

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §351.4

The Texas Health and Human Service Commission (HHSC) adopts new §351.4, concerning the HHSC Executive Council. The new rule is adopted with changes to the proposed text as published in the July 29, 2016, issue of the *Texas Register* (41 TexReg 5485). The text of the rule will be republished.

BACKGROUND AND JUSTIFICATION

Section 1.03 of Senate Bill 200, 84th Texas Legislature, Regular Session, establishes the Health and Human Services Commission (HHSC) Executive Council and requires the HHSC Executive Commissioner to adopt rules for the operation of the council.

The new rule §351.4 describes the operations of the Executive Council, including purpose, definitions, tasks, meetings, and membership.

COMMENTS

The 30-day comment period ended August 29, 2016. During this period, HHSC received a comment from a member of the former HHSC Council. A summary of comment relating to the rule and HHSC's responses follows.

Comment: Commenter expressed concern with the proposed two-year term for members of the public. With the former HHSC Council, it typically took a full year (four meetings) of a member's term before the member was completely oriented. A two-year term would allow for only one year of productive service. Commenter recommends a three-year term.

Response: HHSC agrees and will revise the rule as the commenter suggests.

STATUTORY AUTHORITY

The new rule is adopted under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority, and §531.0051, which requires the Executive Commissioner of HHSC to adopt rules governing the operation of the Executive Council.

§351.4. *Health and Human Services Commission Executive Council.*

(a) Statutory authority. Texas Government Code §531.0051 establishes the Health and Human Services Commission Executive Council and requires the Executive Commissioner to adopt rules for its operation.

(b) Applicability of Texas Government Code Chapter 2110. The Health and Human Services Commission Executive Council is not subject to Texas Government Code Chapter 2110.

(c) Applicability of Texas Government Code Chapter 551. The Health and Human Services Commission Executive Council is not subject to Texas Government Code Chapter 551.

(d) Definitions. For the purpose of this section, the following terms are defined as follows:

(1) Executive Commissioner--The executive commissioner of the Health and Human Services Commission.

(2) Executive Council--The Health and Human Services Commission Executive Council.

(3) Health and Human Services system--All state agencies and departments under and including the Health and Human Services Commission.

(4) HHSC--The Health and Human Services Commission.

(e) Purpose. The Executive Council is established to receive public input and advise the Executive Commissioner regarding the operation of the Health and Human Services system.

(f) Tasks. The Executive Council reviews policies related to the operation of the HHS system.

(1) The Executive Council seeks and receives public comment on:

(A) proposed rules;

(B) recommendations of advisory committees established under Subchapter B of this Chapter (relating to Advisory Committees);

(C) legislative appropriations request or other documents related to the appropriations process;

(D) the operation of health and human services programs; and

(E) other items the Executive Commissioner determines appropriate.

(2) The Executive Council does not have the authority to make administrative or policy decisions.

(g) Membership. The members of the Executive Council serve at the pleasure of the Executive Commissioner.

(1) The Executive Council is composed of:

(A) the Executive Commissioner;

(B) the director of each HHSC division established under Texas Government Code §531.008(c);

(C) the commissioner of each Health and Human Services system agency;

(D) other individuals appointed by the Executive Commissioner.

(2) When appointing members under paragraph (1)(D) of this subsection, the Executive Commissioner will make every effort to ensure that those appointments result in Executive Council membership that includes:

(A) a balanced representation of a broad range of health and human services industry and consumer interests; and

(B) representation from broad geographic regions of the State of Texas.

(3) Members appointed under paragraph (1)(D) of this subsection are subject to the restrictions applicable to service on the Executive Council provided by Texas Government Code §531.006(a-1).

(4) Terms. Members appointed under paragraph (1)(D) of this subsection will serve three-year terms.

(A) No more than half of the terms of members appointed under paragraph (1)(D) of this subsection shall expire in a single state fiscal year.

(B) If more than half of the members appointed under paragraph (1)(D) of this subsection have terms beginning in the same state fiscal year, members will draw for two- or three-year terms. Subsequent terms will be for a period of two years.

(C) Members may serve a maximum of two consecutive terms.

(h) Presiding officer. The Executive Commissioner serves as the chair of the Executive Council.

(i) Meetings. The Executive Council meets at the call of the Executive Commissioner, at least quarterly.

(1) A meeting of the individual members of the Executive Council that occurs in the ordinary course of Health and Human Services system operations is not a meeting of the Executive Council, and the provisions of subsection (j) of this section do not apply.

(2) Live video transmissions of each meeting will be publicly available through the HHSC website.

(j) Public notice. The Executive Council will give public notice of the date, time, and place of each meeting.

(k) Quorum. A majority of the members of the Executive Council constitutes a quorum for the transaction of business.

(l) Reimbursement and compensation. Members appointed under subsection (g)(1)(D) of this section may not receive compensation but are entitled to reimbursement for travel expenses incurred while conducting the business of the Executive Council, as provided by the Texas General Appropriations Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

**CHAPTER 27. TEXAS CITRUS PEST AND DISEASE MANAGEMENT CORPORATION
SUBCHAPTER H. CREATION OF PEST MANAGEMENT ZONES**

4 TAC §§27.801 - 27.804

The Texas Department of Agriculture (Department) adopts new Title 4, Part 1, Chapter 27, Subchapter H, Creation of Pest Management Zones, §§27.801 - 27.804, without changes, to the August 5, 2016, issue of the *Texas Register* (41 TexReg 5666). New Subchapter H is adopted to implement rules related to the creation of pest management zones under Chapter 80 of the Texas Agriculture Code (the Code) in order for the Texas Citrus Pest and Disease Management Corporation, Inc. (Corporation), a Texas nonprofit corporation, the recognized entity by the Department, to plan, carry out, and operate suppression programs to manage and control citrus pests and diseases in this state under the supervision of the Department.

A public hearing was held by the Department regarding the proposal and three members of the public provided comment forms indicating that they were in support of the rules and provided no further comment.

The Department received no written or oral comments.

The new rules are adopted under Chapter 80 of the Texas Agriculture Code, which authorizes the Department to adopt rules as necessary for the Texas Citrus Pest and Disease Management Corporation to plan, carry out, and operate suppression programs to manage and control pests and diseases in citrus plants in the state under the supervision of the Department as provided by Chapter 80.

The Code affected by the adoption is Texas Agriculture Code, Chapter 80.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §115.19

The Texas State Securities Board adopts an amendment to §115.19, concerning Texas crowdfunding portal registration and activities, without changes to the proposed text as published in the July 1, 2016, issue of the *Texas Register* (41 TexReg 4751).

The rule permits a registered portal to handle investor funds if the funds are held in a segregated account pursuant to §139.25(f), which is being concurrently adopted. Mandatory recordkeeping requirements apply when a segregated account is used by a portal.

