

Sunset Advisory Commission



Texas Education Agency

**State Board for
Educator Certification**

**Regional Education
Service Centers**

**Windham
School District**

Staff Report
November 2004

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

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TEXAS EDUCATION AGENCY

**SUNSET STAFF REPORT
NOVEMBER 2004**

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SUMMARY

Texas Education Agency

The Sunset review of the Texas Education Agency (TEA) occurred during a period of significant transition for the agency. At the time of the review, TEA was completing a major downsizing and reorganization as a result of key legislative changes and the State's budget crisis that reduced TEA's operating budget by about \$40 million and eliminated almost 200 employees. Additionally, the agency was under new leadership with the appointment of a new Commissioner of Education in January 2004; and was refocusing on a newly-developed mission to provide leadership, guidance, and resources to help schools meet the educational needs of all students.

Many of the agency's operations were in transition as well, particularly the agency's monitoring and accountability functions. In 2003, the Legislature reduced state monitoring to ease administrative burdens on school districts and promote local control. As a result, TEA significantly limited its monitoring functions in 2003 to allow the agency to focus its development of the new, less burdensome monitoring system for the 2004-2005 school year. Additionally, 2004 was the first year schools were rated under the new state performance accountability system, and the first year that schools could receive sanctions for not meeting adequate yearly progress under the federal accountability system mandated by the No Child Left Behind Act.

Since many of the agency's programs and functions were being redesigned or had just recently been implemented, Sunset staff was unable to fully assess and evaluate them or their outcomes. Instead, the review focused on evaluating the effectiveness of the agency in managing its role and responsibilities within the state public education system, including its ability to both support and oversee the system. TEA shares this role with the State Board of Education (SBOE), but SBOE is no longer subject to Sunset review. In 1995, the Legislature removed SBOE from the Sunset review process. Therefore, the review attempted to separate the responsibilities of SBOE and TEA and concentrate on those functions statutorily assigned to TEA.

Overall, the review concluded that Texas needs an organization such as TEA to ensure the public education system provides a quality education that results in student academic success and that taxpayers' dollars are well spent. However, staff identified several areas needing improvement. Most importantly, TEA needs clear statutory authority and direction to ensure school districts and charter schools are fiscally responsible and providing a quality education. Also, the agency cannot effectively ensure that the more than \$3 billion in grant funds it distributes ultimately improve the academic success of students they are intended to help. TEA lacks the necessary information to effectively assess how schools use grant funds and the resulting impact on student performance. In addition, the agency misses a key opportunity to



TEA needs clear authority and direction to ensure school districts and charter schools are fiscally responsible and providing a quality education.

provide leadership and guidance to the public education system by disseminating best practices, such as the use and availability of online courses. Ultimately, Sunset staff intends for the recommendations in this report to build upon the agency's new focus and the Legislature's recent directives to assist TEA in providing leadership, guidance, and resources to help schools meet the educational needs of all students.

The following material summarizes the Sunset staff recommendations on TEA. This report also includes recommendations from two legislatively-directed limited reviews of the Windham School District and the Regional Education Service Centers. Those recommendations follow the TEA section of this report.

Issues/Recommendations

Issue 1

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

Key Recommendations

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

Issue 2

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

Key Recommendations

- Require TEA to implement a financial accountability rating system for charter schools.
- Direct TEA to closely monitor charter schools that do not receive accountability ratings.

Issue 3

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

Key Recommendations

- Require TEA to implement performance-based grants and report annually on their impact on student achievement.
- Require the agency to identify promising practices from grant programs and disseminate that information to school districts via its Web site.
- TEA should make grant application and award processes available online by 2007.

Issue 4

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

Key Recommendations

- Require TEA to collect and disseminate best practices information.
- TEA should investigate effective uses of online courses and communicate best practices regarding the use of such courses.
- TEA should improve its Web site to be more user-friendly.

Issue 5

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

Key Recommendations

- Authorize the agency to establish a statewide textbook credit system.
- Require TEA to recommend a prorated maximum cost for nonconforming textbooks to SBOE.
- The agency should work with SBOE to ensure the development of clear guidelines for determining adequate TEKS coverage in textbooks.

Issue 6

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

Key Recommendation

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

Issue 7

Texas Has A Continuing Need for the Texas Education Agency.

Key Recommendation

- Continue the Texas Education Agency for 12 years.

Fiscal Implication Summary

This report contains two recommendations that would have a positive fiscal impact to the State. The fiscal impact of each recommendation is summarized below.

- **Issue 5** – Establishing a statewide textbook credit system would generate an estimated annual savings of \$4.8 million to the State Textbook Fund.

- **Issue 6** – 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.

Two other recommendations could result in additional savings to the State and to local school districts. Recommending a prorated price for nonconforming textbooks, as discussed in Issue 5, could conceivably save the State up to \$3.6 million per year. Issue 3 recommends streamlining the administrative requirements for grant programs TEA oversees. Reducing the amount school districts spend on administrative costs by just 0.5 percent would result in a local savings of almost \$15 million that would be available for local school districts to provide more services to schoolchildren.

<i>Fiscal Year</i>	<i>Gain to the General Revenue Fund</i>	<i>Savings to the State Textbook Fund</i>	<i>Change in Number of FTEs from FY 2005</i>
2006	\$145,525	\$4,800,000	-3
2007	\$145,525	\$4,800,000	-3
2008	\$145,525	\$4,800,000	-3
2009	\$145,525	\$4,800,000	-3
2010	\$145,525	\$4,800,000	-3

ISSUES

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

Summary

Key Recommendations

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

Key Findings

- TEA's current monitoring functions are not coordinated agencywide, and do not provide a complete picture of a school district's or charter school's overall effectiveness.
- TEA does not systematically identify problems across agency programs and intervene appropriately to ensure school districts and charter schools are fiscally responsible and providing a quality education.
- While TEA is developing a new monitoring system, integration of financial and other indicators of compliance to determine overall effectiveness is not assured.

Conclusion

Although TEA's monitoring functions have been recently limited and redirected by the Legislature, as the State's education agency, TEA is responsible for ensuring districts and charter schools provide schoolchildren a quality education and that taxpayers' public education dollars are properly spent. A review of TEA's monitoring functions found that these functions are not coordinated agencywide and therefore cannot determine a district's or charter school's overall effectiveness.

Without a coordinated way to monitor the overall effectiveness of school districts and charter schools, TEA cannot quickly identify or determine appropriate levels of intervention to help address program effectiveness or performance problems.

Although TEA is developing a new performance-based monitoring system, no assurances exist that the agency will implement the system; and that it will include the necessary measures of school district and charter school performance, across agency divisions to provide an overall picture of effectiveness.

Support

Federal and state law require TEA to monitor school districts and charter schools to ensure student success, program effectiveness, and fiscal compliance.

- TEA is responsible for monitoring 1,241 school districts and charter schools' use of \$15 billion in state and federal funds to educate 4.3 million students. The textbox, *TEA Monitoring*, discusses how TEA defines monitoring.
- TEA monitors school districts and charter schools in four key areas. The textbox, *TEA Monitoring Responsibilities*, generally discusses each of these areas. TEA performs most of its monitoring in-house through desk reviews, audits, and investigations. In fiscal year 2004, TEA's financial audits division performed about 2,275 audits, reviews, and investigations. The agency conducted only 25, or 1 percent, of these audits on-site.


TEA oversees \$15 billion in state and federal funds used to educate 4.3 million Texas children.

TEA Monitoring

Monitoring is using a data-driven, performance-based model to observe, evaluate, and report on the public education system across diverse areas including program effectiveness; compliance with federal and state law and regulations; financial management; and data integrity for the purpose of assessing that student needs are being met.

Source: Texas Education Agency Monitoring Overview for the 2003-2004 School Year

TEA Monitoring Responsibilities	
State and Federal Accountability	TEA monitors and evaluates school districts and charter schools based on student performance on the TAKS and other assessments, as well as dropout, completion, and participation rates.
Program Compliance and Effectiveness	TEA monitors student performance in certain program areas, including special education, bilingual, career and technology; and federal title programs such as migrant education, highly qualified, and safe and drug-free schools.
Financial Accountability	TEA performs reviews, audits, and investigations to ensure financial compliance and integrity of districts and charter schools.
Other Monitoring	TEA monitors school districts and charter schools on a variety of miscellaneous areas such as data integrity, dropouts, governance and complaint issues, and student transfers.

- TEA has several different stages of interventions and sanctions that range in severity depending on the duration and nature of the problems identified. Under the state accountability system, the Commissioner may take actions including requiring the district to notify the public of the deficiency; appointing a management team or intervention team; or possible closure or consolidation. Under the federal accountability system, interventions may include notifying parents and providing the option for students to transfer to another school; providing supplemental educational services; reducing funds; and restructuring the school and its governance.

TEA notifies the board of trustees of violations found during a financial review or audit, and any recommendations to correct the problems. If penal laws have been violated, TEA notifies the appropriate district or county attorney and the attorney general. Typically, when violations are found, TEA requests preparation of a corrective action plan and performs follow-up monitoring. The agency may also take administrative action that may result in a refund of funds, a hold on federal funds, probation or revocation of charter, or assignment of monitor or conservator.

- In 2003, the Legislature, in House Bill 3459, limited TEA's monitoring of school districts and charter schools. Primary responsibility for ensuring that school districts and charter schools comply with all applicable requirements of state programs was placed with the board of trustees of a school district and the governing body of an open-enrollment charter school.¹ The legislation further limited TEA's monitoring, except for special education, by authorizing the agency to monitor school districts and charter schools only as necessary to ensure compliance with federal laws and regulations, financial management, and data integrity.²
- The agency also underwent a significant reorganization and reduction in staff in 2003, a major part of which centered around the provision of House Bill 3459 that limited TEA's monitoring authority. As a result, TEA reorganized many of its monitoring functions and eliminated most on-site monitoring, including its District Effectiveness and Compliance visits that monitored processes such as forms, checklists, and lesson plans, in favor of desk reviews and audits that monitor results such as student performance, and participation and dropout rates.

Although not required by law, as part of the reorganization and new monitoring focus, TEA is currently developing a performance-based monitoring (PBM) system to better ensure school district and charter school effectiveness. TEA intends to evaluate school districts and charter schools on performance-based indicators of student performance and program effectiveness to determine the appropriate level of intervention or sanction necessary to address identified deficiencies. The PBM system has not been fully developed, but TEA plans on implementing it for the 2004-2005 school year. The textbox, *Performance-Based Monitoring System*, shows some key dates in the development of the new monitoring system.


*In 2003, the
 Legislature limited
 TEA's monitoring
 function, placing
 compliance
 responsibilities with
 local school boards.*

Performance-Based Monitoring System	
2003	
September	78th Legislature limited TEA's monitoring authority.
October	TEA established a performance-based monitoring work group and informed school districts and charter schools that 2003-2004 will be a transition year for monitoring.
2004	
January	TEA began developing proposed core indicators for the performance-based monitoring system.
February	TEA established the monitoring plan for the 2003-2004 school year.
March	TEA established a monitoring steering committee to guide the implementation of the 2003-2004 monitoring system and development of the 2004-2005 system.
June	Stakeholder input gathered on the proposed PBM core indicators.
August	Stakeholder input gathered on the proposed PBM data integrity indicators.
December	TEA expects to release the 2004-2005 PBM evaluations of school districts and charter schools, and a PBM manual.

TEA's current monitoring functions are not coordinated agencywide, and do not provide a complete picture of a school district's or charter school's overall effectiveness.

- TEA's monitoring functions are performed by different divisions that monitor school districts and charter schools based on individual, division-specific requirements. The textbox, *TEA Monitoring Divisions*, lists the divisions that perform some type of monitoring function.

TEA Monitoring Divisions

Performance-Based Monitoring – monitors certain program areas to ensure adequate student performance and program effectiveness; data integrity, including dropouts; and disciplinary education program compliance and data integrity.

Performance Reporting – monitors to ensure adequate student performance on statewide assessments and other performance indicators for the state and federal accountability systems.

Program Monitoring and Interventions – oversees agency monitoring functions and implements federal and state interventions and sanctions.

Financial Audits – conducts reviews to monitor and ensure financial accountability, audits areas such as student attendance, and investigates improper use of state and federal education funds.

Governance – monitors complaints regarding school governance issues.

Grants – monitors grant spending amounts and progress meeting overall grant program objectives.

Charter Schools – monitors charter schools to ensure each is in compliance with the provision of the charter, including submission of financial records, governance reports, and tax records.

- Each division with monitoring responsibilities collects data and reports results separately. Therefore districts and charter schools receive separate ratings, reports, and interventions from several different divisions.

