placed in the residential facility.
58. Require a separate application process for each campus or satellite of a residential facility open-enrollment charter. Require TEA to review and scrutinize each application for its applicability to the population of students in each facility. (Kay Lambert, Education Policy Specialist – Advocacy, Inc., Austin)
59. Require each separate residential facility open-enrollment charter school to count towards the cap on the number of allowed charter schools. (Kay Lambert, Education Policy Specialist – Advocacy, Inc., Austin)
60. Require true parent choice for students within residential facilities. (Kay Lambert, Education Policy Specialist – Advocacy, Inc., Austin)

61. Direct TEA to adopt appropriate and generous modifications standards for students with disabilities who are taking the TAKS similar to modifications the students are allowed to use in the classroom. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)
 62. Direct TEA to determine a method for measuring Adequate Yearly Progress for students who do not fall within 1 percent but for whom it continues to be inappropriate to take the TAKS at grade level. Require TEA to establish a state improvement standard for use in the state accountability system. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)
- Staff Comment: The federal No Child Left Behind Act allows only 1 percent of the state’s student population to take an alternative test to determine Adequate Yearly Progress.
63. Require TEA to develop a standardized test to replace the option of the locally-developed alternative assessment (LDAA) for those students falling in the 1 percent. The new LDAA should include an academic option such as the state-developed alternative assessment (SDAA) and a non-academic option. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)
 64. Require TEA to develop a system for determining that all students are taking the appropriate tests including determining if the new LDAA is being used inappropriately with students who are, or should be, learning basic academic skills that could be measured by the SDAA or a similar test. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)
 65. The Sunset Commission should determine whether it would enhance the accountability for the education of students with disabilities if “special education” were a separate student group for accountability purposes. (Rona Statman, Director of Family and Support Services – The ARC of Texas/The Disability Policy Consortium, Austin)

Textbooks

66. Legislative leadership should work closely with the Legislative Budget Board, TEA, the State Board of Education, and publishers to establish a full funding amount for the two years of instructional materials before the State Board of Education issues proclamations for the upcoming biennium. (Joe Bill Watkins – Association of American Publishers, Austin)
67. Direct the Legislature to ensure there is full funding for all textbooks. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)
68. Restore the 110 percent school districts receive for all textbooks. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)

Staff Comment: The State requisitions textbooks for school districts and open-enrollment charter schools based on the maximum attendance for the school district the previous year, plus an additional percentage to address mobile populations and other changes. State law sets the requisition at 110 percent of the maximum attendance, but authorizes the Commissioner to reduce the amount if necessary. Currently schools receive textbooks based on a 103 percent requisition.

69. Require TEA to send timely and reminder press releases to every print, radio, television, and Internet media throughout Texas to:
- detail the textbook approval process;
 - provide information on where and when the textbooks will be available for review;
 - provide information on how to become a review panel member;
 - publicize the work of the textbook review panelists and which textbooks they vetted;
 - provide information on how to register to testify to SBOE, and when and where the meetings are held;
 - provide information on the agenda for each meeting;
 - report on what occurred at each SBOE meeting including summaries and highlights of testifiers' concerns; discussions concerning the Permanent School Fund, financial advisers, etc.; presentations concerning individual schools; and SBOE's actions (or lack thereof) on these matters; and
 - provide information on the process by which local school districts choose textbooks.

(Pat Jackson, Writer and Author – La Marque)

70. Require school districts to send timely and reminder press releases to local media detailing the textbook approval process, and providing information on how to participate, either as panelists or as testifiers. If local media does not cover these meetings, provide summaries and highlights of the concerns of testifiers and participants, and report on which books were selected. (Pat Jackson, Writer and Author – La Marque)
71. Have at least one set of the textbooks up for adoption available in each school district in time for review before the registration deadline to testify at SBOE hearings on the textbooks. (Pat Jackson, Writer and Author – La Marque)

Staff Comment: The Texas Administrative Code provides for public review of sample copies of textbooks during the adoption process through the Regional Education Service Centers, which receive four copies of each textbook under consideration.

72. The Legislature should require all textbooks adopted in Texas to be non-discriminatory in text and photographs. TEA and SBOE should adopt rules establishing fairness standards that publishers developing textbooks must adhere to, and to be used by textbook review panels in their evaluations, to ensure all textbooks not yet printed for Texas orders comply with state and national laws requiring even-handedness in the depiction of minorities and girls. (Pat Jackson, Writer and Author – La Marque)

Accountability

73. Include some measure of accountability for abiding by statutory class size limits in TEA's accountability system. Prohibit TEA from granting exceptions to assessment measures used in the accountability system if the requesting campus/district were granted a class size waiver during the time period applicable to the accountability rating. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