Texas crowdfunding portals will be allowed to handle investor funds for certain small securities offerings where engaging an escrow agent may be difficult or cost prohibitive.

A comment letter dated August 22, 2016, was received from MassVenture Inc., joined by truCrowd Inc., and TEN. All the signatories are registered Texas crowdfunding portals. The commenters expressed strong support for the proposals that would allow a portal to handle investor funds through a segregated account, establish guidelines and obligations for the portal in conducting its client-fund activities, and require registration of all persons with signature authority over the segregated account.

The commenters requested additional clarity to the portal's disbursement obligations when using a segregated account that requires the portal to "act to the advantage of and in the best interests of the investors and the issuer," indicating that it may be a problem to simultaneously fulfill the best interest of both parties. Staff responded that when a general dealer or Texas crowdfunding portal handle funds in a segregated account, it must avoid conflicts of interest or self-dealing and remain objective and neutral and act at all times to the advantage of and in the best interests of all parties to the transaction.

Since the dealer or portal closes the offering, it is responsible for prudent processing, safeguarding, and accounting for funds raised in the offering and entrusted to them by prospective purchasers and investors, and is responsible for seeing that all requirements relating to the use of the segregated account set out in Rule 115.19 and Rule 139.25 are met, all instructions in the segregated account agreement are followed, and any other conditions met before funds are disbursed from the segregated account.

The funds in a segregated account can be disbursed only to those persons entitled to receive them by the segregated account agreement and §139.25(f)(1). If a dispute arises concerning all or part of the funds, the portion in dispute should be kept separate until the dispute is resolved while the undisputed por-

tion is distributed appropriately to the person entitled to receive it. However, if it is unclear to whom funds belong, or a dispute among claimants exists, then the dealer or portal should hold the disputed funds until the dispute is resolved and disburse any undisputed portions. If the dispute ultimately cannot be resolved among the claimants, then the dealer or portal may need to submit the issue of ownership to a court for resolution.

Given the foregoing, the Board declined to make any changes suggested by the commenters and adopted the subsection as proposed.

The amendment is adopted under Texas Civil Statutes, Article 581-28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, and 581-18.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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John Morgan
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State Securities Board
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CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §139.25

The Texas State Securities Board adopts an amendment to §139.25, concerning intrastate crowdfunding exemption, without changes to the proposed text as published in the July 1, 2016, issue of the *Texas Register* (41 TexReg 4752).

The rule permits a segregated account to be used in lieu of an escrow account when the maximum offering amount in a crowdfunding offering is \$100,000 or less; defines "escrow account" and "segregated account"; sets requirements for handling funds in a segregated account; mandates additional disclosure statements when a portal handles funds in a segregated account; and requires a written agreement between the issuer and the dealer/portal when a segregated account is used; requires a filing by the issuer; and requires all signatories on the segregated account to be registered with the Securities Commissioner.

The rule facilitates certain small securities offerings by businesses in the state by removing a potential obstacle to using the intrastate crowdfunding exemption.

A comment letter dated August 22, 2016, was received from MassVenture Inc., joined by truCrowd Inc., and TEN. All the sig-

natories are registered Texas crowdfunding portals. The commenters expressed strong support for the proposal that would allow a portal to handle investor funds through a segregated account, establish guidelines and obligations for the portal in conducting its client-fund activities, and require registration of all persons with signature authority over the segregated account. The commenters noted that the proposals would provide a number of advantages over the use of an escrow account to companies choosing to make their offerings pursuant to the Texas intrastate crowdfunding exemption while still ensuring investor funds are protected.

The commenters requested that the Board consider raising the \$100,000 cap for use of a segregated account to somewhere in the \$250,000 to \$495,000 range. Staff responded that the published proposal was designed to overcome the difficulty smaller offerings (ones well under the \$100,000 cap) were encountering in obtaining escrow account services from financial institutions, which was preventing these small issuers from using the existing rules to raise capital. Of the states that have adopted some type of intrastate crowdfunding, two-thirds require the investor funds be deposited into an escrow account. The national crowdfunding provisions enacted by Congress and the Securities and Exchange Commission also require funds be deposited into escrow. Given the foregoing, the Board disagreed with the commenters but may re-visit this suggestion in the future.

The amendment is adopted under Texas Civil Statutes, Articles 581-5.T and 581-28-1. Section 5.T provides that the Board may prescribe new exemptions by rule. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects Texas Civil Statutes, Articles 581-7 and 581-14.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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John Morgan

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State Securities Board

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER A. REQUIRED CURRICULUM

19 TAC §74.3

The State Board of Education (SBOE) adopts an amendment to §74.3, concerning required curriculum. The amendment is adopted without changes to the proposed text as published in the August 12, 2016, issue of the *Texas Register* (41 TexReg 5902) and will not be republished. The section establishes the description of a required secondary curriculum. The adopted amendment updates the rule to add the newly adopted Personal Financial Literacy course to the list of courses a school district is required to offer at the high school level.

REASONED JUSTIFICATION. House Bill 2662, 83rd Texas Legislature, 2013, amended the Texas Education Code (TEC), §28.0021, to require school districts and open-enrollment charter schools offering a high school program to provide a one-half credit elective course in personal financial literacy. At the April 2014 meeting, the SBOE prioritized the new course to be developed and requested that Texas Education Agency staff move forward with the development of Texas Essential Knowledge and Skills for the one-half credit elective course in personal financial literacy.

A committee of secondary and postsecondary educators and business and industry representatives was convened in Austin in May 2015 for a face-to-face meeting to begin working on recommendations for the personal financial literacy elective course. The committee conducted three additional virtual meetings to finalize its first draft recommendations. The SBOE adopted new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.49, Personal Financial Literacy (One-Half Credit), Adopted 2016, in January 2016.

The adopted amendment updates §74.3(b)(2)(D) to add Personal Financial Literacy to the list of social studies courses a school district is required to offer at the high school level in accordance with the TEC, §28.0021.

The amendment was approved by the SBOE for first reading and filing authorization at its July 22, 2016, meeting and for second reading and final adoption at its September 16, 2016 meeting.

In accordance with the TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2017 - 2018 school year. The earlier effective date will ensure that board rules align with statute in a timely manner.

SUMMARY OF COMMENTS AND RESPONSES. No public comments were received on the proposal.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; the TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and the TEC, §28.0021, which requires each school district and open-enrollment charter school that offers a high school program to provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.0021.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

TRD-201605093

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CHAPTER 112. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SCIENCE SUBCHAPTER D. OTHER SCIENCE COURSES 19 TAC §§112.61 - 112.68

The State Board of Education (SBOE) adopts amendments to §§112.61-112.66 and new §112.67 and §112.68, concerning Texas Essential Knowledge and Skills (TEKS) for science. The amendments to §§112.61-112.63 and 112.66 and new §112.67 and §112.68 are adopted without changes to the proposed text as published in the August 12, 2016, issue of the *Texas Register* (41 TexReg 5904) and will not be republished. The amendments to §112.64 and §112.65 are adopted with changes to the proposed text as published in the August 12, 2016, issue of the *Texas Register* (41 TexReg 5904). Sections 112.61-112.66 establish implementation of the subchapter and identify the requirements for advanced placement (AP) courses. The adopted amendments and new sections update course titles for AP courses, modify the amount of credit that could be earned for these courses, and add new AP Physics courses to align with courses recently revised by the College Board.