Schools receive several ratings and reports from TEA including state and federal accountability ratings, school Financial Integrity Rating System of Texas (FIRST) ratings, school report cards, and Academic Excellence Indicator System reports, that provide a look at the school's effectiveness in different areas such as student performance; financial accountability; and dropout and completion rates. The table, *Indicators of School Effectiveness*, briefly describes each of these ratings.

- TEA does not effectively coordinate the monitoring results from the different divisions to comprehensively evaluate school districts and charter schools. As shown in the table, the reports contain a considerable amount of overlapping subject material that could potentially conflict. Therefore, a complete picture of a district's or charter school's overall effectiveness is not available to either agency staff or public education stakeholders, including parents. Without this comprehensive information, confusion exists as to a district's or charter school's overall effectiveness, and does not provide the information necessary to make decisions about the district or school.


TEA does not monitor the overall effectiveness of school districts and charter schools.

Indicators of School Effectiveness	
State Accountability System	TEA rates schools and districts as exemplary, recognized, academically acceptable, or academically unacceptable based on student performance on state assessments, completion rate, and annual dropout rate.
Federal Accountability System / No Child Left Behind (NCLB)	TEA rates districts and schools as exemplary, recognized, academically acceptable, or academically unacceptable based on whether students meet adequate yearly progress (AYP) on state assessments to ensure that all students attain 100 percent proficiency by 2013-2014. AYP is determined by student participation and performance in reading/language arts and mathematics, and graduation and attendance rates.
School Financial Integrity Rating System of Texas (FIRST)	TEA rates schools annually based on their overall performance on financial measures and other indicators. Schools receive a rating of superior achievement, above standard achievement, standard achievement, or substandard achievement.
School Report Cards	These report cards inform each student's parents or guardians about the school's performance and characteristics such as student, staff, financial, and performance information in relation to the district, the state, and a comparable group of schools.
Academic Excellence Indicator System (AEIS) Reports	These reports inform the public about the educational performance of the district and each school in relation to the district, state, and a comparable group of schools. The AEIS Reports provide school information as well as student, staff, and financial information. These reports include information on the performance of students on assessments, dropout and completion rates; and students completing advanced college degrees. The reports also provide information on school and district staff, finances, programs, and demographics.
Performance-Based Monitoring System	TEA evaluates district performance and program effectiveness in certain program areas, including special education, bilingual, career and technology, and federal title programs such as migrant education, limited English proficiency, highly qualified, and safe and drug-free schools.

TEA does not systematically identify problems across agency programs and intervene appropriately to ensure school districts and charter schools are fiscally responsible and providing a quality education.

- State and federal law continue to require TEA to monitor districts and charter schools in several areas like federal program compliance, fiscal accountability and student performance, but do not require the agency to consider the results of these monitoring efforts together to evaluate a district's or school's overall effectiveness and intervene appropriately. As a result, TEA does not effectively assess whether a district or charter school has problems in multiple areas, evaluate overall risk and initiate appropriate interventions or sanctions. Without a comprehensive look at monitoring results to ensure adequate early intervention, some schools may jeopardize public education funds or their students' education for long periods of time.
- Since monitoring is performed by individual divisions, TEA does not identify or address multiple problems in school districts and charter schools in a coordinated manner. Divisions identify and address problems independently. These individual concerns usually do not require significant interventions or sanctions, especially if it is a first time



Problems identified independently, if taken together, could warrant more significant interventions.

problem. However, several divisions could be identifying problems independently that together may indicate more extensive concerns that would warrant more significant interventions. Because TEA identifies problems individually in different divisions of the agency, interventions are based on these individual circumstances, not the district's or school's problems overall.

For example, a school may not meet performance standards under the federal accountability system, but this would not trigger an intervention if it is the school's first year to fail to meet the standards. Likewise, this same school may also receive a School FIRST rating of substandard achievement, indicating possible financial management problems, but based on this rating alone, TEA would not necessarily intervene. However, together these ratings may indicate more widespread problems and would necessitate a higher level of intervention.

- Financial problems can and have affected student performance. As discussed in Issue 2 of this report, financial problems associated with some charter schools have had detrimental effects to students. Since 1998, 20 different charter schools have closed as a result of acute financial problems, displacing students, commonly with no student files or assessment data to transfer to the next school.

While TEA is developing a new monitoring system, integration of financial and other indicators of compliance to determine overall effectiveness is not assured.

- As discussed previously, TEA is developing a new performance-based monitoring system in response to recent limitations placed on its monitoring functions and agency reorganization. A goal of the new performance-based monitoring (PBM) system is to deliver a consistent and coordinated response to identified areas of low performance and program ineffectiveness in districts and schools. TEA intends to evaluate school districts and charter schools on performance-based indicators such as student performance and program effectiveness, and determine the appropriate level of intervention or sanction necessary to address any deficiencies.
- While TEA is developing the PBM system so that the agency's different monitoring activities are coordinated across the various agency divisions with monitoring responsibilities, several of the agency's key monitoring activities have not been incorporated into the new system. TEA is currently developing core indicators of performance and effectiveness for the new PBM system, including program effectiveness and data integrity indicators. TEA plans to incorporate other measures of school district and charter school effectiveness like fiscal compliance, state and federal accountability ratings, complaints, and previous compliance history into the new monitoring system. If included, these measures would help determine the overall effectiveness of districts and charter schools, and appropriate interventions and sanctions. However, the agency has not yet integrated these into its new system.

The Commissioner recently established a Monitoring, Investigations, and Interventions Steering Committee, made up of Associate and

Deputy Associate Commissioners and Division Directors, to make final sanction recommendations to the Commissioner or designee. While this is a step towards a more coordinated approach to determining appropriate interventions, this process does not ensure that problems are identified early across agency divisions before significant interventions or sanctions are necessary.

- Although TEA is designing its new PBM system to meet statutory monitoring requirements, the agency is not required by law to develop or implement a comprehensive, coordinated monitoring system. Additionally, several of the changes TEA's PBM system is supposed to address are long-standing problems that the agency has not corrected in the past.

Since 1998, the State Auditor's Office (SAO) has continually identified problems with and made recommendations to improve TEA's monitoring efforts. The textbox, *SAO Findings Regarding TEA's Monitoring*, lists some of these problems, many of which could continue in the agency's monitoring system currently being developed.

SAO Findings Regarding TEA's Monitoring

- Monitoring efforts are not coordinated between agency divisions. (SAO Report No. 98-021, Feb. 1998)
- Divisions do not share monitoring information. (SAO Report No. 99-555, June 1999)
- TEA lacks an overall plan to monitor districts consistently. (SAO Report No. 99-555, June 1999)
- TEA does not have complete monitoring results to share with stakeholders. (SAO Report No. 02-030, March 2002)
- TEA does not have a system to collect, track, and report monitoring results agencywide. (SAO Report No. 02-030, March 2002)
- Risk is still focused on individual programs and does not consider information that would indicate problems in overall district compliance and service delivery such as financial indicators or district accountability ratings. (SAO Report No. 02-030, March 2002)

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.

Impact

These recommendations would provide TEA clear statutory authority and direction to develop and implement a comprehensive, integrated framework for monitoring and interventions, to ensure school districts and charter schools provide students an adequate education, properly spend public education dollars, and comply with state and federal requirements. While the performance-based monitoring system TEA is developing may address several of the problems identified, the Legislature has no assurance that TEA will implement the system or that it will include each of the elements discussed above.

Requiring TEA to monitor school districts and charter schools, and determine appropriate interventions through this framework would help the agency identify problems in districts and charter schools sooner, and intervene in a timely manner, before jeopardizing students' education or public education dollars. In addition, requiring this framework in statute would give the agency the authority necessary to ensure districts and charter schools correct the identified problems.

These recommendations would not conflict with and would build on the provisions of House Bill 3459, passed by the Legislature in 2003. Developing and implementing this framework to coordinate across the agency's accountability and monitoring systems will set clear performance expectations and help streamline the agency's oversight functions. These recommendations would not eliminate individual program accountability requirements, including federal requirements, but would ensure that problems in one area are not masked by better performance overall. Additionally, these recommendations are consistent with the Legislature's efforts to limit site visits. However, site visits should still be conducted when they are determined the only or most appropriate intervention.

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.

¹ Texas Education Code, sec. 7.027.

² Texas House Bill 3459, 78th Legislature (2003).

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

Summary

Key Recommendations

- Require TEA to implement a financial accountability rating system for charter schools.
- Direct TEA to closely monitor charter schools that do not receive accountability ratings.

Key Findings

- TEA does not provide timely, effective oversight of charter schools.
- Without adequate, periodic assessment, some charter schools have gone bankrupt and may have inappropriately used state funds.
- Without recent accountability ratings, TEA cannot evaluate the quality of education at charter schools.

Conclusion

While charter schools are not subject to many of the rules and regulations applied to traditional schools, the State still has a strong interest in seeing charter school students succeed, and has an interest in ensuring that taxpayer dollars are properly spent. The Sunset review of TEA's charter school oversight functions led to two significant findings. First, children in some charter schools may be at risk of receiving an inadequate education. Without effective ways to measure student success, parents and school officials are ill-informed as to instructional quality. Second, TEA has very little ability to hold charter schools accountable for expending state funds. Given some notable financial failures of charter schools, this lack of oversight is inappropriate.

The information in this issue is not an indictment of charter schools. Many charter schools have good business practices and very successful students. However, TEA needs the proper authority and direction to determine which schools are effective; and focus their assistance, and if necessary their enforcement action, on those schools that place children at educational risk.

Support

The Legislature authorized charter schools to provide innovative forms of education without undue regulation.

- In 1995, the Legislature authorized charter schools to provide nontraditional forms of education with limited government intervention. The original legislation set the number of charter holders at 20, but has since expanded to more than 200 charter holders today. The statute provides for four different types of charter schools, mainly differing in governance. The table, *Types of Charter Schools*, describes these differences. In addition, a charter school may operate several campuses under the original charter agreement.

Types of Charter Schools		
Type	Description	Current Number
Open-Enrollment	Initial charter application and any additional campuses granted by SBOE to a 501(c)(3) entity, an institution of higher education, or a governmental entity. A nonprofit governing board maintains primary oversight.	202
University	Initial charter application and any additional campuses granted by SBOE to a public senior college or university. A nonprofit governing board maintains primary oversight.	2
District	Campus charter application granted by local school district. District board of trustees maintains primary oversight.	40
Home-Rule	Entire school district forms a charter school under the leadership of an appointed charter commission. District voters must approve the proposed charter school.	0


Charter schools received \$338 million in state funds in fiscal year 2003.

- Like traditional schools, charter schools receive state funds based on weighted average daily attendance. Overall revenues are lower for charter schools than traditional school districts, primarily due to charter schools not having access to facility and debt service funding. However, charter schools may accept charitable donations from private sources. Charter schools receive about 90 percent of revenues from state aid, compared to traditional schools districts that receive up to 38 percent of their revenue from the State.¹ In fiscal year 2003, charter schools received a total of \$338 million in state funds.
- Many charter schools serve disproportionately large numbers of at-risk students. In fact, some charter schools operate in residential treatment facilities composed almost entirely of at-risk students. As a result, charter school instruction and personnel deviate greatly from traditional public schools. In 2004, almost 44 percent of charter operators were classified as alternative education campuses that must serve students at risk of dropping out of school.²

State law gives TEA oversight of charter schools to ensure compliance and accountability, despite their autonomy.

- Charter schools are exempt from many laws in place for traditional public schools. Charter schools mainly differ from traditional schools in their independence in financial and personnel decisions. The textbox, *Charter School Regulatory Exemptions*, lists the regulations that apply to traditional school districts but not to charter schools.

- In response to public concern with the academic and financial performance of charter schools, the Legislature revised state statutes governing charter schools in 2001. House Bill 6 capped the number of open-enrollment charters the State Board of Education (SBOE) may grant at 215. Recognizing the need for increased oversight and accountability of charter schools, House Bill 6 expanded TEA's oversight by allowing the Commissioner of Education to set operational, financial and governing standards for charter schools. The legislation included other regulatory provisions pertaining to charter schools, such as TEA approval of management company contracts, required submission of banking information, and conflict of interest and nepotism provisions for charter school board members.

- Despite the relative autonomy of charter schools, TEA has statutory authority to ensure fiscal and academic performance accountability.³ The State Board of Education approves all open-enrollment and university charter applications. SBOE initially approves charter school applications for five years, and the Commissioner can renew the charter school application for an additional 10 years. However, once a charter school application is granted by SBOE, TEA maintains primary oversight. The Commissioner has the authority to renew or revoke a charter, and approves all charter amendments. The Charter School Division at TEA maintains all information regarding charter school applications, renewals, and amendments, and responds to complaints concerning charter schools.