74. Make the percentage of certified teachers and the percentage of out of field assignments of teachers in each district/campus indicators upon which TEA's accountability ratings are based. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
75. Require the passing score on the TAKS tests to be 90 percent or higher. (Pat Jackson, Writer and Author – La Marque)
76. Change the school accountability ratings such that “Acceptable” refers to a school or a district in which 80 percent of the students have correctly answered 80 percent of the questions. (Pat Jackson, Writer and Author – La Marque)
77. Add a regular scoring for the change in test scores. The change in test scores would show how well the teachers individually, and the school as a whole, are doing in teaching students. Thus a teacher or a school having significant numbers of disadvantaged or minority students would test the students at the beginning and end of each year. The teachers and the schools would be graded on the improvement in the scores. (Pat Jackson, Writer and Author – La Marque)
78. Address the growing problem of cheating on TAKS tests by requiring TEA to address cheating at schools, not the school district suspected of cheating. (Barbara Senter, Waxahachie)
79. If a school that has been identified as having a “high number of erasures” on TAKS tests or there is a high degree of possibility that cheating exists in a specific school district, require TEA to oversee and administer the TAKS tests at all the schools in the school district for at least the following two years. (Barbara Senter, Waxahachie)
80. Require TEA to reduce its accountability ratings at school districts that are granted waivers for teacher certification, bilingual requirements, and special education. (Barbara Senter, Waxahachie)

Waivers

81. Require TEA to limit the number of years a school district may apply for a waiver and the number of waivers received by each district. (Barbara Senter, Waxahachie)
82. Require TEA's waiver unit to collect class size data from school districts and report waiver data at the classroom level, rather than using campus- and district-level data. (Patty Quinzi, Lobbyist – Association of Texas Professional Educators, Austin)
83. Require TEA's waiver unit to implement a method to detect school districts in violation of the class size law that have failed to apply for a waiver. (Patty Quinzi, Lobbyist – Association of Texas Professional Educators, Austin)
84. Require TEA to develop and implement a comprehensive, integrated framework of data linking class size data to PEIMS data and allowing the waiver unit to cross check data submitted by school districts. (Patty Quinzi, Lobbyist – Association of Texas Professional Educators, Austin)
85. Require the TEA waiver unit to develop a system to flag campuses that request waivers for two or more consecutive semesters and to require school districts to submit a compliance plan before a waiver is approved. (Patty Quinzi, Lobbyist – Association of Texas Professional Educators, Austin)

86. Require the TEA waiver unit to implement routine tests to verify accuracy of waiver applications and database input before granting waivers. (Patty Quinzi, Lobbyist – Association of Texas Professional Educators, Austin)

Miscellaneous

87. Amend the Texas Education Code to direct local school boards and governing boards of charter schools to adopt a Board of Trustees' Code of Ethics that includes board member rules of conduct and ethical guidelines regarding conflicts of interest in procurement decisions; conflicts of interest in employment hiring and practices; and political activities and campaign contributions. (Senator Eliot Shapleigh, Member – Sunset Advisory Commission)
88. The Sunset Commission should review the excessive costs of outside legal services used by the various school districts and how that plays into TEA's failure to monitor school districts. Also ensure that school districts use their in-house attorneys for all legal work. (Kathleen Thomas, BA, MA – Parent Advocate and Speaker for the Magdalene Society, Conroe)
89. Require TEA to adopt provisions that waive residency requirements and require all school districts to enroll students who have previously dropped out of school, even if they are out of a different school district. (Barbara Senter, Waxahachie)
90. Require school districts to accept all transfers. (Barbara Senter, Waxahachie)
91. When the attendance rate at a school drops below a certain number, require the school to close. The school could be merged into adjoining, better school districts, or could be turned into charter schools. (Barbara Senter, Waxahachie)
92. Currently, to detach property from a school district and annex it to another, both school districts must approve the detachment/annexation for it to become effective. Allow citizens who have a majority of signatures to detach property from a school district be allowed to detach the property unless it is proven to be detrimental to the children in the annexing district or the district being detached from. (Barbara Senter, Waxahachie)
93. Authorize TEA to evaluate school buildings to ensure they are safe and free from all health hazards, including mold and asbestos. (Barbara Senter, Waxahachie)
94. Require TEA to monitor and evaluate school district use of police, and based on the resulting analysis, establish standards defining the use of law enforcement with students with disabilities as well as offer leadership in best practices relating to behavior management with students with disabilities. (Roger A. Webb, Executive Director – Texas Council for Developmental Disabilities, Austin)
95. Add Licensed Specialists in School Psychology (LSSPs) to the state teacher minimum salary schedule. (Margaret Kaltman)
96. Require TEA to eliminate block scheduling used by local school districts. (Peyton Wolcott, Horseshoe Bay)
97. With regard to Texas Education Code, Section 39.075(6) pertaining to TEA's investigations of allegations involving a conflict between members of local school district board of trustees or between the local board and district administration, add the following language.

“This language shall not be construed as authorizing the Commissioner or designee to take any actions that would limit the rights of board members to engage in full and fair debate of all issues within their jurisdiction in a school board meeting, or to engage in independent fact-finding or investigations involving the affairs of the school district, without monitoring or interference from the superintendent or any officer or employee of the State of Texas.” (Jeralynn L. Jackee Cox, Lufkin)

Staff Comment: This language could limit the Commissioner of Education’s authority to conduct investigations and take appropriate action in response to allegations involving conflicts between members of the board of trustees or between the board and the district administration.

98. Reinstate the Alternative Education department at TEA. (Joe McCullough, Executive Director – Texas Association for Alternative Education, Austin)
99. Allow students that complete the High School Equivalency Program (HSEP), also known as the “In-School GED Program,” to be counted as completers. (Joe McCullough, Executive Director – Texas Association for Alternative Education, Austin)

Recommended Action: Adopt New Issue 46.