REASONED JUSTIFICATION. Rules in 19 TAC Chapter 112, Subchapter D, identify the requirements for high school advanced placement, international baccalaureate, and career and technical education science courses.

Section 112.61 was amended to remove an implementation date that has passed. The adopted amendments to §§112.62-112.66 modify the amount of credit that could be earned for AP courses to eliminate the range of credits. The section titles were updated to indicate the change in credit as well as align with AP course titles where necessary. In addition, §112.65 was modified to update the recommended prerequisites and add a corequisite.

In response to public comment, §112.64, Advanced Placement (AP) Physics 1: Algebra Based (One Credit), was amended at adoption to remove Physics and Algebra II from the recommended prerequisites and add as a recommended corequisite a mathematics course listed in 19 TAC §74.12(b)(2)(B).

Also at adoption, a non-substantive technical edit was made to §112.65, Advanced Placement (AP) Physics 2: Algebra Based (One Credit), to change the word *co-requisite* to *corequisite*.

Adopted new 19 TAC §112.67, Advanced Placement (AP) Physics C: Electricity and Magnetism (One Credit), and §112.68, Advanced Placement (AP) Physics C: Mechanics (One Credit), add new College Board courses for science credit and reflect the level of the courses and the credit to be awarded.

The amendments and new sections were approved by the SBOE for first reading and filing authorization at its July 22, 2016, meeting and for second reading and final adoption at its September 16, 2016, meeting.

In accordance with the Texas Education Code, §7.102(f), the SBOE approved the amendments and new sections for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2017-2018 school year. The earlier effective date will allow school districts to award credit for appropriate AP science courses beginning in the 2016-2017 school year.

SUMMARY OF COMMENTS AND RESPONSES. Following is a summary of the public comments received and the corresponding responses regarding the proposed revisions to 19 TAC Chapter 112, Subchapter D.

Comment. One school district administrator and one representative from the College Board expressed concern with the recommended prerequisites proposed in §112.64(a). The commenters stated that the prerequisites do not align with those suggested in the AP Physics 1 Curriculum Framework.

Response. The SBOE agreed that the prerequisites should be modified to allow students who have not completed Physics and Algebra II to enroll in the course. The SBOE took action to amend §112.64(a) to read, "General Requirements. Students can be awarded one credit for successful completion of this course. Recommended prerequisites: Algebra I, Geometry. Recommended corequisite: a mathematics course listed in §74.12(b)(2)(B) of this title (relating to Foundation High School Program)."

STATUTORY AUTHORITY. The amendments and new sections are adopted under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The amendments and new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§112.64. Advanced Placement (AP) Physics 1: Algebra Based (One Credit).

(a) General Requirements. Students can be awarded one credit for successful completion of this course. Recommended prerequisites: Algebra I, Geometry. Recommended corequisite: a mathematics course listed in §74.12(b)(2)(B) of this title (relating to Foundation High School Program).

(b) Content Requirements. Content requirements for Advanced Placement (AP) Physics are prescribed in the College Board Publication *Advanced Placement Course Description: Physics*, published by The College Board.

§112.65. Advanced Placement (AP) Physics 2: Algebra Based (One Credit).

(a) General Requirements. Students can be awarded one credit for successful completion of this course. Recommended prerequisites: Advanced Placement (AP) Physics 1 or a comparable physics introductory course. Recommended corequisite: precalculus or an equivalent course.

(b) Content Requirements. Content requirements for AP Physics are prescribed in the College Board Publication *Advanced Placement Course Description: Physics*, published by The College Board.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 227. PROVISIONS FOR EDUCATOR PREPARATION CANDIDATES

SUBCHAPTER A. ADMISSION TO EDUCATOR PREPARATION PROGRAMS

19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, 227.20

The State Board for Educator Certification (SBEC) adopts amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, and 227.20, concerning provisions for educator preparation candidates. The amendments to §§227.1, 227.5, 227.19, and 227.20 are adopted without changes to the proposed text as published in the July 1, 2016, issue of the *Texas Register* (41 TexReg 4756) and will not be republished. The amendments to §§227.10, 227.15, and 227.17 are adopted with changes to the proposed text as published in the July 1, 2016, issue of the *Texas Register* (41 TexReg 4756). The sections establish requirements for admission to an educator preparation program (EPP). The adopted amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, and 227.20 include changes to provide clarification to questions that Texas Education Agency (TEA) staff has received from EPPs and applicants to EPPs. In addition, the adopted amendments clarify minimum standards for all EPPs, allow for flexibility, and ensure consistency among EPPs in the state.

REASONED JUSTIFICATION. The SBEC rules in 19 TAC Chapter 227, Subchapter A, provide for rules that establish requirements for admission to an EPP. The Texas Education Code (TEC), §21.031, states that the SBEC is established to oversee all aspects of the certification and continuing education of public school educators and to ensure that all candidates for certification or renewal of certification demonstrate the

knowledge and skills necessary to improve the performance of the diverse student population of this state. The TEC, §21.049, authorizes the SBEC to adopt rules providing for educator certification programs as an alternative to traditional EPPs. The adopted amendments include changes to provide clarification to questions that TEA staff has received from EPPs and applicants to EPPs after revisions to the chapter were adopted by the SBEC in December 2015.

General Provisions

In accordance with the TEC, §21.044, language to require EPPs to provide information regarding the performance over time of the EPP was added to 19 TAC §227.1(c) in December 2015. After the adoption of the amendment, EPPs asked how many years of performance data needed to be provided. Language has been added that specifies five years of performance data be provided by EPPs to clarify the new standard and ensure consistency among EPPs in the state.

Definitions

After the definition of *applicant* was added to 19 TAC §227.5 in the December 2015 adoption, EPPs asked for clarification on this definition. The definition of *applicant* has been amended to clarify that an applicant is an individual seeking admission to an EPP for "any class of certificate." This adopted amendment clarifies the definition and ensures consistency among EPPs in the state.