The Financial Audits Division reviews and reconciles charter school financial data, and ensures that accounting data is reported accurately. TEA addresses low-performing schools by introducing monitors or conservators. Though TEA can temporarily appoint a conservator to override decisions of the administration, the agency does not have the authority to replace appointed board members. Currently, 10 of the 13 schools with TEA-appointed monitors or conservators are charter schools.

<p style="text-align: center;">Charter School Regulatory Exemptions</p> <ul style="list-style-type: none">● Salary schedules and leave/benefits requirements● Purchasing and contract procedures● Student/teacher ratio and class size requirements● Geographic boundaries● Admissions requirements● Length of school day requirements● Requirement that students attend at least 90 percent of the days a class is offered to receive credit● Certain disciplinary procedures● Certification requirements for teachers (except bilingual/ESL and special education teachers)● State teacher appraisal system● Campus improvement plans and site-based decisionmaking● Contract requirements for professional staff● Credit by exam● State facility standards● School calendar and attendance requirements● Limitations on participation in extracurricular activities● Requirements for gifted and talented programs● Employee group health coverage requirements● Requirements for pre-kindergarten programs● Authorization to charge tuition to transfer students
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TEA does not provide timely, effective oversight of charter schools.

- TEA does not closely monitor charter schools in their first year of operation. In fact, a 1998 internal audit report recommended closer monitoring of charter schools' initial operations to determine what start-up problems new schools are encountering, and what assistance should be provided.⁴ Despite the recommendations for early, proactive involvement, TEA only monitors the financial aspects of charter schools after their first year of operation, when the agency receives the annual independent audits submitted by the charter schools.
- TEA rates traditional school districts under the Financial Integrity Rating System of Texas (FIRST). TEA developed FIRST to encourage schools to better manage their financial resources and to provide the maximum allocation possible for direct instructional purposes.⁵ However, charter schools are not subject to FIRST ratings, even though TEA allocates significant state funds to charter schools. TEA is considering a financial rating system that would apply to the unique financial situations surrounding charter schools, but has not implemented the system.
- TEA is scheduled to propose changes to the charter school rules intended to effectively address financial and performance problems at charter schools.⁶ The textbox, *Draft Proposed Charter School Rule Changes*, lists the proposed changes. If approved by the Commissioner and adopted as drafted, TEA should be able to clearly define minimum expectations for charter schools, and take action when financial and student performance expectations are not met. Although the draft proposed rules are a good start to providing better oversight of charter schools, the Legislature has no assurance that TEA will adopt the rules or weaken them in the future.


Despite frequent financial problems, charter schools are not subject to TEA's Financial Integrity Rating System.

Draft Proposed Charter School Rule Changes

- Minimum expectations for performance are laid out, specifically relating to accountability ratings; financial performance demonstrated by annual audits; and compliance with student attendance accounting, grant requirements, and data integrity.
- Describes processes for the following:
 - Sanctions for charter schools based on accountability ratings;
 - Sanctions if the charter school does not maintain minimum health and safety requirements;
 - Mitigating or aggravating factors to be considered when issuing sanctions to charters;
 - SOAH hearings related charter sanctions; and
 - Return of funds allocated for students over the approved enrollment would be deemed over-allocated and must be returned.
- Charter holders would be required to notify TEA before initiating bankruptcy proceedings.
- Would require charter schools wishing to expand enrollment would be required to show high accountability ratings for two out of the past three years.
- Would require a person employed as an educator by a charter school would be required to comply with the definition of "highly qualified" under NCLB.

Without adequate, periodic assessment, some charter schools have gone bankrupt and may have inappropriately used state funds.

- Without adequate financial oversight, state funds at charter schools are at risk. TEA is unable to identify financial problems and assess the fiscal accountability of a charter school without current financial information. The actual and potential loss of Foundation School Program funds illustrates the need for greater fiscal oversight.

For example, one charter school cannot provide sufficient documentation of its student attendance data. In fact, TEA auditors had to perform on-site head counts to obtain accurate enrollment numbers. The audits resulted in significantly lower attendance numbers than originally claimed. Since school funding is directly tied to attendance, the charter school received funding for non-existent students. The charter school, ultimately owing the State \$2.9 million in overpayments, later went bankrupt and never repaid the funds.⁷ Another charter school had numerous problems, including falsified student attendance numbers, lack of business or accounting records, a poorly performing board, and an administrator employing 16 different family members who were paid a total of approximately \$1.6 million in state funds.

Another example is a charter school in Austin that which recently closed.⁸ TEA auditors were unable to ascertain if many expenditures were for the benefit of the students, or used for personal purposes. A TEA audit revealed credit card charges to Neiman Marcus, Best Buy, and Sears. The audit also noted ATM withdrawals from London, England, Madrid, Spain, and Johannesburg, South Africa. TEA was unaware of these problems for months, until the charter school filed its annual financial report. The school, which received a total of about \$6.5 million in State funds, filed for bankruptcy three months before closing.

- The acute financial problems associated with some charter schools have detrimental effects to students, as well as the State. Since 1998, 20 different charter schools have closed, displacing students, commonly with no student files or assessment data to transfer to the next school. In addition, state funds are rarely recovered once a charter school closes or files bankruptcy. In fact, 76 different charter schools currently owe the State a total of more than \$5.3 million in overpayments, a portion of which could be at risk.

Without recent accountability ratings, TEA cannot evaluate the quality of education at charter schools.

- Parents have little information to determine whether particular charter schools effectively educate their children. Before 2004, charter schools did not receive accountability ratings in their first year of operation. Instead, TEA designated new campuses as “Not Rated: Other.” Beginning in 2004, new charters receive ratings only when they earn a rating of “Acceptable” or higher. If an “Acceptable” rating is not earned, TEA continues to designate new campuses as “Not Rated: Other.” In 2004, 15 new charter campuses did not receive accountability ratings. Though improvement is difficult to measure without accountability ratings, other indicators, such as TAKS and dropout statistics, would



One charter school went bankrupt, ultimately owing the State \$2.9 million.



Since 1998, 20 charter schools have closed or gone bankrupt, displacing many students.

provide useful information to assist TEA evaluate the quality of education at charter schools.

- About 43 percent of charter schools, as well as many traditional schools, are classified as alternative schools, and did not receive accountability ratings in 2004. Under the state accountability system, alternative education campuses have the option to be evaluated under alternative education accountability (AEA) procedures and receive accountability ratings based on different performance standards and indicators than those used for regular campuses. TEA is currently developing the alternative accountability system, and plans to issue ratings for AEA-designated campuses in 2005.

Due to the development of the new state accountability system, schools did not receive accountability ratings in 2003. More than 45 percent of charter campuses did not receive ratings in 2004, due to newly operational or alternative education status. Therefore, many charter schools will not receive accountability ratings for three years. Without adequate, periodic assessment, TEA cannot timely identify and address recurring problems at charter schools.

- Under TEA oversight, charter schools have had lower student performance and accountability ratings than traditional public schools. In 2004, 11 percent of charter campuses received “Academically Unacceptable” accountability ratings, while only 1 percent of traditional public schools received this rating.⁹ In addition, charter schools perform well below the state average on achievement tests. For example, in 2004, only 42 percent of charter school students passed the TAKS, compared to 67 percent of students statewide, or 56 percent of students classified as low-income.¹⁰ In fact, four charter schools this year had passing rates below 10 percent. Better accountability information regarding charter schools could help TEA and charter schools address poor student performance, as well as help parents make informed decisions about their children’s education.


In 2004, 58 percent of charter school students did not pass one or more parts of TAKS, compared to 33 percent statewide.

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.

Impact

The intent of these recommendations is to clarify that the State has a continuing interest in ensuring student success and proper use of taxpayer dollars in charter schools. The recommendations would increase TEA's authority to adequately monitor and address the financial accountability and student performance of charter schools. FIRST audits of charter schools would increase fiscal accountability, and provide TEA with necessary financial information. Schools exempt from the state accountability system would be closely monitored by TEA to maintain effective oversight and ensure student performance.

To ensure effective oversight of charter schools, TEA would integrate the financial and accountability information gathered as a result of these recommendations into the framework for monitoring and interventions discussed in Issue 1. TEA would have the authority to monitor financial and student performance accountability of charter schools, and sanctions would be developed to allow TEA to take decisive action in instances where charter schools may be providing an inadequate education, or are improperly spending state funds.

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.

¹ The Association of Charter Educators, *Understanding Education Finance in Public and Charter Schools* (Austin, Texas, January 2003), p. 9.

² Texas Education Code, sec. 29.081(d).

³ Texas Education Code, sec. 12.001(b).

⁴ Texas Education Agency, *Internal Audit Final Report on Charter Schools*, report no. 98-13 (Austin, Texas, February 1998), p. 1.

⁵ Texas Administrative Code, Title 19, part 2, rule 109.1001.

⁶ Texas Education Agency, *Text of Proposed Amended 19 TAC, 100.1011-1211*. Stakeholder Meeting with TEA (Austin, Texas, August 16, 2004).

⁷ “Charter Schools Owe State Millions” *Austin American-Statesman* (November 25, 2002).

⁸ “Charter School Hasn’t Accounted for \$6.5 Million” *Austin American-Statesman* (June 26, 2004).

⁹ Texas Education Agency, *Charter Operator Ratings with Enrollment and Campus Ratings with Enrollment*, (Austin, Texas, September 2004).

¹⁰ Texas Education Agency, *2004 Accountability System District and School Accountability Ratings*, (Austin, Texas, September 2004).

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

Summary

Key Recommendations

- Require TEA to implement performance-based grants and report annually on their impact on student achievement.
- Require the agency to identify promising practices from grant programs and disseminate that information to school districts via its Web site.
- TEA should make grant application and award processes available online by 2007.

Key Findings

- TEA lacks the information necessary to determine whether grant funding is positively impacting student achievement.
- Without comprehensive performance and spending information, lawmakers, districts, and TEA cannot effectively target funding to grant programs and activities that actually improve student success.
- TEA has not provided guidance for districts to build highly effective, targeted programs.
- School districts must navigate burdensome administrative processes to access limited amounts of grant funds.

Conclusion

The State provides more than \$3 billion in grants to public schools through 73 state and federal programs. Grant programs allow the State to target resources to address specific problems or student groups that need additional help to achieve academic success. The Sunset review assessed TEA's process for disbursing these funds, and whether the grant programs actually help students achieve academic success.

The Sunset review found that TEA lacks the necessary information to effectively assess how schools use grant funds and the resulting impact on student performance. Without this information, TEA, lawmakers, and others, cannot effectively ensure the use of funds supports the grants' objective and ultimately improve the academic success of students they are intended to help. Further, grant administration at TEA is administratively burdensome for school districts and diverts resources from students.

These recommendations are intended to redirect the way TEA processes, awards, and evaluates grant funding to ensure schools use the grants to provide the most effective programs and activities that help school children of Texas achieve academic success.

Support

TEA administers more than \$3 billion in grants that provide targeted funding to help improve student achievement in low-performing schools.

- TEA distributes more than \$3 billion to local school districts from 73 separate state and federal programs. This funding provides enhanced educational services to targeted student populations who need assistance to improve their academic achievement. These funding sources account for about 20 percent of all funds distributed by TEA and are meant to supplement, not supplant, state Foundation School Program, and local spending.
- The agency awards these funds through discretionary and formula grant programs. The textbox, *Grant Types*, defines each type of grant. In fiscal year 2004, TEA issued nearly 11,000 grant awards. The chart, *TEA Grants*, provides additional information on the types and amounts of grant awards.
- Most grants fund similar programs and activities targeted towards many of the same groups of students. Even though the method of finance for the grant programs may be different, most have a similar purpose and serve many of the same students. Almost all of the grant programs are intended to help students improve academic performance so they can advance to the next grade and ultimately graduate.
- Common program activities include teacher training, mentoring, tutoring, academic intervention, and after-school enrichment programs. For example, both the High School Completion and the Optional Extended Year programs provide grant funds for academic intervention services for students at risk of not advancing to the next grade level. TEA administers at least 22 grant programs to help students at risk of dropping out.

Grant Types	
Discretionary:	grants are awarded through a competitive application process.
Formula:	grant entitlement and allocation amounts are determined using a formula established in state or federal law.


Most grants fund similar programs and activities targeted towards many of the same groups of students.