Commission Decision: Adopted the following New Issues.

- Adopted New Issue 8 as proposed.
- Adopted New Issue 46 as proposed.
- Adopted New Issue 68, as a suggestion to the Legislature to consider restoring the 110 percent school districts receive for all textbooks through the appropriative process.
- Adopted New Issue 84, as a management action to direct TEA to develop and implement a comprehensive, integrated framework of data linking class size data to PEIMS data and allowing the waiver unit to cross check data submitted by school districts.
- Adopted New Issue 100 by Representative Dunnam to add specific statutory language to the Texas Education Code (TEC) authorizing the Commissioner of Education to specify by rule the process for providing appeal opportunities involving accreditation ratings and sanctions under TEC, Chapter 39 Public School System Accountability, Subchapters D Accreditation Status and G Accreditation Sanctions; and if a charter school fails to achieve accreditation standards for three years, meaning failing to obtain a classification above the minimum level (needs peer review / unacceptable), require TEA to close the charter school, revoke its charter, and/or non-renew it if it is up for renewal at that time.
- Adopted New Issue 101 by Senator Nelson requiring TEA to make every effort to decrease the incorrect and unfair administration of the Texas Assessment of Knowledge and Skills (TAKS). In addition, the agency shall provide a report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, and the relevant oversight committees of the Legislature on an annual basis regarding the status of incorrect administration and progress made toward reducing its prevalence. This report shall be due by December 31 of each year.
- Adopted New Issue 102 by Senator Shapleigh to extend the statutory expiration date for the workplace literacy curriculum provision in SB 280, 78th Legislature, from September 1, 2005 until September 1, 2007. As a management action, require that TEA and the Texas Workforce Commission submit quarterly reports to the Sunset Commission detailing the agencies' progress implementing this provision.

STATE BOARD FOR EDUCATOR CERTIFICATION

**STATE BOARD FOR EDUCATOR CERTIFICATION
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.

**STATE BOARD FOR EDUCATOR CERTIFICATION
ISSUES / RECOMMENDATIONS**

Issue 1 Texas Has a Continuing Need for the State Board for Educator Certification.

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.

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.

Responses

Agency

SBEC agrees with these recommendations with the following exception.

Recommendation 1.2: A great deal has been accomplished by SBEC and TEA in consolidating their administrative functions and services. This cooperation has reached the point where they are ready to execute a written agreement transferring these functions formally. An action item for approval of this agreement has been placed on the board's agenda for December 10. The target implementation date for this agreement is January 1, 2005, before the start of the 79th Legislature.

Staff Comment: SBEC and TEA formalized the required MOU to consolidate administrative functions and services on December 10, 2004. Effective January 1, 2005, the agreement transfers SBEC's accounting and budget; human resources and payroll; general counsel legal services; purchasing and contracts, including HUB coordination, central supply, and printing services; and information technology functions to TEA. Under the agreement, SBEC will pay TEA for the cost, estimated at \$1.1 million, of the administrative functions and associated 20 employees.

Agency Modification

1. Modify Recommendation 1.2 to eliminate the need for quarterly reports.

(Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)

Affected Agency

The Texas Education Agency will continue operation in conjunction with the State Board for Educator Certification as directed by the Legislature. (Shirley J. Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

Jan Friese, Executive Director – Texas Counseling Association, Austin

Against

Tom Purcell, Roanoke

Peyton Wolcott, Horseshoe Bay

Recommended Action: Adopt Recommendation 1.1.

Commission Decision: Adopted Recommendation 1.1.

Issue 2 SBEC's Rulemaking Process Does Not Effectively Ensure Stakeholder Input.

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.

Fiscal Implication

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

Responses

Agency

Recommendation 2.1: SBEC has grave concerns about Recommendation 2.1 and urges the Sunset Commission to reject it. The review process contemplated by the recommendation cannot be reconciled with the requirements of the Administrative Procedures Act for public notice and comment rulemaking. The recommendation implies a wasteful duplication of policy development effort; is inconsistent with the proper role of an administrative agency in the executive branch; and may be an over-delegation of the legislative function.

Agency Modification

1. Replace SBOE's veto authority with a 45-day review and comment period.

Recommendation 2.2: SBEC accepts, and is taking steps to implement, this recommendation. The Board will convene its Committee on Board Policies and Procedures to develop operating procedures for stakeholder input on all SBEC rulemaking activity for consideration by the full Board in January 2005.

(Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)

For

Supports Recommendation 2.2: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Supports Recommendation 2.2: Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

Jan Friese, Executive Director – Texas Counseling Association, Austin

Against

Opposes Recommendation 2.1 and instead supports the current oversight structure of the SBOE over SBEC: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Opposes Recommendation 2.1: Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

<p>Recommended Action: Adopt Recommendations 2.1 and 2.2.</p> <p>Commission Decision: Adopted Recommendations 2.1 and 2.2.</p>
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Issue 3 SBEC Has Taken Steps to Implement National Criminal History Checks, but Changes Are Still Needed to Address Delays in Certification of Educators.

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.

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.