The definition of *candidate* in 19 TAC §227.5 has been amended to align the definition with the same definition that was included as part of the proposed rule actions to 19 TAC Chapters 228, 229, and 230, published in the Proposed Rules section of the August 26, 2016, issue of the *Texas Register*. Also, definitions for *certification category* and *certification class* have been added in 19 TAC §227.5 so that the definitions align with the language used in 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter D, Types and Classes of Certificates Issued, and 19 TAC Chapter 233, Categories of Classroom Teaching Certificates. The definitions include "also known as certification field" so that the common term for categories and classes can continue to be used by TEA staff and EPPs. To align the definitions across all chapters, these changes have been made in 19 TAC §227.5 with conforming changes made throughout the chapter.

In accordance with the TEC, §21.0441, language to require an applicant to an EPP to pass an appropriate content matter examination to be eligible for an exception to the minimum grade point average (GPA) requirement was added to 19 TAC §227.5 in December 2015. After the adoption of the amendment, EPPs asked for clarification regarding the difference between a content matter examination and a content certification examination. A definition for *content certification examination* has been added to this section so that the term can be used in the appropriate sections of this chapter. The adopted definition also aligns with the definition used in other chapters of the TAC.

After the definition of *contingency admission* was amended in 19 TAC §227.5 in the December 2015 adoption, EPPs asked for clarification on which admission requirements needed to be met for an applicant to be considered for contingent admission. The definition of *contingency admission* has been amended to clarify that an applicant must meet all of the admission requirements specified in 19 TAC §227.10 with the exception of a pending degree being conferred.

After the definition of *post-baccalaureate program* was added to 19 TAC §227.5 in the December 2015 adoption, EPPs asked for clarification on the difference between a post-baccalaureate program at an institution of higher education (IHE) and an alternative certification program at an IHE. The definition of *post-baccalaureate program* has been amended to clarify that a post-baccalaureate program is designed for individuals who are seeking certification and an additional degree while an alternative certification program at an IHE is designed for individuals who are only seeking certification.

The definition of *internship* has been removed from 19 TAC §227.5 because this term is not used in 19 TAC Chapter 227. The remaining definitions have been renumbered as necessary.

Admission Criteria

A minor technical edit to the language in 19 TAC §227.10(a)(3) has been made to clarify that the minimum GPA requirement is for admission into an EPP.

After the language in 19 TAC §227.10(a)(3)(A) was amended in the December 2015 adoption, EPPs asked for clarification on which documentation should be used to determine the admission GPA. Language has been amended to clarify that an official transcript is to be used to determine the admission GPA.

After the language in 19 TAC §227.10(a)(3)(A)(ii)(I) was added in the December 2015 adoption, EPPs asked for clarification on how an EPP should determine the admission GPA for the last 60 hours of coursework for applicants who had less than 60 semester credit hours at the IHE in which they are currently enrolled. Language has been amended to clarify that an EPP may use transcripts from previously attended IHEs to determine the admission GPA for the last 60 hours of coursework for applicants who had less than 60 semester credit hours at the IHE in which they are currently enrolled.

After the language in 19 TAC §227.10(a)(3)(A)(ii)(II) was added in the December 2015 adoption, EPPs asked for clarification on whether an EPP could use grades for coursework from an IHE that were earned after an applicant had been conferred a degree but the applicant was not currently enrolled in the IHE from which the grades were earned. Language has been amended to clarify that an EPP may use grades from an applicant's most recent transcript to determine the admission GPA for the last 60 hours of coursework if an applicant earned grades for coursework after the applicant's most recent degree. This amendment allows an applicant who had started an additional degree but was not able to finish the degree before seeking admission to an EPP to use the additional coursework on the most recent transcript to meet the minimum GPA requirement. By allowing applicants to use grades from coursework completed after a bachelor's degree, the rules will comport with the statutory language that requires a GPA of at least 2.5 for the last 60 semester credit hours attempted at a public or private IHE.

After the language in 19 TAC §227.10(a)(3)(B)(ii) was added in the December 2015 adoption, EPPs and applicants to programs asked for clarification on the eligibility criteria for the 10% exception to the minimum GPA requirement. Language has been amended to clarify that an applicant to a teacher preparation program must pass the appropriate content certification examination to meet the subject matter requirement of the TEC, §21.0441. Also, language has been amended so that TEA staff can administratively approve requests for an applicant who has previously been enrolled in an EPP to register for a content certification examination unless the applicant is seeking to be

readmitted to the EPP that had previously granted approval to attempt the content certification examination. This amendment provides an efficient way for TEA staff to administratively approve registration requests for content certification examinations.

After the language in 19 TAC §227.10(a)(3)(B)(ii) was added in the December 2015 adoption, EPPs and applicants to programs also asked for clarification on the eligibility criteria for the 10% exception to the minimum GPA requirement as it applied to applicants for programs that lead to certification in a class other than classroom teacher. Because the SBEC does not currently have appropriate subject matter examinations for the student services, principal, and superintendent certificate classes, language has been added as 19 TAC §227.10(a)(3)(D) to identify the GRE® (Graduate Record Examinations) revised General Test as the appropriate subject matter examination for an applicant who does not meet the minimum GPA requirement and is seeking certification in a class other than classroom teacher.

Since published as proposed, language in 19 TAC §227.10(a)(3)(D) has been amended to clarify that the Educational Testing Service (ETS) will determine scores equivalent to a GPA of 2.5 on the Verbal Reasoning, Quantitative Reasoning, and Analytic Writing sections of the GRE® revised General Test. The language that was published as proposed identified the SBEC as the entity that would determine the equivalent scores. By amending the language in this way, ETS will provide equivalent scores to TEA staff, TEA staff will share the equivalent scores with the SBEC through an information item at an SBEC meeting, and any changes to the equivalent scores will also be shared with the SBEC through information items at subsequent SBEC meetings. Because ETS administers the GRE® revised General Test and has a procedure for determining equivalent GPA scores, this process will allow equivalent scores to be published on the TEA website in a timelier manner than requiring the SBEC to determine and approve equivalent scores.

After the language in 19 TAC §227.10(a)(4)(D) was amended in the December 2015 adoption, EPPs and applicants asked for clarification on the procedures that TEA staff would use to allow an applicant who had previously enrolled in an EPP and wanted to register for a content certification examination for the purpose of admission into an EPP. Language has been amended so that TEA staff can administratively approve requests by an applicant who has previously been enrolled in an EPP to register for a content certification examination unless the applicant is seeking to be readmitted to the EPP that had previously granted approval to attempt the content certification examination. This amendment provides an efficient way for TEA staff to administratively approve registration requests for content certification examinations.

After the language in 19 TAC §227.10(a)(5) was amended in the December 2015 adoption, EPPs asked for clarification on the requirements for an applicant to demonstrate basic skills in reading, written communication, and mathematics. Language has been amended to clarify that an applicant needs to meet the Texas Success Initiative (TSI) requirement (which is currently a passing score on the TSI Assessment offered by the College Board) or one of the exemptions, exceptions, or waivers listed in the Texas Higher Education Coordinating Board (THECB) rule 19 TAC §4.54 (which includes an associate's or higher degree from an accredited IHE). The TSI requirement is used by IHEs to

assess a student's reading, written communication, and mathematics readiness to enroll in an entry-level freshman course.