TEA Grants School Year 2003 – 2004				
		State	Federal	Total
Discretionary Grant Programs	Number of Awards	355	1,191	1,546
	Total Amount in Grants	\$83 million	\$319 million	\$402 million
Formula Grant Programs	Number of Awards	1,207	8,063	9,270
	Total Amounts in Grants	\$113 million	\$2.5 billion	\$2.6 billion
Grand Total of Awards		1,562	9,254	10,816
Grand Total Amount of Grant Funding		\$196 million	\$2.8 billion	\$3 billion

TEA lacks the information necessary to determine whether grant funding is positively impacting student achievement.

- TEA cannot easily determine how much grant funding school districts spend on activities that support the grant programs' goals and objectives. The agency's standard grant program budgets do not collect spending information on common activities, such as teacher training, tutoring, or other academic interventions. Instead, TEA requires school districts to submit traditional line-item budgets based on broad categories of expenditures such as personnel costs, contracted services, and others. While line-item budgets provide TEA a high degree of oversight of grant expenditures, they do not provide useful information on how much districts allocate for certain grant activities, or how those activities will improve student achievement.

TEA has taken steps to collect activity-based spending information for a few of its grant programs. However, other than the Accelerated Reading and Math Initiatives Grant, for these few grants, TEA collects only estimated expenditures based on broad ranges for each activity. Broad estimates for each activity make accurately determining how districts actually use grant funding difficult.

- Historically, the agency has developed many grant programs through independently operated departments, resulting in inconsistent types of data and evaluative information collected. Performance measures vary across programs even though many grant programs provide the same services and have similar purposes. For example, TEA does not consistently use outcome and performance information to show whether students participating in services funded through the Optional Extended Year and 21st Century Learning Centers grants improve academically.
- TEA does not regularly compile the performance information it does collect on individual grants to assess and report on the effectiveness of the overall program statewide. Some grant programs, such as the Pre-Kindergarten Expansion Grant Program, use separate, locally-developed evaluations that make evaluating overall grant effectiveness impossible. School districts provide data through grant-specific reports. However, TEA struggles to compile and report this information because it has developed mostly paper-based data collection instruments and reporting systems across the agency. Grant managers primarily focus on monitoring whether school districts spend the grant money, and less on how effectively the programs help students.

Without comprehensive performance and spending information, lawmakers, districts, and TEA cannot effectively target resources to grant programs and activities that actually improve student success.

- The lack of useful activity-based spending and performance information makes identifying how high-performing school districts allocate their funding to carry out grant activities difficult. For example, TEA cannot identify school districts operating highly effective early childhood education programs and how districts allocate their Pre-K expansion grant funds. Without this information, lawmakers cannot determine



Grant program budgets do not collect spending information on common grant activities, such as teacher training.



TEA grant performance reporting is inconsistent and paper-based.



Inconsistent performance information prevents policymakers from identifying effective program models.

the most efficient and effective ways to allocate early childhood education resources, or make programmatic changes to help improve academic performance.

- Inconsistent performance information prevents policymakers from identifying the most effective grant program models for addressing problems facing similar student groups. Additionally, TEA cannot make policy changes or recommendations to lawmakers on how to make poor performing grant programs more effective. As a result, the State may continue to fund ineffective grant programs and students may not benefit from the additional investment in state and federal funding.

For example, TEA cannot regularly assess the performance and impact of similar grant programs targeting students at risk of dropping out of school. In 2003, the agency could not provide the Legislature with the information needed to make policy decisions about how the state helps these students. As a result, the Legislature had to direct the Legislative Budget Board and State Auditor's Office to evaluate the performance of programs targeting students at risk of dropping out.¹

TEA has not provided guidance for districts to build highly effective, targeted programs.

- School districts lack information to identify how high-performing grant recipients in other districts use grant funds and decide whether to replicate the effective strategies in their own grant program. TEA does not disseminate statewide grant program data for school districts to use as a benchmark to gauge success. School districts cannot assess and improve local performance without comparative information about their peers. The Sunset review found that schools use comparative data to improve performance on the State's accountability system. No such information is available for a similar use for improving grant programs.
- TEA misses an opportunity to effectively use its Web site to post final grant evaluation reports so other school districts can have access to this information to benefit students statewide. For example, TEA provides grant funding to comprehensively reorganize struggling schools. However, the agency does not provide examples of successful strategies learned from the grant to other school districts that are trying to improve the operations of their schools.



TEA does not disseminate examples of successes resulting from the use of grants.

The agency has taken steps to conduct its own comprehensive evaluations, but these are not complete, and are not designed to provide school districts with information to implement more effective programs using local or existing funding.

- Students in schools not participating in grant programs do not benefit from the State's investment in targeted grants. TEA provides sporadic information to schools about best practices and "what works," as discussed in Issue 4 of this report. TEA does not disseminate information learned from successful grant programs or activities to school districts not receiving grants. Even schools receiving grants need best practices information. Without this information school districts cannot make effective decisions on how to use local funds to provide targeted services to students in need.

School districts must navigate burdensome administrative processes to access limited amounts of grant funds.

- School districts must submit multiple applications to receive grant funding, diverting local school districts' time and resources toward bureaucratic processes rather than educational services to students. For example, school districts must submit 11 separate applications to receive state formula grants, such as Pre-Kindergarten expansion grants and the Optional Extended Year program. The agency has taken steps to automate a consolidated application for eight federal formula grants, under the No Child Left Behind Act. No such consolidated application exists for state formula funds.

TEA typically awards federal discretionary grants for three-to-five year cycles. However, school districts must resubmit entire application packets each year to continue receiving the grant, in addition to regular progress reports. This requirement adds a significant workload for both school district and agency staff on grants TEA has already approved.

- TEA struggles to efficiently administer grants, sometimes delaying implementation of services to students until late in the school year. The agency processes about 52 percent of grant awards within its goal of 60 days. According to TEA staff, the agency has taken steps to streamline grants administration, such as creating a new grants department. However, the agency still struggles to efficiently handle the large volume of applications, award negotiations, budget amendments, and reporting and evaluation functions required of effective program management. For example, in 2004, the agency received about 2,200 discretionary grant applications to read, score, rank, and negotiate final award amounts. Agency staff had to recruit and manage more than 1,500 volunteer grant readers.

The Sunset review found many school districts do not start spending funds until TEA approves their final budgets. In one case school districts did not receive funds for science lab equipment until the end of the school year in May.

- TEA has taken steps to automate some grant application and reporting functions through its e-Grants system. The Sunset review found school districts welcomed this change. However, the agency has not completed plans for full automation and many grants remain largely paper-based, causing school districts to submit some information electronically, and others via hard-copy. Until full automation, TEA will have to manage large volumes of paper files, diverting its staffing resources away from assisting school districts.
- Finally, the application process for discretionary grants puts small or poor school districts at a disadvantage because they do not always have dedicated staff to search for grant opportunities and write large complicated grant proposals to benefit their students. TEA already collects massive amounts of student and school demographic and performance data, but relies heavily on local districts to self-screen for eligibility and prove need for additional funding. The agency misses an opportunity to use this data to better identify and notify districts that would most likely benefit from a targeted grant.



TEA processes and awards only 52 percent of grants within its goal of 60 days.



In one case, a school district received its grant for science lab equipment at the end of the school year.

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.

Impact

School districts annually receive more than \$3 billion in grants through 73 state and federal funding programs to help students improve academic achievement. Sunset staff recognizes that changing the way the TEA disburses and evaluates the funding's impact on students will not be an easy task for the agency. However, these recommendations would help the State speed up the awarding of grants to school districts, while providing better information on the use of funds and their impact on student learning. By collecting more useful grant spending and performance information TEA would be able to identify how high-performing districts allocate their money, and disseminate information on what works to the rest of the state.

TEA has already taken steps to streamline the award process through its e-Grant system, and integrated all of its grants functions into a new department. These recommendations would better position the agency to further reform the way it processes, awards, and evaluates grant funding.

Finally, regular assessment and reporting by TEA of the impact of grant funding on student achievement will provide lawmakers and school districts with the information needed to maximize limited resources by targeting funding towards the most effective grant programs and activities. Ultimately, the schoolchildren of Texas will benefit from receiving the services they need to achieve academic success.

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.

¹ Texas House Bill 1, Article III, Section 1: Texas Education Agency, General Appropriations Act, 78th Legislature (2003). Rider 69 in TEA's budget pattern requires the Legislative Budget Board, and the State Auditor's Office to evaluate grant programs targeting students dropping out of school, develop a set of results-based performance measures common across these programs, and report findings from the evaluation to the Legislature by January 1, 2005.

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

Summary

Key Recommendations

- Require TEA to collect and disseminate best practices information.
- TEA should investigate effective uses of online courses and communicate best practices regarding the use of such courses.
- TEA should improve its Web site to be more user-friendly.

Key Findings

- TEA provides limited information on best practices to help school districts implement effective programs and practices.
- Without best practices information, school districts spend significant resources to find and develop ways to implement their own individual programs.
- TEA has not effectively provided districts with best practice direction in accessing effective online instruction.
- TEA's Web site design is cumbersome, making access to recent information difficult.

Conclusion

Schools rely on TEA to provide statewide leadership regarding all aspects of education. Increased regulations and reporting requirements heighten the need for consistent guidance to implement effective programs. With reduced on-site visits, TEA can no longer provide hands-on assistance to schools, and districts are duplicating efforts by seeking costly assistance from various sources. As the statewide leader, TEA should be a primary source in Texas for education-related best practices. Best practices, resulting from a collaboration of various education service centers, educators, and administrators, can help schools make informed decisions about education, and prevent instances of costly duplication. Sunset staff examined efforts to provide leadership through effective assessment and communication of best practices. While TEA has made limited efforts at providing such services, overall the agency has not effectively met this responsibility.

Support

School districts rely on TEA to provide guidance and support to help them comply with state and federal requirements, and improve accountability.

- As the State's education agency, TEA has the responsibility to provide leadership and guidance to public schools. Although the agency must monitor compliance with state and federal laws, it must also support school districts to ensure they are successful in improving student performance. In fact, TEA adopted a new mission in 2004 to provide leadership, guidance, and resources to help schools meet the educational needs of all students.
- Schools depend on TEA to provide direction for public education in Texas. Schools look to the agency to help them interpret state and federal laws and regulations, as well as to provide or identify tools that allow them to be successful in meeting students' educational needs. In fact, the majority of responses from a Sunset questionnaire about TEA indicated a belief that TEA's primary role should be to provide support and guidance to school districts.



Many districts duplicate efforts to obtain best practices information, wasting time and money.

TEA provides limited information on best practices to help school districts implement effective programs and practices.

- While TEA does a good job of interpreting laws and clarifying requirements for school districts, the agency does not consistently provide best practices information that shows how some schools and districts have successfully implemented programs and achieved positive results. TEA furnishes information on various policies and procedures on its Web site and via e-mail, but the agency provides few concrete examples or tools to assist schools in ensuring efficient and effective implementation.

The best practices information the agency does provide is limited, and furnished by individual programs, not agency-wide or in a central location. For example, TEA's Dropout Prevention Clearinghouse provides information on effective dropout prevention programs and practices, as well as availability of funding for dropout prevention and recovery programs.¹ Districts can use this information to help implement their own dropout prevention programs. However, this type of information cannot be found throughout the agency.

Without best practices information, school districts spend significant resources to find and develop ways to implement their own individual programs.

- Many districts duplicate efforts to obtain best practices information, resulting in unnecessary time and expense. Researching how other districts have implemented certain programs is time-consuming and redundant. Responses to the Sunset staff questionnaire discussed how many districts spend significant amounts of money duplicating other districts' efforts, such as creating and aligning their curriculum with the Texas Essential Knowledge and Skills (TEKS) elements. Some districts

hire costly education consultants to provide guidance on everything from financial management to curriculum development. Education service centers (ESCs) provide various services to districts, but charge fees as well. For example, one ESC provides various resources to assist schools with federal and state compliance requirements, but even the cost of printed materials can be up to \$475 for each district.²

- As discussed in Issue 3, TEA does not provide best practices information on grant programs it administers because the agency does not regularly assess school districts' performance implementing the grants. The agency has taken steps to disseminate information on research-based best practices for some programs, such as the State's Reading and Math Initiatives, but does not for many others. As a result, school districts miss the opportunity to implement successful strategies, and waste resources developing new ones.

Another area lacking best practices is curriculum. Many districts spend significant time and resources to develop TEKS-aligned curriculum. Districts hire curriculum integration specialists to develop a curriculum framework, or pay teachers up to \$25 per hour to formulate lesson plans aligned with TEKS. Though TEA has Texas Assessment of Knowledge and Skills (TAKS) information booklets that serve as general guides, districts need specific examples of successful curricula. Although TEA should not endorse specific curricula, it could merely provide information on TEKS-aligned curricula developed by other districts.