Responses

Agency

SBEC accepts these recommendations with modifications. The agency is taking steps to implement Recommendations 3.4 and 3.5. On Recommendation 3.4, SBEC staff is developing criminal history guidance appropriate to an audience of prospective educators based on existing statutes and rules to be posted to the agency web site and distributed to educator preparation programs immediately. In January 2005, the Board will have an opportunity to discuss additional guidance to prospective educators on this topic. On Recommendation 3.5, SBEC maintains a database that includes many lifetime certificate holders, many of whom have not been in the profession for many years. The fiscal implications of running criminal history checks on this entire database of certificate holders would be very large, while the fiscal implications of running criminal history checks only on employed or recently employed certificate holders would be significantly smaller.

SBEC supports Recommendation 3.6 and indicates that it has the potential to alleviate some time pressure on the agency in completing the fingerprinting process. SBEC believes it has rulemaking authority to define the application process to accommodate allowing students to begin the criminal history check process before completing an educator preparation program. However, the agency believes clear statutory direction to implement Recommendation 3.6 would be beneficial.

Agency Modifications

1. Modify Recommendation 3.5 to require SBEC to only conduct Social Security number criminal history checks on all certified educators that are employed or have recently been employed by a Texas public school.
2. Modify Recommendation 3.6 from a Management Action, and instead statutorily authorize SBEC to allow students in educator preparation programs to begin the criminal history check process before completing the preparation program.

(Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)

For

Shirley Neeley, Ed. D., Commissioner of Education – Texas Education Agency, Austin

Supports Recommendations 3.1, 3.2, 3.3, 3.4, and 3.6: Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

Jan Friese, Executive Director – Texas Counseling Association, Austin

Against

None received.

Recommended Action: Adopt Recommendations 3.1 through 3.5, and Agency Modification 2.

Commission Decision: Adopted Recommendations 3.1 through 3.5, and Agency Modification 2.

Issue 4 SBEC Rules Do Not Ensure Consistent Prioritization, Investigation, and Resolution of Disciplinary Complaints Against Educators.

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.

Fiscal Implication

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

Responses

Agency

SBEC agrees with these recommendations. The SBEC Board reconvened its Disciplinary Rules Revisions Committee and gathered input at two meetings held in October and November 2004. In January 2005, staff will propose investigative procedures for consideration by the committee and the Board. SBEC gathered input on its investigative procedures from selected stakeholders at the October 2004 meeting. (Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)

Affected Agency

The Texas Education Agency is committed to continued work with SBEC to ensure highly qualified teachers are employed in the state and to develop a framework for a disciplinary process as directed by the Legislature. (Shirley Neeley, Ed.D., Commissioner of Education – Texas Education Agency)

For

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

Jan Friese, Executive Director – Texas Counseling Association, Austin

Against

None received.

Modifications

1. Regarding administrative denial related to actions on certificates and admission to educator preparation programs, the rules should be amended to administratively deny the application and notify the applicant of his/her appeal right with the burden of proof for denial at an appeal hearing on SBEC. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
2. Require SBEC to independently verify allegations of criminal misconduct in instances in which it receives information that an educator has been arrested, charged or indicted for a crime, but there has been no final disposition of the matter. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Require SBEC to include the following in its disciplinary rules.
 - Investigations should be confidential except that SBEC staff should notify an educator promptly upon receipt of a complaint that an investigation has been opened, and of the disposition of the complaint promptly after the conclusion of the investigation.
 - Establish time lines to ensure that SBEC completes its investigations in a prompt and efficient manner.
 - Establish some sort of statute of limitations for disciplinary complaints.
 - School districts should make a report to SBEC when an applicant for or holder of a certificate fails to accurately report district performance or receives unearned funds.(Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
4. As a management action, SBEC should be instructed to ensure that the composition of its Disciplinary Rules Revision Committee is adequately reflective of the profession. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
5. Approval of SBEC disciplinary rules should be subject to a referendum of certificate holders. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

Recommended Action: Adopt Recommendations 4.1 and 4.2.

Commission Decision: Adopted Recommendations 4.1 and 4.2.

Issue 5 SBEC Does Not Have Statutory Authority Over Some Permits, Waivers, and Diagnosticians, Limiting Its Ability to Carry Out Its Mission.

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.

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.

Responses

Agency

SBEC accepts these recommendations. Recommendations 5.1 and 5.2 to transfer administration of the School District Teaching Permit and the certification waiver program from TEA to SBEC imply cost savings to TEA but new costs to SBEC. (Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)

Agency Modification

1. Transfer responsibility for issuing certification waivers, and specify that the Executive Director at SBEC has the authority to grant certification waivers.

(Herman Smith, Ph.D., Executive Director – State Board for Educator Certification, Austin)

For

Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin

Supports Recommendations 5.2, 5.3, and 5.4: Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin

Supports Recommendation 5.3: Michele Wooten, President – Texas Educational Diagnosticians Association, Fort Worth

Jan Friese, Executive Director – Texas Counseling Association, Austin

Against

None received.

Modifications

2. Eliminate school district teaching permits. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Eliminate certification waivers. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin; Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin)
4. Clarify that no other person or entity, including the Commissioner of Education, has waiver authority over matters over which SBEC has jurisdiction. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

Recommended Action: Adopt Recommendations 5.1 through 5.4.