After the language in 19 TAC §227.10(a)(6) was amended in the December 2015 adoption, EPPs asked for clarification on the English language proficiency requirement for applicants seeking career and technical education (CTE) certifications that do not require a bachelor's degree. Language has been amended to clarify that the equivalent of a high school diploma that was earned through an accredited high school in the United States can be used to meet the English language proficiency admission requirement for CTE certifications that do not require a degree from an IHE. Texas high school graduation requirements include proficiencies in the English language. EPPs and applicants also asked for clarification on the English language proficiency requirement for applicants to undergraduate university programs. Language has been added to clarify that the English language proficiency required for admission to the IHE can be used to meet the English language proficiency admission requirement of an EPP because admission requirements of accredited IHEs include proficiencies in the English language.

Language in 19 TAC §227.10(b) has been amended to clarify that EPPs may adopt additional requirements that are not in conflict with those required in 19 TAC §227.10. Also, technical edits have been made in 19 TAC §227.10 for clarity.

Since published as proposed, language has been added in 19 TAC §227.10(e) to allow an EPP at an entity that is accredited by an accrediting organization recognized by the THECB to use its own foreign credential evaluation service to meet the requirement described in 19 TAC §245.10(a)(2) if the entity is in good standing with its accrediting organization. By adding this language, applicants to EPPs at accredited entities that have their own foreign credential evaluation service will not be required to have their transcript reviewed by a foreign credential evaluation service recognized by TEA staff because the review by the accredited entity will be sufficiently reliable and accurate.

Contingency Admission

Language in 19 TAC §227.15(b) has been amended to clarify that an applicant's acceptance of an offer for contingent admission to an EPP needs to be in writing.

Since published as proposed, language has been amended in 19 TAC §227.15(b) to clarify that the effective date of an applicant's contingent admission to an EPP be the date that was included in the offer of contingency admission from the EPP. By amending the language in this way, the effective date of contingent admission to an EPP will be clearer and the EPP will have a clearer deadline of when to notify the TEA of an applicant's contingent admission.

During the public comment period of the December 2015 adoption of revisions to 19 TAC Chapter 227, the SBEC received a suggestion to require an EPP to notify the TEA of contingent admissions within five business days. TEA staff agreed with the suggestion, but it was not included in the December 2015 adoption. The clarification has been included as part of this adoption as 19 TAC §227.15(c), which requires an EPP to notify the TEA of contingent admissions within seven calendar days instead of five business days to provide a clearer deadline of when an EPP must notify the TEA of an applicant's admission to a program. The remaining subsections have been relettered accordingly.

After the language in 19 TAC §227.15(e) was amended in the December 2015 adoption, EPPs asked for clarification on

whether post-baccalaureate programs and alternative certification programs at an IHE may admit candidates who had earned an undergraduate degree from the same IHE. Language has been amended to clarify that a post-baccalaureate program or an alternative certification program at an IHE may admit candidates who had been provided coursework or training by the IHE prior to contingent admission if the coursework or training was provided as part of the undergraduate degree.

Formal Admission

Similar changes in 19 TAC §227.17 have been made that were described for 19 TAC §227.15.

Since published as proposed, language has been amended in 19 TAC §227.17(d) to clarify that the effective date of an applicant's formal admission to an EPP be the date that was included in the offer of formal admission from the EPP. By amending the language in this way, the effective date of formal admission to an EPP will be clearer and the EPP will have a clearer deadline of when to notify TEA of an applicant's formal admission.

Incoming Class Grade Point Average

After the language in 19 TAC §227.19(a)(2)(A) was added in the December 2015 adoption, EPPs asked for clarification on how an EPP should determine the admission GPA for the last 60 hours of coursework for applicants who had fewer than 60 semester credit hours at the IHE in which they are currently enrolled. Language has been amended to clarify that an EPP may use transcripts from previously attended IHEs to determine the admission GPA for the last 60 hours of coursework for applicants who had fewer than 60 semester credit hours at the IHE in which they are currently enrolled.

After the language in 19 TAC §227.19(a)(2)(B) was added in the December 2015 adoption, EPPs asked for clarification on whether an EPP could use grades for coursework from an IHE that were earned after an applicant had been conferred a degree but the applicant was not currently enrolled in the IHE from which the grades were earned. Language has been amended to clarify that an EPP may use grades from an applicant's most recent transcript to determine the admission GPA for the last 60 hours of coursework if an applicant earned grades for coursework after the applicant's conferred degree. This amendment will allow an applicant who had started an additional degree but was not able to finish the degree before seeking admission to an EPP to use the additional coursework on the most recent transcript to meet the minimum GPA requirement. By allowing applicants to use grades from coursework completed after a bachelor's degree, the rules will comport with the statutory language that requires a GPA of at least 2.5 for the last 60 semester credit hours attempted at a public or private IHE.

Implementation Date

Language in 19 TAC §227.20 has been amended so that the subchapter applies to an applicant who is admitted to an EPP on or after January 1, 2017. In the previous two adoptions, the difference between the effective date of the rule and the implementation date of the rule ranged from three to seventeen days. The adopted implementation date provides EPPs with more time (approximately ten weeks) between the effective date of the rules and the implementation date to adjust their policies and procedures to comport with the rules.

SUMMARY OF COMMENTS AND BOARD RESPONSES. The public comment period on the proposal began July 1, 2016, and ended August 1, 2016. The SBEC also provided an opportunity

for registered oral and written comments at the August 5, 2016, meeting in accordance with the SBEC board operating policies and procedures. Following is a summary of the public comments received and corresponding board responses regarding the proposed amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, and 227.20.

Comment: Representatives of The University of Texas at Austin (UT-Austin) and The University of Texas at Dallas (UT-Dallas) commented that the proposed amendment to 19 TAC §227.5 clarifying the definition of *post-baccalaureate program* would alter how some EPPs view their programs and would require some EPPs to make major changes in how their programs are administered. A representative of UT-Austin recommended that the definition be reconsidered after further review and in consultation with EPP stakeholders. Another representative of UT-Austin recommended amending the definition so that it remains the same. A representative of UT-Dallas suggested either amending the definition of *post-baccalaureate program* so that it remains the same or is very similar to the current definition.

Board Response: The SBEC disagreed with maintaining the definition of *post-baccalaureate program* as currently in rule. The TEC, §21.0443, authorizes the SBEC to propose rules to establish standards to govern the approval or renewal of EPPs. Section 228.20(a) allows preparation for the certification of educators to be delivered by an IHE, a regional education service center, a public school district, or other entity. The TEC, §21.049, also authorizes the SBEC to propose rules providing for educator certification programs as an alternative to traditional EPPs. Section 227.5(2) defines an alternative certification program as an approved EPP, delivered by entities described in 19 TAC §228.20(a), that is specifically designed as an alternative to a traditional undergraduate certification program and for individuals already holding at least a bachelor's degree from an accredited IHE.