TEA has not effectively provided districts with best practice direction in accessing effective online instruction.

- Though TEA has addressed technology areas required by the Legislature, the agency has not taken steps to advance the use of online instruction in the classroom by providing best practices information. Specifically, TEA has not provided leadership regarding the availability, access, and best use of online courses. Many districts are unaware of the widespread availability of online courses. For example, small school districts cannot always provide certain enrichment courses, which may be available online. Online instruction can provide a variety of curricula previously unavailable to small, often rural districts, due to cost or limited enrollment.

Although TEA has some information about online instruction on its Web site, the availability, access, use, and financial impact of online courses is not thoroughly addressed and disseminated by TEA. Rather than showing leadership and guidance in the use of online courses, TEA's primary approach is to simply respond to questions on a case-by-case basis. For example, TEA provides a short list of online courses currently available, but only course providers who send TEA a link to their program. A comprehensive list of successful, TEKS-aligned courses would provide the information districts need to make informed decisions about implementing online instruction.

- Many states actively promote the use of online instruction. Almost every state allows districts to sponsor e-learning initiatives, and 15 states



*The availability,
access, use, and
financial impact of
online courses is not
well-addressed by
TEA.*

operate electronic high schools.³ Several online courses are developed and used here in Texas, but many districts are unaware they exist. For example, Plano Independent School District developed a comprehensive online curriculum called eSchool, which offers a variety of courses specifically aligned with TEKS.⁴ TEA should show leadership by providing thorough information about the use and accessibility of online instruction, and effective online courses currently available.

TEA's Web site design is cumbersome, making access to recent information difficult.

- Due to limited resources, TEA provides guidance and resources to districts primarily through its Web site. Although TEA's Web site contains a significant amount of information and many useful resources, it is not well organized, and does not allow users to easily access the information. The Web site does not have separate sections with targeted information for different users, like administrators, teachers, and parents. Instead, standard information is primarily organized by program area. When asked how the agency could better meet the needs of students, parents, educators, and schools, numerous responses to the Sunset staff questionnaire indicated the need for a better organized Web site with the ability to more easily locate information.
- A comment Sunset staff received several times during field visits to school districts and education service centers was that persons unfamiliar with TEA's organization or divisional responsibilities would have a difficult time finding key education information on the agency's Web site. Interviews during field visits also mentioned that the search engine is unhelpful, and usually results in identifying outdated documents instead of taking the user to the most relevant or recent information. For example, at the time of the staff review, when a user enters "NCLB" into the search engine, instead of providing a link to the NCLB program Web site, the first document identified is the NCLB booklet in Spanish.



TEA's Web site is difficult to navigate, and users have trouble searching for and accessing needed information.

Other entities have useful, informative Web sites, and provide best practices information to give guidance and support to their customers.

- Many state agencies have user-friendly Web sites, providing easy-to-find, key information in a logical framework. For example, the Texas Workforce Commission's Web site has individual portals on its home page that directs different system participants, such as employees, businesses, and service providers, to the information they need.⁵ An easy-to-use, comprehensive Web site offers the public an effective option to directly contacting the agency.
- In 2002, the United State Department of Education developed the What Works Clearinghouse (WWC) to help the education community locate and recognize best practices, and make informed decisions about education. The WWC conducts systematic reviews and reports findings on the design, evaluation, and research of each program. For example, WWC provides information on successful interventions in junior high to increase high school completion, including effective techniques such as incentives, counseling, or monitoring. WWC recognizes that "the

current nationwide emphasis on ensuring that all students and schools meet high standards has increased the demand for evidence of what works in education.”⁶

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.

Impact

Collaboration between TEA, ESCs, districts, teachers, and experts would provide a centralized resource to disseminate useful data about what works in Texas schools. A coordinated effort to identify best practices would provide schools detailed information, including specific examples of effective techniques, successful practices used by other schools, and other resources available to make informed education decisions and assist with compliance. TEA does not have the time or funds to fully evaluate and endorse particular practices. TEA staff do, however, have the expertise to identify programs and practices that work well, and has the resources to disseminate this information. This would not conflict with TEA’s regulatory function, because TEA would not endorse or mandate, or be liable for the success of any particular best practice.

Best practices, easily accessible on TEA's improved Web site, would provide the assistance schools need to prevent costly duplication of effort. TEA would also show leadership and guidance by providing thorough information about the use and availability of online courses. Online courses could meet the needs of some schools with limited ability to provide certain courses. In addition, some students raised in the computer age could achieve significant success with technology-based courses.

An organized, informative Web site would allow TEA to provide needed assistance in light of decreased staff levels. Districts would easily search for and access information online, reducing the need for direct assistance by TEA staff.

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.

¹ Texas Education Agency, *Dropout Prevention Clearinghouse*, <http://www.tea.state.tx.us/dpchse/>. Accessed: October 1, 2004.

² Region IV Education Service Center, *Resources for Monitoring and Compliance*.

³ "Technology Counts 2004," *Education Week*, vol. 23, no. 35 (May 6, 2004), p. 66.

⁴ Plano Independent School District, *Plano ISD eSchool*, <http://www.planoisdeshool.net>. Accessed: September 22, 2004.

⁵ Texas Workforce Commission, <http://www.twc.state.tx.us/>. Accessed: October 12, 2004.

⁶ United States Department of Education, Institute of Education Sciences, *What Works Clearinghouse*, <http://www.w-w-c.org/>. Accessed: August 19, 2004.

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

Summary

Key Recommendations

- Authorize the agency to establish a statewide textbook credit system.
- Require TEA to recommend a prorated maximum cost for nonconforming textbooks to SBOE.
- The agency should work with SBOE to ensure the development of clear guidelines for determining adequate TEKS coverage in textbooks.

Key Findings

- The textbook process does not maximize the use of the State's textbook funds.
- TEA's textbook review process does not ensure textbooks adequately cover the required TEKS.

Conclusion

TEA must provide Texas school districts with the highest quality, up-to-date textbooks, that fully cover the Texas Essential Knowledge and Skills (TEKS) curriculum elements and are free from factual errors. The Sunset review evaluated the agency's administration of the textbook process, including its system of adopting and purchasing textbooks, and found that TEA is not maximizing the use of the State's textbook funds. The current textbook process leads to high costs and does not fully ensure accuracy and completeness of textbooks.

Specifically, the agency pays full price for textbooks that contain as little as 51 percent of the required curriculum elements. Requiring TEA staff to recommend a lesser price for nonconforming textbooks would help maximize State textbook funds. Additionally, TEA does not encourage competition in textbook pricing, resulting in the State paying maximum prices for most textbooks. Authorizing TEA to establish a statewide textbook credit program would encourage school districts to select less expensive textbooks, and would provide additional funds for districts to use to supplement their instructional materials. These changes would also provide an incentive for publishers to more competitively price their textbooks.

The Sunset review also examined the textbook review process and found it does not fully ensure textbooks cover the required curriculum elements and are free from factual errors. The textbook review panels do not have clear direction on the necessary coverage of TEKS elements and do not always have the expertise to identify factual errors. Directing the agency to work with SBOE to ensure clear guidelines defining TEKS coverage for the textbook review process, and to include one academic expert on textbook panels, would help ensure higher quality textbooks.

Support

TEA manages textbook review, adoption, purchasing, and distribution for the Texas public education system.

- Texas is one of 22 states that uses a state textbook adoption process, whereby SBOE adopts a list of textbooks for use in classrooms statewide. TEA manages this process. The chart, *Texas Textbook Adoption Process*, illustrates the numerous steps in this multi-year process that results in new textbooks for Texas students.
- Every year, SBOE issues a proclamation soliciting bids from publishers for textbooks in designated curriculum areas and grade levels. The textbooks must contain specific Texas Essential Knowledge and Skills (TEKS) elements. These elements detail what students at each grade level should know and be able to perform in each subject. SBOE establishes a maximum cost the State will pay for textbooks in each specified subject area and grade level, based on TEA staff recommendations.
- Once publishers submit textbooks, TEA coordinates the review process, including appointing and overseeing volunteer state textbook review panels. The panels analyze the textbooks for required TEKS coverage and identify any factual errors. In 2004, 155 panel members working in teams of two or three reviewed 435 textbook products. The cost to the agency for this process was \$122,000.
- SBOE holds a public hearing on the reviewed textbooks, and then votes to either adopt or reject each submitted textbook. SBOE adopts two lists of textbooks. Textbooks on the conforming list cover 100 percent of the required TEKS, while those on the nonconforming list cover at least 51 percent of the TEKS. The State pays the full maximum cost for both conforming and nonconforming textbooks.
- School districts and charter schools select the adopted textbooks to use on their campuses and order them through TEA's online Educational Materials and Textbooks (EMAT) system. The State pays for adopted textbooks on behalf of school districts, rather than distributing state funds to districts for that purpose. School districts that wish to supplement their curricula may use district funds to purchase any additional instructional materials, including those that SBOE has not adopted.

The Education Code defines a textbook as a book, system of instructional materials, electronic textbook, or combination of a book and supplementary instructional materials that conveys information to the student or otherwise contributes to the learning process.


Texas is one of 22 states to use a state textbook adoption process.


The State pays the maximum cost for all adopted textbooks, including those that do not fully cover TEKS.

The textbook process does not maximize the use of the State's textbook funds.

- The State pays the maximum cost for all adopted textbooks, including those that do not fully cover the TEKS. The table, *Textbook Adoption and Purchasing*, provides more detail. SBOE establishes the maximum cost based on recommendations from TEA staff, from which SBOE

Texas Textbook Adoption Process

Year 1

May

SBOE issues proclamation, including maximum costs.

Year 2

December

Publishers file statement of intent to bid with TEA.

Year 3

February / March

Commissioner appoints State Textbook Review Panels.

April

Publishers submit official samples to TEA for review.

June / July

- State Textbook Review Panels meet in Austin to evaluate samples.
- TEA hires contractor for factual error evaluation.

July

- SBOE may hold public hearing on textbooks.
- Contractor reviews books for factual errors.

August

Contractor submits error report to TEA. TEA sends error report to publishers for responses.

September

- SBOE holds public hearing on textbooks.
- Publishers agree to correct errors or request show-cause hearing to appeal errors.

October

Commissioner issues final recommendations on textbooks and report of required error corrections.

November

SBOE adopts or rejects textbooks.

December

School districts receive adoption information.

Year 4

January – March

Local school districts review and select adopted textbooks.

April – May

School districts place orders for new textbooks.

June – August

- Textbooks shipped to districts from Texas depositories.
- TEA hires contractor to audit corrected textbooks for factual errors.

September – November

- TEA curriculum staff audit final corrections for compliance.
- Publishers pay penalty for uncorrected errors or request hearing.

Textbook Adoption and Purchasing			
	TEKS Coverage	Cost Paid by State	Local District Action
Conforming	Covers 100 percent of TEKS.	100 percent	May select any textbook from list.
Nonconforming	Covers 51-99 percent of TEKS.	100 percent	May select any textbook from list. SBOE policy instructs districts to notify parents.
Rejected	Covers 50 percent of TEKS or less.	None	Must use local funds.
Nonadopted Textbooks in Enrichment Areas	None	Up to 70 percent of maximum cost for that subject area.	May select any textbook for enrichment courses but must pay the price difference using local funds.

rarely diverges. TEA has never recommended, and SBOE has never adopted, a lower maximum price for nonconforming books that do not cover all of the required TEKS elements.

- School districts have no incentive to consider cost when purchasing textbooks, since the State pays for all adopted textbooks, whether they are conforming or nonconforming; and whether they are priced at or less than the maximum cost. Since 1999, TEA has spent about \$45 million to buy 1,375,000 nonconforming textbooks, an average of \$7.4 million for 229,000 nonconforming books each year.¹ The State also pays 70 percent of the cost of textbooks in enrichment curriculum areas that have not been adopted, while districts are responsible for the remainder of the cost of these materials. Since 1995, TEA has paid \$164,915 for enrichment-area textbooks outside of the adoption list.
- When SBOE adopts textbooks priced less than the maximum cost, the State saves money if districts select these books. A price difference of less than a dollar between two adopted books could seem minimal on the campus or district level. At the state level, however, a savings of a few cents on every textbook in the 1,037 school districts in the state becomes significant.
- For example, in 2003, school districts ordered textbooks for high school World History Studies courses. SBOE set a maximum cost of \$61 for adopted World History textbooks, and adopted six books from which school districts could choose. TEA spent \$19,994,819 on 328,165 of these textbooks that year. While most of the books were priced at or a penny less than the maximum \$61, one book cost \$60.25. As an example, if all districts had chosen the book costing \$60.25, the State could have saved almost \$222,878.
- Recognizing the potential to maximize textbook funds, the Legislature, in 2001, required TEA to conduct a textbook credit pilot, with a report on the use of the credit system due to the Legislature in 2005. In the pilot, a school district choosing books priced lower than the maximum cost retains 50 percent of any savings, to use for additional adopted


School districts selecting adopted textbooks have no incentive to consider the price of a book.

textbooks or electronic instructional materials. The remaining 50 percent of the savings returns to TEA for deposit in the State Textbook Fund.