Commission Decision: Adopted Recommendations 5.1 through 5.4.

**STATE BOARD FOR EDUCATOR CERTIFICATION
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.

Responses

For

None received.

Against

Opposes ATB 4: Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

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.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

**STATE BOARD FOR EDUCATOR CERTIFICATION
NEW ISSUES**

New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

6. Grant SBEC investigative subpoena power, thereby allowing staff to obtain needed school records while investigating educator misconduct. (Herman Smith, Ph.D., Executive Director – State Board for Educator Certification)
7. Allow driver instructors to be certified in driving instruction and create a driver education teaching exam. To be certified, individuals would need to get a bachelor's degree; take and pass driver education teaching courses and exams; complete driver education student teaching; pass a criminal background check; and pass a driver education teaching exam. (Terri Harwell, Farmers Branch)
8. Designate one of the administrator slots on the SBEC board for a principal. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
9. Change the Board appointments process by allowing the four teacher associations – Association of Texas Professional Educators, Texas Classroom Teachers Association, Texas Federation of Teachers, and Texas State Teachers Association – to submit a list of nominations from which the Governor would appoint the Board members. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
10. Increase the number of teacher members on the Board to be more reflective of the profession it governs. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
11. Change the composition of the SBEC board to reflect the actual makeup of the certified education profession by increasing the number of SBEC's voting members to 13, including seven teachers, one administrator, one counselor or librarian, and four public members. (Brock Gregg, Director, Governmental Relations – Association of Texas Professional Educators, Austin)
12. Clarify the statute that a noncertified person cannot be hired if a certified person is available for the position. Allow a certified person who is passed over for a job in favor of hiring a noncertified person to appeal directly to SBEC to remedy the situation by refusing to issue an emergency permit to that district or sanction the hiring educator's certificate. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
13. Grant SBEC statutory authority to enforce school district compliance with certification requirements. Either give SBEC statutory authority to levy sanctions against a school district or to take disciplinary action against certified administrators responsible for assigning an uncertified person to a role for which they are not certified. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)

14. Require SBEC to publicly provide a description of the approved temporary teacher certification programs similar to the agency practice of publishing a description of approved educator preparation programs in the applicable board agenda. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
15. Amend the Education Code to allow for a de novo judicial review of an SBEC order. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
16. Raise teacher accreditation and testing requirements to increase certification standards for educators of deaf and hard of hearing students to an acceptable level for accomplishing a bicultural/bilingual education program. (Regina Davis – Tarrant County College Interpreters Training Program, Fort Worth)
17. Allow the complainant to complete the local grievance process and appeal to SBEC if unable to resolve. (Mrs. Tammie L. Campbell, Parent)
18. Allow the complainant to have a representative to present his/her case rather than SBEC's attorney. (Mrs. Tammie L. Campbell, Parent)
19. Require school districts to inform parents about SBEC and solicit more parents to serve on SBEC's board. (Mrs. Tammie L. Campbell, Parent)

Recommended Action: Staff makes no recommendations on any of the new issues.

Commission Decision: The Commission adopted New Issue 12 as a management action, modified to direct SBEC to require a school district to verify that a certified person is not available within that district before granting a waiver to that district.

REGIONAL EDUCATION SERVICE CENTERS

Sunset Review of Regional Education Service Centers

In 2003, the Legislature passed Senate Bill 929, subjecting the state's 20 regional education service centers (ESCs) to review and abolishment under Sunset Act. To assist the Sunset Commission in its review, the Legislature required what is now the Legislative Budget Board's (LBB) School Performance Review division to contract with a consultant for a comprehensive audit of the ESCs, and report the results of the review to the Sunset Commission. The legislation established specific audit criteria for the review of the service centers, shown in the textbox *Education Service Centers*, to help determine the following:

- whether any services provided by a regional education service center could be provided at a lower cost by an alternative service provider;
- whether state appropriations to regional education service centers are adequate and should continue to be made;
- whether a separate system of Texas Education Agency (TEA) field offices would be appropriate or whether any functions should be transferred to TEA; and
- whether support requirements to school districts could be decreased through business processes or application redesigns.

<p style="text-align: center;">Education Service Centers Audit Criteria</p> <p>Senate Bill 929 required a detailed analysis and review of regional education service centers based on the following elements.</p> <ul style="list-style-type: none">● All services provided, including the percentage of school districts using the service and the cost of providing the service.● Support functions to school districts.● Financial condition and funding sources.● Governance structures.● The number and geographic distribution of regional education service centers.
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LBB contracted with MGT of America, Inc. (MGT) to perform the performance audit of the 20 ESCs. MGT began its audit work in June 2004. Sunset staff coordinated with LBB and MGT staff to minimize duplication of efforts during the dual reviews of TEA and the service centers. Sunset staff participated with LBB staff and MGT during the planning and development of the audit approach, particularly as it related to structure, functions, and statutory relationship to the Texas Education Agency.

MGT and LBB completed the performance audit of the education service centers in December and reported their findings and recommendations to the Sunset Commission. The recommendations requiring legislative action are presented in the following material, along Sunset staff comments.