Of the 81 IHEs that currently offer certification to individuals that already hold at least a bachelor's degree, 24 (30%) offer a program that is classified as an alternative certification program, 76 (94%) offer a program that is classified as a post-baccalaureate program, and 20 (25%) offer an alternative certification and a post-baccalaureate program. By amending the definition, applicants, candidates, EPPs, and the SBEC would be able to distinguish between alternative certification and post-baccalaureate programs at IHEs. IHEs that are currently offering one or both types of certification programs would notify TEA staff if there needs to be any changes to how the SBEC classifies their program(s). There would be no cost to EPPs for this change in classification. Any modifications an EPP would need to make as a result of a classification change should be minor.

Comment: Representatives of UT-Austin commented that 19 TAC §227.10(a)(3) should be amended to allow grades from coursework from any accredited IHE to be used for the calculation of the overall and the last 60 semester credit hour GPA that is used for admission to an EPP.

Board Response: The SBEC agreed with an EPP using coursework grades from any accredited IHE to be used for the calculation of the last 60 semester credit hour GPA that is used for admission to an EPP. The amendment to 19 TAC §227.10(a)(3) allows an EPP to use grades from all coursework previously attempted at an IHE if an applicant has less than 60 semester credit hours on the official transcript from the IHE in which the applicant is currently enrolled. The amendment also allows an EPP to use grades from all coursework completed beyond the

applicant's most recent degree to determine the last 60 semester credit hour GPA.

The SBEC disagreed with an EPP using coursework grades from any accredited IHE to be used for the calculation of the overall GPA that is used for admission to an EPP. The current rule and amendment to 19 TAC §227.10(a)(3) allow an EPP to use the overall GPA from the IHE where the applicant is currently enrolled or from the IHE where the most recent degree was conferred. By using this method, the EPP would not have to perform any additional calculations because the overall GPA would be calculated based on the IHE's method of determining which coursework, including transfer coursework from other IHEs, is used to determine the overall GPA.

Comment: Representatives of UT-Austin commented that 19 TAC §227.10(e) should be amended to allow an EPP at an accredited IHE to use its own foreign credential evaluation service if the IHE is in good standing with the accrediting agency.

Board Response: The SBEC agreed and amended 19 TAC §227.10(e) to allow any EPP that has its own foreign credential evaluation service and is accredited by an accrediting organization recognized by the THECB to review foreign credentials required for admission. If the EPP is in good standing with its accrediting organization, the review by the EPP would be sufficiently reliable and accurate. In addition, applicants to the EPP would not be required to have their transcripts reviewed by a separate foreign credential evaluation service.

Comment: A representative of iteachTexas commented that 19 TAC §227.10(c) should be amended to require an EPP to admit applicants transferring from another EPP to be in good standing with the previous EPP. Evidence of good standing would be indicated by the completion of an EPP candidate transfer form.

Board Response: The SBEC agreed with requiring an individual to notify an EPP about the individual's previous enrollment in another EPP. TEA staff currently provides a candidate transfer form that EPPs may use when an applicant is transferring from another EPP. This candidate transfer form has been added to the list of evidence as part of the proposed amendment to 19 TAC §228.10(b)(1), which would include a figure that describes the documentation that an EPP would be required to retain for each candidate who transferred from another EPP.

The SBEC disagreed with requiring an EPP to admit transfer applicants who are in good standing from their previous EPP. While the current version of the candidate transfer form does allow an EPP to identify if a candidate is in good standing, the reasons for a candidate not being in good standing with an EPP may vary between EPPs. As such, an EPP that is considering an applicant who left a previous EPP may determine whether the reason for not being in good standing should be cause for denying admission to the applicant.

Comment: A representative of UT-Austin commented that 19 TAC §227.10(a)(1) does not require that an applicant for a post-baccalaureate program be enrolled in an accredited IHE.

Board Response: The SBEC provides the following clarification. Section 227.10(a)(2) requires an applicant for a post-baccalaureate program to have a bachelor's degree earned from and conferred by an accredited IHE. The applicant may be enrolled at an accredited IHE that offers a post-baccalaureate program, but current enrollment in an accredited IHE is not required to be considered for admission.

Comment: A representative of UT-Austin commented that 19 TAC §227.15(a)(1) needs clarification as to when an applicant becomes a candidate for purposes of EPP accountability.

Board Response: The SBEC disagreed. An applicant becomes a candidate when the individual meets all of the admission requirements and begins the EPP coursework and training. A candidate is able to begin taking coursework with an EPP during the semester in which the candidate expects to have his or her bachelor's degree conferred. Under proposed 19 TAC §229.4(a)(1)(B), if a candidate has been contingently enrolled in an EPP and the EPP approves the candidate to attempt a certification examination, the results of the certification examination will be used in the calculation of the pass rate for the certification examination performance standard if the certification examination is required to obtain initial certification in the class or category for which the individual serves his or her internship, clinical teaching, or practicum.

The State Board of Education (SBOE) took no action on the review of the proposed amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, and 227.20 at the September 16, 2016, SBOE meeting.

STATUTORY AUTHORITY. The amendments are adopted under the Texas Education Code (TEC), §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; §21.044(a), which requires the SBEC to propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program and to specify the minimum academic qualifications required for a certificate; §21.044(g)(3), which requires EPPs to provide certain information on EPP performance; §21.0441, which requires the SBEC to adopt rules setting certain admission requirements for EPPs; §21.049(a), which authorizes the SBEC to propose rules providing for educator certification programs as an alternative to traditional EPPs; and §21.050(a), which states that a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under TEC, Chapter 28, Subchapter A.

CROSS REFERENCE TO STATUTE. The adopted amendments implement the TEC, §§21.031, 21.044(a) and (g)(3), 21.0441, 21.049(a), and 21.050(a).

§227.10. *Admission Criteria.*

(a) The educator preparation program (EPP) delivering educator preparation shall require the following minimum criteria of all applicants seeking initial certification in any class of certificate, unless specified otherwise, prior to admission to the program.

(1) For an undergraduate university program, an applicant shall be enrolled in an accredited institution of higher education (IHE).

(2) For an alternative certification program or post-baccalaureate program, an applicant shall have, at a minimum, a bachelor's degree earned from and conferred by an accredited IHE.

(3) For an undergraduate university program, alternative certification program, or post-baccalaureate program, to be eligible for admission into an EPP, an applicant shall have a grade point average (GPA) of at least 2.5 before admission.