- The agency's pilot used a small sample to evaluate the feasibility and potential savings of a textbook credit system. TEA's implementation of the broad directive to create a textbook credit pilot resulted in a program of limited scope. TEA began the pilot in 2002 with ten school districts, then added an additional ten districts to the program each year for a final total of thirty participating districts, which equals 2.4 percent of all Texas school districts and open enrollment charter schools.

The third year of the pilot is the 2004-2005 school year, for which the State purchased only high school biology books and textbooks for English as a Second Language (ESL) in grades three through five, a fraction of the total number of textbooks projected for purchase. Most of the prices for biology and ESL textbooks fell within pennies of the maximum cost, further limiting potential savings for the 2004-2005 school year. Consequently, any response by publishers in the form of lower-priced textbooks for Texas was highly unlikely. Publishing companies rarely change their business practices based on the activity of a very small segment of the market.

- Despite the small sample size and the minimal textbook purchases for the 2004-2005 school year, the textbook credit pilot has generated a total of \$161,431 in savings to the State as of October 2004. Assuming these results are representative of the whole state, if every school district and charter school had participated, the State had the potential to save \$6,677,862 on textbooks during the three years of the credit pilot. An equal amount of money would have been retained in local school districts for instructional materials.

TEA's textbook review process does not ensure textbooks adequately cover the required TEKS.

- Each textbook adopted for use in Texas classrooms must undergo a full and complete investigation to ensure that it meets manufacturing specifications, covers the required TEKS elements, and is free of factual errors.² The state textbook review panels conduct these investigations.
- The current review process has no clear or consistent definition as to what constitutes full coverage of each TEKS element. Although SBOE established an informal administrative policy in February 2004 stating that a textbook should include three examples of each TEKS element to ensure full coverage, confusion still exists among SBOE members, TEA staff, and the public about the required coverage. The July and September 2004 SBOE textbook hearings included extensive discussion about what constitutes adequate coverage of TEKS. SBOE members repeatedly asked TEA textbook and legal staff to clarify the concept of coverage, while members of the public interpreted the concept differently in their testimony as well.³
- The statute does not provide any guidance on what constitutes full coverage and SBOE's informal policy requiring three examples of each TEKS has not been adopted in rule. As a result, SBOE and TEA will



TEA used very few districts in its textbook credit pilot program, limiting its applicability.



TEA has not defined adequate coverage of TEKS for use in evaluating textbooks.

not be able to enforce the policy if a question arises about full coverage. Without a rule or statutory direction, SBOE will not be able to hold publishers accountable for covering TEKS only once or twice in a textbook, or to place a textbook on the nonconforming list or reject it because it does not adequately cover the TEKS.

- Without a clear definition, TEA has provided inconsistent and conflicting instructions as to what constitutes full TEKS coverage. In 2004, TEA staff instructed review panel members to find and record three examples of each TEKS to ensure full coverage. However, previous panels had been told only to find sufficient coverage of the TEKS, without specific direction as to how many examples constituted sufficient coverage. Before the 2002 Proclamation, TEA instructions stated that each TEKS element only needed to be covered once in the textbook to comply with the law of coverage.

The lack of a clear expectation or requirement can also result in publishers developing textbooks that do not fully cover the TEKS because of misinterpretations of the definition of coverage. For example, in 1997, the first year of the TEKS requirements, every textbook for Algebra II was designated nonconforming.

Textbook review panels do not have the necessary expertise to identify factual errors.

- TEA charges review panels with evaluating textbooks to ensure they contain no factual errors that could inhibit student learning, but the agency does not structure the panels appropriately to ensure full review of the textbooks. Most panel members are experienced primary and secondary educators, with few academic or professional experts in the subject addressed who have the depth of knowledge to identify all factual errors. The chart, *Representation on State Textbook Review Panels Since 2001*, details the professions of TEA-appointed participants on the recent panels. When TEA does appoint academic experts to review panels, which staff is not required to do, subject experts do not serve on every panel or review every textbook in core curriculum areas.
- As a result of the inadequate structure of the panels, TEA in the past several years, has contracted with education professionals and, more recently, Texas universities, to conduct a second review of each book for factual errors. For example, in 2003, during the reviews for high school biology textbooks, the agency instructed the review panels to evaluate the textbooks for TEKS coverage and factual errors. Panels identified few substantial factual errors in the biology books, and TEA contracted with Texas A&M university professors to conduct a second review for factual errors at an additional cost of \$18,000.
- Academic experts have consistently identified factual errors that the textbook review panels overlooked. In one of the biology textbooks, the original review panel noted only needed editorial changes and did not find any factual errors. However, expert reviewers at Texas A&M University identified 29 factual errors requiring correction by the publisher.⁴ The reviewers for a second textbook found that the Student Edition drastically underestimated the current rate of human population



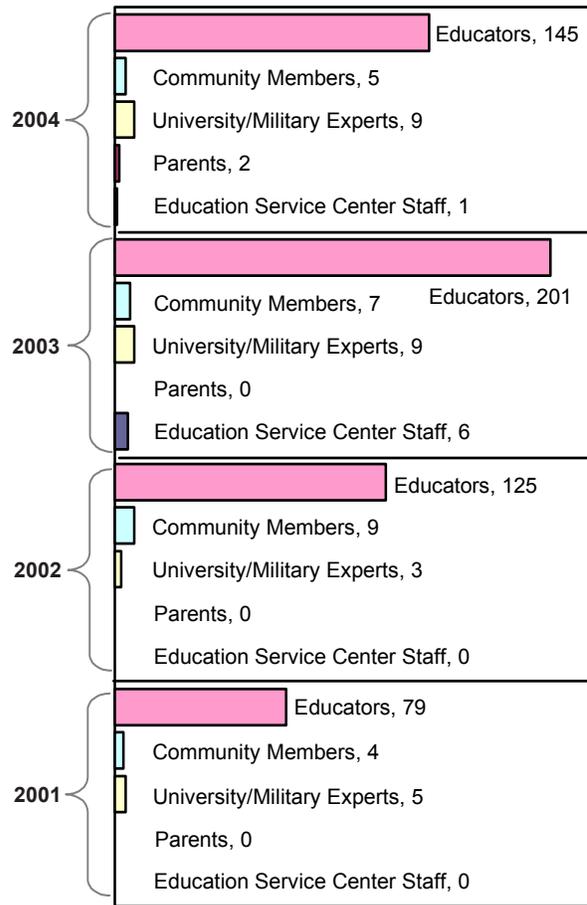
The agency does not structure state textbook review panels to ensure full evaluation of textbooks for factual errors.

growth, citing a growth rate of 1.3 million people each year, when the correct rate is closer to 85 million.

Texas textbooks are not updated in a timely manner.

- Once adopted, textbooks cannot be reviewed again for updating until the end of the adoption cycle, typically six years later. SBOE rules provide an exception for publishers who wish to submit a revised or substituted edition of the adopted textbook to TEA, and provide for SBOE to review any substituted submissions that differ substantially in TEKS coverage from the original textbook. Publishers have taken advantage of this provision only 19 times since 1997. The six-year cycle requires schools to use the books through the full contract period, resulting in some students using textbooks with out-of-date information that may not include necessary TEKS elements.
- Students in some subjects may use books that are eight or nine years old. The Legislature’s recent textbook payment deferrals and the cancellation of Proclamation 2003 may result in TEA delaying certain subject area textbook adoptions. Textbooks for technology applications, for example, were last adopted in 1995, and were reviewed and adopted in 2003, but because of deferrals and other changes will not be in classrooms for student use until at least 2005. Old textbooks that do not cover the necessary TEKS are a handicap to students, particularly in a subject like technology, where significant advances have occurred since 1995.
- TEA addressed updating to a limited extent in the 2003 adoptions, which included technology applications materials. Staff recommended SBOE adopt a staggered maximum cost for these materials, with an increase every two years during the adoption to encourage publishers to update technology content as more advanced information became available. The agency has not, however, established a process to provide for regular updating in other academic areas, even for online textbooks or adopted textbooks with online or electronic components.

Representation on State Textbook Review Panels Since 2001



★

Outdated textbooks that do not cover the necessary TEKS handicap student achievement, particularly in rapidly changing subject areas.

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.

Impact

These recommendations would improve the current administration of the Texas public education textbook system. SBOE and TEA could better manage the use of the State's textbook funds to ensure Texas is getting the best value for its textbook dollars by not paying full price for books that do not contain all of the required TEKS elements. TEA's recommendation of a pro-rated maximum cost for nonconforming books would encourage SBOE to use its authority to adopt prices that would maximize the use of the State's textbook dollars.

Allowing school districts to receive credit for selecting less expensive textbooks could create significant savings on textbook purchases for the State. Establishing the textbook credit system throughout the state would enhance competition with an incentive for publishers to consider developing and offering fully conforming, error-free books at lower costs. Establishing a clear definition of TEKS coverage and including subject area experts on textbook review panels, as well as developing a consistent method for identifying factual errors, would increase the effectiveness of the textbook review process. Also, establishing a plan to update textbooks would help the agency to ensure that all Texas students have access to high quality, current textbooks.

Fiscal Implication

These recommendations would have a positive fiscal impact to the State. Requiring TEA to recommend a prorated price for nonconforming books could create significant savings for the State. Expenditures in the past six fiscal years for nonconforming textbooks averaged about \$7.43 million each year. If the cost rate were aligned with the percentage of TEKS coverage in the textbook, the State could conceivably save up to \$3.6 million per year.

Establishing a statewide textbook credit system would generate savings for the State Textbook Fund and local school districts by splitting the difference between the price of books purchased below the maximum cost and the cost limit to revert to the fund for future textbook purchases. The savings generated by the textbook credit pilot, involving 2.4 percent of Texas school districts and open enrollment charter schools, was \$154,104 after the first two years. By dividing this amount by the first two years of the pilot and by the twenty school districts participating at that time, each district saved an average of \$3,850. When applied statewide, an estimated annual savings of \$4.8 million would result.

<i>Fiscal Year</i>	<i>Savings to the State Textbook Fund</i>
2006	\$4,800,000
2007	\$4,800,000
2008	\$4,800,000
2009	\$4,800,000
2010	\$4,800,000

¹ Texas Education Agency, *Comparison of Conforming and Nonconforming Purchases: 1999-2004*.

² Texas Education Code, sec. 31.023.

³ Texas State Board of Education, Proclamation 2002, public hearing (Austin, Texas, July 14, 2004), pp. 11-15, 41-42, 84, 121-123.

⁴ Texas Education Agency, *The Report of the Commissioner of Education Concerning Required Corrections of Factual Errors: Proclamation 2001* (Austin, Texas, November 6, 2003).

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

Summary

Key Recommendation

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

Key Findings

- The regulation of a private industry does not fit with TEA's core purpose and functions.
- The Legislature has moved toward administrative consolidation of many occupational licensing programs.
- Transferring the Driver Training program to TDLR would increase administrative efficiency.
- Nonstandard licensing and enforcement provisions of the driver training statute could reduce the program's effectiveness in protecting consumers.

Conclusion

TEA's Driver Training program regulates 983 commercial driver education and driving safety schools, and 3,505 private driver education and driving safety instructors. The program does not regulate driver education classes or instructors in public schools. The Sunset review evaluated the Driver Training program and concluded that regulation of the private driver training industry, including ensuring a fair, competitive business environment, is outside the agency's main functions and strains the already limited resources at TEA. Transferring the licensing and regulation functions of the Driver Training program to the Texas Department of Licensing and Regulation (TDLR) would improve administration, and allow TEA to refocus staff efforts on the agency's principal goals relating to primary and secondary education in Texas.

The Sunset review also compared the Driver Training program's statute, rules, and procedures to model licensing standards developed by Sunset staff from insight gained through 25 years of licensing agency reviews. Sunset staff identified variations from the standards relating to licensure qualifications, complaint filing, and flexible fees. Based on these variations, staff identified recommendations needed to bring the regulation of the driver training industry in line with model standards, which would improve the program's ability to serve the public and increase efficiency of operations.