Recommendations

The following recommendations were presented in LBB and MGT's performance audit. These recommendations would require legislative action and are numbered as they appeared in the performance audit. Gaps in numbering reflect LBB/MGT recommendations to the Commissioner of Education or to the ESCs that do not require statutory change.

- 2-1. The Legislature should require the Commissioner of Education to establish criteria to determine if an ESC should continue to exist, or should become a satellite of another ESC. Issue a Commissioner of Education rule that defines a satellite center and the conditions under which a "satellite" center should be created by an ESC.
- 2-2. The Legislature should clarify the legislative intent regarding the role of the Commissioner of Education in hiring and dismissing ESC executive directors.
- 2-3. The Legislature should clarify the legislative intent on regulatory responsibilities of ESCs. The Legislature should require that the Commissioner of Education ensure that no regulatory responsibilities are transferred to the ESCs while complying with the General Appropriations Act.
- 2-6. Direct the Commissioner of Education to amend the list of agencies eligible to receive funding under No Child Left Behind to include ESCs.
- 3-7. Direct the Commissioner of Education to issue a Commissioner's Rule that requires ESC board of directors training similar to school district board training.
- 3-8/9. Require a standardized job description including performance criteria be developed for ESC executive directors, and that Commissioner and board evaluations of the ESC executive directors be based on the standardized, detailed performance criteria.
- 3-10. Create a means for holding an ESC's board of directors accountable for the organization's performance and the meeting of the board's statutory objectives. A task force assembled by the Commissioner of Education and composed of representatives of ESC executive directors, boards of directors, client superintendents, and TEA should be formed and work with the assistance of a trained professional facilitator(s) experienced in dealing with politically sensitive issues.
- 4-2. The Legislature should amend the Texas Education Code, section 44.0011 so all ESCs and their member school districts have the same fiscal year. Because of legislative and TEA functions, a September 1 - August 31 fiscal year would be easier to implement and maintain.
- 4-7. Require the Commissioner of Education to allocate the competitive grant funds intended only for ESC funding to ESCs. Funds appropriated for purposes of competitive grants for state initiatives and innovative and emergency grants were intended only for ESC funding for training programs, but are being allocated to higher education institutions.
- 4-8. Direct the Commissioner of Education to develop a new funding formula that distributes base funding to ESCs in an equitable manner. The Commissioner should appoint a work group composed of TEA education finance staff and ESC finance staff to develop an equitable base funding formula based on the cost of minimum operations; size and number of campuses served; and impact of the geographic size of an ESC's service area.

- 4-9. The Legislature should allocate an adequate amount of funding to ESCs to provide all core services.
- 5-1. The Legislature should require the Commissioner of Education to contract for a qualified independent third party to perform a detailed assessment comparing the 2002-2003 and 2003-2004 TAKS reading results.
- 5-2. The Legislature should clarify the definition of “core services,” or require the Commissioner of Education to establish a rule that defines core services, and specify which services should be required by all ESCs. This recommendation should result in establishing the specific core services assigned to ESCs.
- 5-4. Establish an ESC systemwide best practices database maintained by the ESC Core Group and other appropriate stakeholders. MGT consultants would recommend the establishment and maintenance of the database at TEA in a collaborative effort; however they recognize that among the ESCs there is the capability to establish and maintain such a base. Final determination should be based on an assessment of TEA’s capacity.
- 5-7. The Legislature should clarify the definition of “core services” for the Windham School District and require the Commissioner of Education to create a statewide plan for serving the schools in the Windham School District. Once having identified the core services, TEA should conduct a review of the capacity of each of the ESCs to meet the requirements of providing core services.
- 9-4. Amend state purchasing laws to allow school districts the option to advertise requests for proposals that exceed \$25,000 through alternative means. Texas law requires school districts to advertise requests for proposals in a district’s central administrative office or local newspapers when expenditures are expected to exceed \$25,000. The Texas Marketplace is an Internet-based notification board where state agencies and local governments can post solicitations, requests for information and requests for proposals at no cost.

Responses

For

Supports recommendations 2-3, 2-6, 4-7, 4-8, 4-9, 5-2, and 5-7: Tom Norris, Chairman – Commissioner’s Cabinet for Regional Services

Against

None received.

Modification

1. In relation to recommendation 2-1, require the Commissioner to develop multiple criteria in determining whether an ESC should continue to exist, or become a satellite of another ESC. (Tom Norris, Chairman – Commissioner’s Cabinet for Regional Services)