(A) The GPA shall be calculated from an official transcript as follows:

(i) 2.5 on all coursework previously attempted by the person at an accredited IHE:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or

(II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred (alternative certification program formal admission or post-baccalaureate program formal admission); or

(ii) 2.5 in the last 60 semester credit hours on all coursework previously attempted by the person at an accredited IHE:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission). If an applicant has less than 60 semester credit hours on the official transcript from the accredited IHE at which the applicant is currently enrolled, the EPP shall use grades from all coursework previously attempted by a person at the most recent accredited institution(s) of higher education, starting with the most recent coursework from the official transcript(s), to calculate a GPA for the last 60 semester credit hours; or

(II) from which the most recent bachelor's degree or higher from an accredited IHE was conferred. If an applicant has hours beyond the most recent degree, an EPP may use grades from the most recent 60 hours of coursework from an accredited IHE (alternative certification program formal admission or post-baccalaureate program formal admission).

(B) An exception to the minimum GPA requirement may be granted by the program director only in extraordinary circumstances and may not be used by a program to admit more than 10% of any incoming class of candidates. An applicant is eligible for this exception if:

(i) documentation and certification from the program director that an applicant's work, business, or career experience demonstrates achievement equivalent to the academic achievement represented by the GPA requirement; and

(ii) in accordance with the Texas Education Code, §21.0441(b), an applicant must pass an appropriate content certification examination as specified in paragraph (4)(C) and (D) of this subsection for each subject in which the applicant seeks certification prior to admission. Applicants who do not meet the minimum GPA requirement and have previously been admitted into an EPP may request permission to register for an appropriate content certification examination if the applicant is not seeking admission to the same EPP that previously granted test approval.

(C) An applicant who is seeking a career and technical education (CTE) certificate that does not require a degree from an accredited IHE is exempt from the minimum GPA requirement.

(D) An applicant who does not meet the minimum GPA requirement and is seeking certification in a class other than classroom teacher must perform at or above a score equivalent to a 2.5 GPA on the

Verbal Reasoning, Quantitative Reasoning, and Analytic Writing sections of the GRE® (Graduate Record Examinations) revised General Test. The State Board for Educator Certification will use equivalency scores established by the Educational Testing Service, and the Texas Education Agency (TEA) will publish those equivalency scores annually on the TEA website.

(4) For an applicant who will be seeking an initial certificate in the classroom teacher class of certificate, the applicant shall have successfully completed, prior to admission, at least:

(A) a minimum of 12 semester credit hours in the subject-specific content area for the certification sought, unless certification sought is for mathematics or science at or above Grade 7; or

(B) 15 semester credit hours in the subject-specific content area for the certification sought if the certification sought is for mathematics or science at or above Grade 7; or

(C) a passing score on a comparable content certification examination administered by a vendor on the TEA-approved vendor list published by the commissioner of education on the TEA website for the calendar year during which the applicant seeks admission; or

(D) for an applicant who has not previously been admitted into an EPP, a passing score on a content certification examination administered by a TEA-approved vendor. An applicant who has previously been admitted into an EPP may request permission to register for a content certification examination if an applicant is not seeking admission to the same EPP that previously granted test approval.

(5) An applicant must demonstrate basic skills in reading, written communication, and mathematics by meeting the requirements of the Texas Success Initiative under the rules established by the Texas Higher Education Coordinating Board (THECB) in Part 1, Chapter 4, Subchapter C, of this title (relating to Texas Success Initiative), including one of the requirements established by §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

(6) An applicant must demonstrate the English language proficiency skills as specified in §230.11 of this title (relating to General Requirements).

(A) An applicant for CTE certification that does not require a bachelor's degree from an accredited IHE may satisfy the English language proficiency requirement with an associate's degree or high school diploma or the equivalent that was earned at an accredited IHE or an accredited high school in the United States.

(B) An applicant to a university undergraduate program that leads to a bachelor's degree may satisfy the English language proficiency requirement by meeting the English language proficiency requirement of the accredited IHE at which the applicant is enrolled.

(7) An applicant must submit an application and participate in either an interview or other screening instrument to determine if the EPP applicant's knowledge, experience, skills, and aptitude are appropriate for the certification sought.

(8) An applicant must fulfill any other academic criteria for admission that are published and applied consistently to all EPP applicants.

(b) An EPP may adopt requirements in addition to and not in conflict with those required in this section.

(c) An EPP may not admit an applicant who:

(1) has been reported as completing all EPP requirements by another EPP in the same certification category or class, unless the applicant only needs certification examination approval; or

(2) has been employed for three years in a public school under a permit or probationary certificate as specified in Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued), unless the applicant is seeking clinical teaching that may lead to the issuance of an initial standard certificate.

(d) An EPP may admit an applicant for CTE certification who has met the experience and preparation requirements specified in Chapter 230 of this title (relating to Professional Educator Preparation and Certification) and Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(e) An EPP may admit an applicant who has met the minimum academic criteria through credentials from outside the United States that are determined to be equivalent to those required by this section using the procedures and standards specified in Chapter 245 of this title (relating to Certification of Educators from Other Countries). An EPP at an entity that is accredited by an accrediting organization recognized by the THECB may use its own foreign credential evaluation service to meet the requirement described in §245.10(a)(2) of this title (relating to Application Procedures), if the entity is in good standing with its accrediting organization.

§227.15. Contingency Admission.

(a) An applicant may be accepted into an alternative certification program or post-baccalaureate program on a contingency basis pending receipt of an official transcript showing degree conferred, as specified in §227.10(a)(2) of this title (relating to Admission Criteria), provided that:

(1) the applicant is currently enrolled in and expects to complete the courses and other requirements for obtaining, at a minimum, a bachelor's degree at the end of the semester in which admission to the program is sought;

(2) all other admission requirements specified in §227.10 of this title have been met;

(3) the EPP must notify the applicant of the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification; and

(4) the applicant must accept the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(b) The effective date of contingency admission shall be included in the offer of contingency admission.

(c) An EPP must notify the Texas Education Agency within seven calendar days of a candidate's contingency admission.

(d) An applicant admitted on a contingency basis may begin program training and may be approved to take a certification examination, but shall not be recommended for a probationary certificate until the bachelor's degree or higher from an accredited institution of higher education (IHE) has been conferred.

(e) Except as provided by this section, an alternative certification program or post-baccalaureate program, prior to admission on a contingency basis, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an IHE may admit an applicant if coursework and training was provided by the same IHE as part of the degree to be conferred.

(f) The contingency admission will be valid for only the fall, spring, or summer semester for which the contingency admission was granted and may not be extended for another semester. The end of each semester shall be consistent with the common calendar established by the Texas Higher Education Coordinating Board.

§227.17. *Formal Admission.*

(a) For an applicant to be formally admitted to an educator preparation program (EPP), the applicant must meet all the admission requirements specified in §227.10 of this title (relating to Admission Criteria).