Support

TEA regulates the delivery of private driver education and driving safety courses to the public.


TEA's Driver Training program regulates the private driver education and driver safety industry in Texas.

- TEA's Driver Training program regulates the private driver education and driving safety industry in Texas. The textbox, *Driver Training in Texas*, provides additional detail on driver education and driving safety courses.
- TEA approves curricula and materials to be used for the education and safety courses; issues licenses for driver training schools, course providers, and instructors; oversees the license renewal process; and provides certificates of course completion. The program is funded through fees it collects for each of these functions. In fiscal year 2004, the program collected about \$2.18 million in fees, and TEA received about \$1.52 million to operate the program.
- TEA monitors driver training facilities through on-site inspections to ensure compliance with required course length, facility specifications, instructor requirements, and other regulated areas.¹ The program also investigates complaints against licensed schools, instructors, and course providers. In fiscal year 2004, program staff resolved 30 of the 45 open formal investigations, and made 195 visits to driver training programs for compliance, investigation, or inspection purposes. Additionally, Driver Training staff received and resolved 28 complaints that did not require formal investigations.

Driver Training Program

In 1989, the Legislature transferred the Driver Training program from the Department of Public Safety to TEA. TEA operated the program until 2003 when it contracted with Region XIII Education Service Center in Austin to operate the program. In April, 2004, TEA brought the function back in-house in response to industry objections that the Education Service Center lacked appropriate authority to regulate a private industry.


The Driver Training program collected about \$2.18 million in fees in 2004.

Driver Training in Texas

- **Driver Education** courses instruct students in the initial skills and knowledge associated with driving and traffic safety, with the end goal of acquiring a driver's license. Driver education courses are offered both in public schools and privately through TEA-approved commercial driver education schools. TEA currently regulates about 255 private driver education schools, and 1,608 licensed driver education instructors.
- **Driving Safety** courses, also known as "defensive driving" or ticket reduction schools, provide a course of instruction intended to improve the driver's knowledge, perception, and attitude about driving, often following a driving-related incident. Driving safety courses may be offered either in a traditional classroom setting or through alternative delivery methods like video or the Internet. TEA currently regulates about 728 driving safety schools, and 1,897 licensed driving safety instructors.

The regulation of a private industry does not fit with TEA's core purpose and function.

- TEA's primary role is to support and oversee the public education system in Texas. Since 1995, the agency has made efforts to focus its functions

to better reflect its mission of providing leadership, guidance, and resources to help ensure all Texas students receive an adequate education. In 2003, as a result of the State's budget crisis that significantly reduced TEA's budget, the agency underwent an extensive reorganization and downsizing to streamline its functions and focus staff efforts on fulfilling that primary purpose.

- The agency's interaction with school districts is one of support and oversight, not of extensive regulation. TEA provides funding to local school districts, manages the State's accountability system, and oversees efforts relating to direct student services, such as student assessment and curriculum development. The agency's primary role does not include establishing procedures to ensure a fair and competitive business environment in Texas for private industries.
- TEA staff do not generally have the expertise necessary for addressing the regulation and licensing of a large industry in the private sector. TEA has eliminated the majority of its inspection and investigation functions and no longer provides licensing services or collects fees for other industries. Staff do not have the historic perspective unique to the driver training industry to deal with complicated issues such as technological advances allowing for online courses and frequent interaction with the Texas court system. Consequently, the agency must employ a separate staff of 17, with a very specific skill set, to work in the Driver Training program.


TEA's primary support and oversight role for school districts does not involve regulation of private industries.

The Legislature has moved toward administrative consolidation of many occupational licensing programs.

- The Legislature created the Texas Department of Licensing and Regulation (TDLR) in 1989 to act as the State's occupational licensing agency. TDLR currently regulates 22 different occupational licensing programs, listed in the textbox, *Regulatory Programs at TDLR*. Indicating continued interest in consolidation, in 2003 the Legislature added three regulatory programs: Electricians, Legal Service Contracts, and Loss Damage Waivers. TDLR's ability to efficiently incorporate new programs sets the stage for continued consolidation of smaller licensing programs.
- The House Committee on Licensing and Administrative Procedures has a current interim charge to study and identify licenses and duties that could be more effectively handled by TDLR, as well as an evaluation of cost-savings and policy implications of consolidation.

Regulatory Programs at TDLR
Air Conditioning and Refrigeration
Architectural Barriers
Auctioneers
Boilers
Career Counseling Services
Combative Sports
Court Interpreters
Electricians
Elevators, Escalators, and Related Equipment
Industrialized Housing and Buildings
Legal Service Contracts
Loss Damage Waivers
Personnel Employment Services
Property Tax Consultants
Service Contract Providers
Staff Leasing Services
Talent Agencies
Temporary Common Worker Employers
Vehicle Protection Product Warrantors
Water Well Drillers
Water Well Pump Installers
Weather Modification



TDLR has the existing framework and expertise to absorb the Driver Training program.

Transferring the Driver Training program to TDLR would increase administrative efficiency.

- TDLR has the existing framework and expertise to absorb the functions of the Driver Training program and ensure overall effectiveness. TDLR organizes its oversight of different programs by workflow functions – licensing, compliance, enforcement, and administrative and support services – to streamline processes for each program. Unlike at TEA, this organization allows staff to develop expertise in specific functions.
- TDLR’s inspectors are cross-trained to inspect many of the agency’s programs, and are located in six regional offices around the state. Regional inspection offices would eliminate the need for Driver Training staff to travel throughout the state to inspect driver education and driving safety schools.
- Sunset staff evaluated several state agencies that might be able to perform the functions of the Driver Training program, including the Texas Department of Public Safety (DPS), where the program was housed until 1989, and the Texas Department of Transportation (TxDOT), which also has an interest in motor vehicle and traffic safety issues. While both agencies perform functions that relate to the driver training industry, Sunset staff concluded that the Texas Department of Licensing and Regulation, with its expertise in licensing and protecting the public interest, as well as frequent contact with private industries, would be the most appropriate agency to handle these functions.

The Driver Training program performs many activities common to other occupational licensing programs.

- The Sunset Advisory Commission has a historic role in the evaluation of licensing agencies and programs, including conducting more than 80 occupational licensing agency reviews. Based on this historical perspective, Sunset staff identified several ways that TEA’s Driver Training program performs functions common to other occupational licensing agencies, including issuing licenses and renewals; collecting fees; ensuring industry compliance; and enforcement practices.

Nonstandard licensing and enforcement provisions of the driver training statute could reduce the program’s effectiveness in protecting consumers.

- *Licensure qualification.* Statutes or policies of agencies should not require qualifications for licensure that cannot be concretely determined. Also, an agency’s application of qualifications related to felony and misdemeanor convictions should be guided by the standards contained in the Occupations Code, Chapter 53, “Consequences of Criminal Conviction.”
- Currently, the Driver Training program requires all driver training entities seeking licensure to be of good reputation and character, which is open to interpretation and not directly related to the practice of driver training.² Since January 2002, Driver Training staff has denied 19 instructor licenses based on the good reputation qualification. The Occupations Code instructs each state licensing authority to issue public

guidelines stating the reasons a particular crime relates to particular licenses, and permits authorities to deny, reduce, or suspend licenses for convictions that directly relate to the duties of licensees. The Driver Training program has not issued such guidelines on its licensing processes. Eliminating discussion of good reputation and character in the agency's statute and rules and issuing clear guidelines under the Occupations Code would clarify the licensure requirements for driver training entities. These changes would ensure that only suitable individuals are involved in providing and teaching driver training courses to Texans.

- **Complaint filing.** Sunset staff has found that licensing agencies are not always sufficiently active in making the public aware of complaint processes. Currently, TEA requires licensed schools to provide the Driver Training program's address and telephone number to every student in the event the school is unable to resolve a grievance. The program does not, however, include information about filing a complaint in an easily accessible location on the Driver Training Web site. Displaying this information on the Web site, and requiring driver education and driving safety schools to provide the Web address to students, would allow consumers to more easily file complaints in the appropriate format with the appropriate staff.

Setting fee caps in statute reduces the Driver Training program's administrative efficiency and the agency's flexibility to adapt to changing circumstances.

- **Flexible fees.** The Legislature has established a practice in many occupations of eliminating capped fee amounts in statute and allowing agencies to set fees by rule. Eliminating statutory fee caps allows for greater administrative flexibility, and is consistent with a provision in the General Appropriations Act that requires agencies to set fee amounts necessary to cover the cost of regulation. When an agency sets fees through rule, the public and the industry have the opportunity to comment. TEA has not recommended that the Legislature adjust any driver training fees since receiving the Driver Training program in 1989.



Developing guidelines for issuing licenses to individuals with criminal convictions would ensure only suitable individuals provide and teach driver training courses.

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.³

Impact

Transferring the regulation of driver education and driving safety schools, instructors, and course providers to TDLR would improve the regulation of this industry. Placing the regulatory oversight authority with an agency entirely devoted to promoting public safety, while ensuring a fair and competitive business environment for regulated industries in the private sector, would better ensure the continued appropriate licensure of driver training entities. Adjusting the statute to comply with standard licensing and enforcement practices would strengthen the regulation of the driver training industry, and better ensure the safety and well-being of both the public and industry licensees.

Fiscal Implication

These recommendations would result in an annual estimated \$145,525 savings to the State and a reduction in three full-time equivalents (FTEs). Transferring the functions of the Driver Training program to TDLR would result in savings from reduced administrative costs and FTE positions by taking advantage of the administrative structure of TDLR and its ability to incorporate this program. TDLR trains and bases inspectors in several areas throughout the state. These inspectors could be cross-trained to provide additional compliance inspection coverage in key urban areas, resulting in a likely reduction in necessary travel funds for program staff.

The Driver Training program's current appropriation and FTEs, less the reductions discussed above, would be continued and transferred to TDLR to administer the program. These recommendations would transfer 14 FTEs to TDLR. The current appropriation for the program, \$1.09 million for fiscal year 2005, includes sufficient funding to cover indirect costs, such as legal assistance, human resources, agency infrastructure, and technical assistance/computer management.

<i>Fiscal Year</i>	<i>Gain to the General Revenue Fund</i>	<i>Change in Number of FTEs from FY 2005</i>
2006	\$145,525	-3
2007	\$145,525	-3
2008	\$145,525	-3
2009	\$145,525	-3
2010	\$145,525	-3

¹ Texas Education Code, sec. 1001.053(a)(4).

² Texas Education Code, sec. 1001.204(9); Texas Education Code, sec. 1001.205(6); Texas Administrative Code, Title 19, part 2, rule 176.1006 (a)(1); Texas Administrative Code, Title 19, part 2, rule 176.1107(a)(1).

³ Texas Occupations Code, sec. 53.025.

Texas Has A Continuing Need for the Texas Education Agency.

Summary

Key Recommendation

- Continue the Texas Education Agency for 12 years.

Key Findings

- The Texas Education Agency's mission is to provide leadership, guidance, and resources to help schools meet the educational needs of all students.
- Texas has a constitutional mandate to oversee and support the state public education system.
- No substantial benefits would result from transferring TEA's functions to another agency.

Conclusion

Ensuring the provision of public education is a state responsibility. The Texas Constitution requires the Legislature "to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."¹ As such, the State must provide an efficient public education system that ensures each student has access to programs and services that are appropriate to the student's educational needs. Together, the State Board of Education, the Commissioner of Education, and the Texas Education Agency manage and oversee the public education system in Texas. Each has separate powers and duties related to the management and oversight of the decentralized public school system, which includes 1,037 independent school districts and 204 charter schools that provide local public education services.

The State Board of Education is no longer subject to Sunset review; therefore, the review focused on the need for TEA as an independent agency to provide leadership, guidance, and resources to local school districts. The review found that the state needs an organization such as TEA to ensure the public education system provides a quality education that results in student academic success. The review also assessed whether another agency could better perform these functions, including consolidating the agency with the Higher Education Coordinating Board. Sunset staff concluded that no other agencies currently duplicate TEA's functions, and although other agencies could perform the agency's functions, consolidation would not necessarily lead to improved coordination, and could create an education bureaucracy with the potential to decrease efficiency and effectiveness.

Support

The Texas Education Agency's mission is to provide leadership, guidance, and resources to help schools meet the educational needs of all students.

- In 1995, the Legislature transferred the duties of the Central Education Agency to TEA, and specified separate powers and duties for the Commissioner of Education (Commissioner) and SBOE. Together, SBOE, Commissioner, and TEA manage and oversee the Texas public education system, including local school districts, charter schools, and education service centers.