New Issues

1. Continue the Texas Regional Education Service Centers. (Tom Norris, Chairman – Commissioner’s Cabinet for Regional Services)
Mary Jane Atkins, Superintendent – De Leon ISD
Mike Baldree, Superintendent – Blooming Grove ISD
Amy Beneski, Associate Executive Director for Government Relations – Texas Association of School Administrators, Austin
Heath Burns, Ed.D., Superintendent – Angleton ISD
Ray Cogburn, Superintendent – Shamrock ISD and Chair – RAC Executive Committee
Letha Hopkins, Ed.D., Superintendent – Marlin ISD
Linda Kelly, Superintendent – Cedar Crest School, Belton
Kelly Keesee, Board Member – Meadow ISD
Jim Kirkland, Superintendent – Meadow ISD
Ken McCraw, Executive Director – Texas Association of Community Schools, Austin
Jerry G. Maze, Superintendent – Hillsboro ISD
Mike Moses, Ed.D. – WestMark Systems, LLC, Dallas
Jimmy Noland, Superintendent – New Deal ISD and President – Region 17 TASA, Lubbock
Hal Porter, Superintendent – Cisco ISD
Yolanda M. Rey, Ph.D., Executive Director – Texas Association for Supervision and Curriculum Development, Austin
Kevin Spiller, Ed.D., Superintendent – Jayton-Girard ISD
Leslie Vann, Superintendent – Gorman ISD
Jim Waller, Superintendent – Petersburg ISD and President – Region 17 Texas Association of Community Schools
Mary E. Ward, Superintendent – Dripping Springs ISD
Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD
2. Allow classroom teachers to serve on the boards of Regional Education Service Centers. (Holly Eaton, Director of Professional Development and Advocacy – Texas Classroom Teachers Association, Austin)
3. Give public school districts that ESCs serve a voice in the development of the structure and responsibilities of ESCs. (Rick Woolfolk, Director – Texas Association of School Boards, and Vice President – Denton ISD)
4. Eliminate the Regional Education Service Centers. (Peyton Wolcott, Horseshoe Bay)

Recommended Action: Adopt New Issue 1 by repealing the Sunset Review clause for the Regional Education Service Centers. Forward the LBB/MGT recommendations to the House Public Education Committee and the Senate Education Committee for their consideration.

Commission Decision: Adopted New Issue 1 to repeal the Sunset Review clause for the Regional Education Service Centers. Directed Sunset staff to forward the LBB/MGT recommendations to the House Public Education Committee and the Senate Education Committee for their consideration. Also adopted Recommendation 3-7.

WINDHAM SCHOOL DISTRICT

Windham School District

Sunset Review of the Windham School District

House Bill 2455, passed in 2003 by the 78th Legislature, required the Sunset Commission to conduct a special purpose review of the Windham School District (WSD). To assist in this review, the Legislature required the Texas Education Agency (TEA) to conduct a limited scope review of the structure, management, and operations of WSD and report the results to the Commission. The legislation directs the Sunset Commission, after considering TEA's report, to include any appropriate recommendations relating to WSD in its report to the 79th Legislature.

Overview of the Windham School District

The Legislature established the Windham School District in 1968 to provide academic, as well as career and technology education to eligible offenders incarcerated within the Texas prison system. The Texas Board of Criminal Justice serves as the Board of Trustees for WSD. The Board oversees the district and hires the superintendent who manages the district's daily operations. WSD operates with an annual budget of about \$72.4 million, the majority which comes from the Foundation School Program.

WSD's 1,388 employees, including teachers, administrators, counselors, and librarians provide services to approximately 84,000 students in 88 campuses housed in Texas Department of Criminal Justice (TDCJ) facilities. WSD students are older than students in traditional school districts, have been convicted of a felony, and many lack basic academic skills. Offenders younger than 35 years old and within five years of projected release have the highest priority for placement in WSD programs. WSD operates programs in four major areas – academic, career and technology, life skills, and Project Re-Integration of Offenders (RIO). WSD designed these programs to meet its statutory goals of reducing recidivism; reducing the cost of confinement; promoting positive behavior during confinement; and increasing offenders' success in obtaining and maintaining employment.

Windham School District Key Facts for FY 2004	
Budget	\$72,409,388
Employees	1,388
Campuses	88
Students	83,785

TEA Policy Issues and Proposed Solutions

TEA conducted its special purpose review of WSD from February through August 2004. TEA contracted the majority of the review work to a private consultant. The goals associated with TEA's special purpose review were to review the structure, management, and operations of WSD; determine the impact of WSD programs on the prison population; and determine relevant policy issues and their proposed solutions. TEA's resulting report described, but did not evaluate the structure, management, and operations of WSD; and did not determine the impact of WSD's programs. However, the report did set out issues and propose solutions to identified problems. TEA's issues and proposed solutions, along with Sunset staff's comments, are presented in the following, for consideration by the Sunset Advisory Commission.

TEA Issue 1

The effects of education on recidivism are not being systematically measured. In the past, policymakers relied on isolated studies that, while they indicate that education is having a positive impact on reducing the recidivism rate, the data integrity that systematic measurement would produce is lacking.

TEA Solution

Develop a statewide system for measuring the effects of education on recidivism. The system should be consistent and long-term, furnishing data with robust integrity that policymakers can rely on during the decision-making processes.

WSD Response

Expand the Legislative Budget Board staff to measure the effects of education on recidivism. Rather than conducting an extensive study of all offenders who participate in educational programs, consider limiting the scope of the study to a statistically significant sample of released offenders. (Dr. Ron Bradford, Superintendent – Windham School District)

TEA Issue 2

Any measurements of education and recidivism associated with WSD should be made by organizations that are not tied to the outcomes.

TEA Solution

Assign the responsibility for measuring recidivism to an organization separate and apart from the Texas Department of Criminal Justice and Windham School District.