(b) For an applicant to be formally admitted to an EPP, the EPP must notify the applicant of the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(c) For an applicant to be considered formally admitted to the EPP, the applicant must accept the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(d) The effective date of formal admission shall be included in the offer of formal admission.

(e) An EPP must notify the Texas Education Agency within seven calendar days of a candidate's formal admission.

(f) Except as provided by §227.15 of this title (relating to Contingency Admission), an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an institution of higher education (IHE) may admit an applicant if coursework and training was provided by the same IHE as part of a previous degree that was conferred.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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State Board for Educator Certification

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For further information, please call: (512) 475-1497



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

SUBCHAPTER C. TEXAS SCHOOL EMPLOYEES GROUP HEALTH (TRS-ACTIVECARE)

34 TAC §41.36

The Teacher Retirement System of Texas (TRS) adopts amendments to §41.36 without changes to the proposed rule text as published in the August 19, 2016, issue of the *Texas Register* (41 TexReg 6185).

The adopted amendments to §41.36(a) simplify the wording of the initial enrollment opportunity afforded therein to a full-time or part-time employee and clarify that this enrollment opportunity also applies to the eligible dependents of the employee. However, due to the existing definitions of a full-time and part-time employee found in §41.33, these changes do not make any substantive changes to this enrollment opportunity.

The adopted, new §41.36(b) creates an additional enrollment opportunity for a part-time employee eligible for TRS-ActiveCare who later becomes a full-time employee eligible for TRS-ActiveCare during the current plan year. This enrollment opportunity also applies to the employee's eligible dependents. This enrollment opportunity exists even if this employee previously declined enrollment in TRS-ActiveCare during the current plan year. An eligible part-time employee who later becomes a full-time employee eligible for TRS-ActiveCare during the current plan year may also become eligible for employer mandated coverage under the Patient Protection and Affordable Care Act (aka the "PPACA"). This additional enrollment opportunity will allow participating entities to offer TRS-ActiveCare coverage to such individuals, which will allow the participating entities to avoid a penalty that they may otherwise incur under the PPACA.

The adopted amendments to current §41.36(b) clarify that the initial enrollment period for an eligible full-time or part-time employee whose employer becomes a participating entity is equally applicable to the employee's eligible dependents.

Current §41.36(d) addresses special enrollment events associated with TRS-ActiveCare that arise under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) on or after September 1, 2011. Current §41.36(e) addresses special enrollment events associated with TRS-ActiveCare that arose on or before August 31, 2011, as defined by TRS-ActiveCare itself. With the passage of time, for the sake of clarity, the introductory language in current §41.36(d) and the entire current §41.36(e) are no longer necessary and can be deleted.

No comments were received on the rule proposals.

Statutory Authority: The amendments to §41.36 are adopted under the authority of §1579.052 of the Insurance Code, which authorizes TRS as trustee of the TRS-ActiveCare program to adopt rules it considers necessary to implement and administer the program.

Cross-Reference to Statute: The adopted amendments affect Chapter 1579 of the Insurance Code, which provides for the establishment and administration of TRS-ActiveCare.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 30, 2016.

TRD-201605073

Brian K. Guthrie
Executive Director
Teacher Retirement System of Texas
Effective date: October 20, 2016
Proposal publication date: August 19, 2016
For further information, please call: (512) 542-6513



PART 5. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 101. PRACTICE AND PROCEDURE REGARDING CLAIMS

34 TAC §101.6

The Board of Trustees of the Texas County and District Retirement System ("TCDRS") adopts an amendment to §101.6, concerning the timing of the first annuity payment, without changes to the proposed text as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 4982). The text of the rule will not be republished.

The amendment to §101.6 clarifies that the first annuity payment is payable beginning on the last day of the first month following the effective date of retirement.

The Board received no comments, written or otherwise, regarding the adoption of the amendment.

The amendment is adopted under the Government Code, §845.102, which authorizes the TCDRS board of trustees to adopt rules for the efficient administration of the system.

No other statutes, articles, or codes are affected by this adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

TRD-201605089
Ann McGeehan
General Counsel
Texas County and District Retirement System
Effective date: October 23, 2016
Proposal publication date: July 8, 2016
For further information, please call: (512) 637-3247



CHAPTER 105. CREDITABLE SERVICE

34 TAC §105.5

The Board of Trustees for the Texas County and District Retirement System ("TCDRS") adopts an amendment to §105.5, concerning error correction, without changes to the proposed text as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 4983). The text of the rule will not be republished.

The adopted amendment provides for an online process in which participating employers will submit error corrections online.

The Board received no comments, written or otherwise, regarding the adoption of the amendment. The amendment is effective January 31, 2017.

The amendment is adopted under the Government Code, §845.102, which authorizes the TCDRS board of trustees to adopt rules for the efficient administration of the system.

No other statutes, articles, or codes are affected by this adopted amendment.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

TRD-201605090
Ann McGeehan
General Counsel
Texas County and District Retirement System
Effective date: January 31, 2017
Proposal publication date: July 8, 2016
For further information, please call: (512) 637-3247



34 TAC §105.7

The Board of Trustees of the Texas County and District Retirement System ("TCDRS") adopts new rule, §105.7 concerning the authorization of credited service, without changes to the adopted text as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 4985). The text of the new rule will not be republished.

The adopted new rule allows the governing body of a participating subdivision to authorize credited service (time only) for service performed by employees of a governmental entity that was subsequently merged, converted, or otherwise transferred into the participating subdivision or transferred the employment of the employees to the participating subdivision.

The Board received no comments, written or otherwise, regarding the adopted new rule.

The new rule is adopted under the Government Code, §843.201, which authorizes the TCDRS Board of Trustees to adopt rules concerning service credit for certain public employment.

No other statutes, articles, or codes are affected by this new rule.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

TRD-201605091
Ann McGeehan
General Counsel
Texas County and District Retirement System
Effective date: October 23, 2016
Proposal publication date: July 8, 2016
For further information, please call: (512) 637-3247



34 TAC §105.8

The Board of Trustees for the Texas County and District Retirement System ("TCDRS") adopts new §105.8, concerning employee termination date, without changes to the proposed text as published in the July 8, 2016, issue of the *Texas Register*

(41TexReg 4986). The text of the new rule will not be republished.

The new rule will improve the accuracy and integrity of member data by requiring participating employers to submit the date of a member's termination of employment to TCDRS no later than 15 days after the member's termination of employment or as soon as practicable.

The Board received no comments, written or otherwise, regarding the adopted new rule. The rule is effective January 31, 2017.

The new rule is adopted under the Government Code, §845.102, which authorizes the TCDRS board of trustees to adopt rules for the efficient administration of the system.

No other statutes, articles, or codes are affected by this adopted new rule.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 3, 2016.

TRD-201605092

Ann McGeehan

General Counsel

Texas County and District Retirement System

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For further information, please call: (512) 637-3247