WSD Response

The district recognizes the need for an external organization to measure recidivism. The Legislative Budget Board would serve as an independent, objective organization. (Dr. Ron Bradford, Superintendent – Windham School District)

TEA Issue 3

No agreements exist between the Texas Workforce Commission and TDCJ/WSD to track offenders once they are paroled and returned to the work environment. Therefore, collecting accurate and sufficient data to construct reliable long-term outcome data is difficult.

TEA Solution

Develop agreements between TDCJ, WSD, TWC, and an independent measuring organization to track offenders as far as practicably possible after release.

WSD Response

The Texas Workforce Commission would be the logical entity to track employment of ex-offenders. TWC could be asked to track a sample of Project RIO participants after release. (Dr. Ron Bradford, Superintendent – Windham School District)

TEA Issue 4

The importance of reducing recidivism should not be underestimated. Offenders who do not recidivate not only avoid additional cost to the state, but become a positive source of tax revenue.

TEA Solution

Continue to stress the positive returns that employed ex-offenders have on the state's economy, and ensure that any analysis of education/recidivism takes this factor into account.

WSD Response

WSD proposes that the Legislative Budget Board be asked to measure the effects of recidivism. WSD also suggests that TWC play a prominent role in terms of tracking employment of offenders after release and assisting with the collection of data needed to calculate the economic impact. (Dr. Ron Bradford, Superintendent – Windham School District)

Sunset Staff Comment on Issues 1 through 4

While the first four issues have merit, TEA does not provide enough specificity for Sunset staff to endorse the solutions or for the Sunset Commission to adopt them in statute. The proposed solutions do not identify who would be responsible for developing a system to measure the effects of education on recidivism. The solutions also do not identify an available independent organization to track offenders after release, and measure WSD's impact on recidivism. Additionally, the proposed solutions would have significant costs. TEA did not estimate these costs or identify any available funding sources.

TEA Response on Issues 1 through 4

In order to fulfill the expectations of Issues 1-4, an independent governance structure is needed to provide leadership, guidance, organization, and stability to determine the impact of educational programs on recidivism. Cost estimates and possible fund sources were not within the scope of this limited review.

TEA Issue 5

The WSD salary schedule does not allow the district to be competitive in salaries with respect to specific geographic areas of the state and with certain personnel positions. WSD can pay its teachers up to a maximum of \$3,804 above the state salary schedule. However, local school districts pay their teachers up to \$12,876 above the state salary schedule. This disparity significantly affects the ability of WSD to attract qualified teachers in certain parts of the state, most notably the metropolitan areas.

TEA Solution

Conduct a comprehensive study of WSD's salary schedule. The study should include the salary structure of the Texas Youth Commission and the involvement of the Texas Education Agency.

WSD Response

WSD recognizes the need to conduct a comprehensive study of the current salary schedule, realizes that the task may be performed without statutory change or authorization of the legislature, and agrees to conduct a study with TEA involvement. Historically, the district has conducted periodic surveys of other school districts with respect to salary structures to provide comparative data. With TEA insight and involvement, the process would likely be less time intensive. However, given the current funding level for WSD, it does not appear likely that sufficient resources are available to fully address the competitive salary issue. (Dr. Ron Bradford, Superintendent – Windham School District)

Sunset Staff Comment on Issue 5

While a study of WSD salaries may be appropriate, TEA does not identify who would perform the study, or how WSD would pay for the study. Also, performing a salary study does not require statutory change or authorization by the Legislature.

TEA Response on Issue 5

The salary challenges at WSD are acknowledged. TEA is willing to provide information from its data sources to support a WSD-conducted study.

TEA Issue 6

The operations and progress of WSD need to be externally evaluated on a periodic basis. Although WSD has developed a sophisticated internal accountability system and a set of operational standards for its programs, an external review would enhance the credibility of district performance data and provide for an objective view of district performance and operations.

TEA Solution

An external accountability system could be developed under the direction of TEA or by contract with consultant(s) or contractor(s). This development would include a timeline for implementation standards.

WSD Response

WSD has developed and implemented a sophisticated internal accountability system. While it may be cost prohibitive for TEA to develop an alternative accountability system for WSD, perhaps TEA could periodically review the WSD accountability system for external validity as a compromise. (Dr. Ron Bradford, Superintendent – Windham School District)

Sunset Staff Comment on Issue 6

TEA's solution to build an external evaluation method for WSD has merit. TEA provides all other school districts in Texas with external evaluation, primarily through the state's testing and accountability systems. TEA could be directed to develop an alternative accountability system for WSD. However, both the development of appropriate accountability standards and methodology would have significant costs, as would collecting and reporting data on an ongoing basis. In addition, external evaluation would likely require measurement of recidivism as discussed in TEA Issue 1. TEA did not address costs or funding sources for these efforts.

TEA Response on Issue 6

It is agreed that an external accountability system uniquely designed for WSD would provide an objective view of WSD performance and operations. However, an external evaluation of WSD would be resource intensive.

Responses

For

None received.

Against

None received.

New Issue

7. Implement Social Security coverage for Windham teachers. (Ted Melina Raab, Senior Legislative Agent – Texas Federation of Teachers, Austin)

Recommended Action: Staff makes no recommendations on the Windham School District.

Commission Decision: The Commission took no action on any of the recommendations.