To accomplish its mission, TEA carries out several key functions to support and oversee the public education system in Texas, which are described in the textbox, *TEA Key Functions*.


TEA supports and oversees the State's public education system.

TEA Key Functions

- Develops student educational program standards based on statewide curriculum requirements, the Texas Essential Knowledge and Skills (TEKS), set by SBOE.
- Administers the statewide student assessments, including the Texas Assessment of Knowledge and Skills (TAKS).
- Develops and manages the state and federal performance accountability systems using students' results from the statewide assessments.
- Distributes and ensures proper use of state and federal funding to public schools.
- Monitors school districts, charter schools, and ESCs for 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 books.

- Texas' public education system includes more than 7,700 school campuses located in 1,037 independent school districts and 204 charter schools. Together, these schools serve more than 4.2 million students in kindergarten through 12th grade. Additionally, 20 Regional Education Service Centers provide training, technical assistance, administrative support, and other services to meet the needs of these school districts and charter schools. The 78th Legislature appropriated \$30.1 billion to support the public education system in the 2004-2005 biennium.

Texas has a constitutional mandate to oversee and support the state public education system.

- The Texas Constitution requires the State to provide and maintain a free public education system for its students. Additionally, state law requires a thorough and efficient education system be provided so that each student has access to programs and services that are appropriate to the student's educational needs.² TEA serves to meet the State's constitutional responsibility by administering the state's public education system, and ultimately must ensure that the billions of dollars spent to educate the children of Texas provide a quality education that meets the needs of all students.

TEA administers the public education system in Texas both by distributing and overseeing state and federal education funds, and by supporting and monitoring school districts to ensure they provide quality education that results in student academic success.

- TEA distributes and ensures proper use of state and federal education funding to public schools. In fiscal year 2004, the agency distributed more than \$15 billion throughout the Texas education system to provide students a quality education. TEA administers school finance programs that provide operation and facility funding to school districts and charter schools.

TEA also manages the process for granting more than \$2.5 billion in federal and state entitlement and formula funds to school districts, and disburses about \$393 million in state and federal funds through discretionary grants. While another agency, such as the Comptroller, could distribute these federal and state funds, most funds come with specific monitoring and performance evaluation requirements tied to student performance. Therefore, the State must have an entity like TEA to perform these oversight duties that hold the recipients of the funding accountable for achieving results.

- To ensure students are receiving a quality education, TEA manages and oversees the administration of the statewide student assessment, the Texas Assessment of Knowledge and Skills (TAKS). The TAKS measures student performance on the statewide curriculum standards. Each year, TEA administers the TAKS or an alternative assessment to about 2.8 million students to measure their academic performance. Measuring and reporting this performance allows TEA and the State to determine whether schools are meeting the educational needs of the students based on their academic proficiency.
- Receipt of federal education funds under the No Child Left Behind Act is contingent on compliance with proficiency standards. TEA monitors whether students meet the required standards in reading and mathematics. Schools whose students consistently fail to meet the federal standards face sanctions that TEA enforces.
- Texas' 1,037 school districts and 204 charter schools rely on TEA to provide support and guidance in interpreting the state and federal education laws and ensuring districts comply with these laws. Responses from a Sunset staff survey indicate overwhelming support for the continuation of the Texas Education Agency. Most of the responses indicate the primary mission and functions of the agency should be to provide support and oversight to school districts to ensure students receive a quality education.

TEA has taken significant steps to refocus its mission and streamline its monitoring activities to improve its support and oversight.

- TEA has experienced significant changes including major staff and budget reductions, as well as an organizational restructuring. The agency underwent major downsizing as a result of the State's budget



TEA distributes more than \$15 billion to Texas schools.



TEA monitors conformance with the federal No Child Left Behind Act.



In 2003, the Legislature reduced TEA's budget by about \$40 million and eliminated 200 employees.

crisis that reduced TEA's operating budget by about \$40 million and eliminated about 200 employees. Faced with these reductions, the agency reorganized to operate more efficiently, and focus its activities more on results, rather than processes. While these changes are too recent to evaluate their effectiveness, TEA has clearly made an effort to meet the new legislative direction.

TEA also developed a new mission to reflect its new focus. TEA's new mission is to provide leadership, guidance, and resources to help schools meet the educational needs of all students. The mission stresses local control so that the most important decisions are made as close as possible to students, schools, and communities; but directs TEA to provide the leadership necessary to achieve state, local, and student education goals as measured through the state and federal accountability systems.

- Amid growing concerns about the efficiency and effectiveness of TEA's District Effectiveness and Compliance (DEC) audits, the Legislature in 2003 limited the agency's compliance monitoring activities. As a result, the agency integrated the majority of its program monitoring and intervention functions into a single department. This change aligned most federal programs as well as state and federal performance interventions in a single department.



As a result of budget cuts and legislative direction, TEA reorganized and refocused its mission.

TEA is also developing a new, risk-based monitoring system focused on improving student performance. Only those districts most at risk of poor student performance will be identified for monitoring intervention. On-site monitoring will only be used when other alternative interventions are considered inappropriate.

No substantial benefits would result from transferring TEA's functions to another agency.

- One alternative commonly discussed for the structure and governance of public education is the consolidation of all statewide responsibilities for elementary, secondary, and higher education sectors (often referred to as P-16 education) under a single governing board. Proponents argue the need for greater collaboration between elementary, secondary, and higher education on issues such as the improvement of students' preparation for success in college and the workforce; and educator recruitment, preparation, and retention. In addition, several states have considered the creation of a single state board for P-16 education because of the lack of current structures to address state-level, cross-sector coordination.
- Sunset staff determined no substantial benefits would result from merging the Texas Education Agency and the Higher Education Coordinating Board. A combined board responsible for P-16 education would not necessarily lead to improved state-level policy coordination or to improved institutional-level coordination among P-16 sectors. A key challenge to creating a P-16 board in Texas is the size of the state - combining the coordination and governance of the vast number of school districts and the many public colleges and universities in the state. The merger would create an education bureaucracy of unprecedented size

with the potential to decrease efficiency and effectiveness rather than increase it. Some administrative savings may result from this consolidation, but would not outweigh the disadvantages.

- State law establishes a P-16 Council to ensure coordination between state agencies administering education and workforce programs in Texas.³ The structure of the Council is shown in the textbox, *P-16 Council Composition*. The Council has worked to improve coordination among those agencies, higher education systems, independent higher education, the business community, legislative education committees, the Governor's Office, and K-12 organizations. Recognizing the importance of this coordination, TEA recently created a P-16 Coordination Office to focus on joint policy initiatives of the agency and the Texas Higher Education Coordinating Board.

<p style="text-align: center;">P-16 Council Composition</p> <p>The P-16 Council is composed of the following members.</p> <ul style="list-style-type: none">• Commissioner of Education• Commissioner of Higher Education• Executive Director of the State Board for Educator Certification• Executive Director of the Texas Workforce Commission

Every state has an agency that supports and oversees the public education system.

- Each of the 50 states has an education agency that performs functions similar to the Texas Education Agency. Although administrative structures vary, these state education agencies are typically Departments of Education or Departments of Public Instruction. Like TEA, these agencies oversee K-12 education and work with the school districts to administer the state's public education system. Like Texas, most states oversee the operations and performance of local education entities such as local school districts. Other states also provide funding, educational leadership, and technical assistance through their state education agency or department.

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.

Impact

The intent of this recommendation is to allow the Texas Education Agency to continue to carry out its mission to provide leadership, guidance, and resources to help schools meet the educational needs of all students. As a result, the agency could continue to support and monitor the state public education system to help ensure that all students achieve academic success.

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.

¹ Texas Constitution, art. VII, sec. 1.

² Texas Education Code, sec. 4.001.

³ Texas Education Code, sec. 61.077.

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.

AGENCY INFORMATION

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.


*TEA provides leadership,
guidance, and resources to help
schools meet students'
educational needs.*

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.



*TEA operates with a
\$68 million
administrative
budget and 630
employees.*

- **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.

Major Events in Agency History

- 1854** Legislature creates the Special School Fund which becomes the Permanent School Fund in 1873.
- 1867** Bureau of Education established, which later becomes the Office of Education.
- 1949** Central Education Agency established, creating an elected State Board of Education that appoints the Commissioner of Education.
- 1965** Legislature authorizes SBOE to establish regional education media centers to provide instruction-related training and services for teachers. The centers are established by 1967 and later become regional education service centers (ESCs).
- 1970** Congress recognizes education for disabled children under the Education of the Handicapped Act, which later becomes the Individuals with Disabilities Education Act (IDEA).
- 1981** The Legislature requires SBOE to establish essential elements of a statewide curriculum.
- 1984** House Bill 72 implemented, mandating sweeping changes in the Texas public education system. This comprehensive education reform legislation changed the state's system of school finance and called for a temporary appointed 15-member State Board of Education; student mastery of state-mandated competency tests for graduation; the "no pass, no play" rule; local school board training; and teacher testing and career ladders.
- 1989** First Sunset review of TEA. The State Board of Education changes from a 15-member appointed board to a 15-member elected board.
- 1993** The Legislature establishes the current structure for the school finance system.

- 1995** Major changes to the Texas Education Code, reducing state regulation of educational processes. Central Education agency abolished and its duties transferred to TEA. Powers, duties, and responsibilities for SBOE, Commissioner of Education, and TEA strictly defined and limited. SBOE removed from Sunset review. State Board for Educator Certification created and charter schools authorized.
- 1996** SBOE begins adopting curriculum for the Texas Essential Knowledge and Skills (TEKS). First charter school begins operations in Texas.
- 2002** Congress enacts the No Child Left Behind Act (NCLB), requiring accountability for student achievement, with a focus on performance of all students (including special populations), teacher quality, and school safety.
- 2003** TEA implements the current statewide assessment, the Texas Assessment of Knowledge and Skills (TAKS).
- 2004** Texas school finance system ruled unconstitutional in state district court.

Organization

The State Board of Education and the Commissioner of Education (Commissioner) oversee the Texas public education system, including local school districts, charter schools, and regional education service centers (ESCs) in accordance with state and federal laws and regulations.

State Board of Education

The State Board of Education is composed of 15 members elected from legislatively drawn districts. The Governor, with the consent of the Senate, appoints the Chair from among the elected members, and the Board elects the Vice Chair and Secretary. Board members serve staggered four-year terms. The chart, *State Board of Education Members*, provides information on the Board members and the map, *State Board of Education Districts* shows the district each member represents.

With the assistance of the Commissioner and agency staff, SBOE establishes curriculum and graduation requirements; establishes a standard of performance considered satisfactory on student assessment instruments; approves and adopts textbooks; invests the Permanent School Fund; and grants open-enrollment charters. SBOE also has authority to develop and update a long-range plan for public education, and acts as the

State Board of Education Members		
Member Name	Term Expires	SBOE District
Geraldine Miller Chair	01/07	District 12
Cynthia A. Thornton Vice Chair	01/07	District 10
Lawrence Allen*	01/07	District 4
Mary Helen Berlanga	01/09	District 2
Joe J. Bernal, Ph.D.	01/07	District 3
David Bradley	01/09	District 7
Barbara Cargill*	01/09	District 8
Bob Craig	01/07	District 15
Patricia Hardy	01/09	District 11
Mavis B. Knight	01/09	District 13
Terri Leo	01/09	District 6
Gail Lowe	01/09	District 14
Don McLeroy	01/07	District 9
Dan Montgomery	01/07	District 5
Rene Nuñez	01/07	District 1

* Term begins 1/1/05.

and campuses under the statewide accountability system; overseeing the development of the statewide curriculum; administering a data collection system on public school students, staff, and finances; and monitoring student educational programs for the purpose of compliance with federal and state regulations, financial accountability, and data integrity. The textbox, *Additional Entities in the Texas Public Education System*, discusses the roles of local school districts, charter schools, and ESCs.

Agency Staff

Currently, TEA employs 630 staff, all based in Austin. The *Texas Education Agency Organizational Chart* depicts the organization of the agency's staff. Appendix A compares the agency's workforce composition to the minority civilian labor force. The agency generally meets civilian labor force guidelines for most job categories.

Additional Entities in the Texas Public Education System

Local School Districts and School Boards

Locally elected school boards govern and oversee the management of the 1,037 school districts in Texas. These school boards implement state and federal mandates by establishing educational policies and programs to meet the needs of local schoolchildren. The school board hires a superintendent who provides administrative leadership and manages district day-to-day operations.

Charter Schools

The Legislature authorized charter schools in 1995 to increase the choice of student learning opportunities, create professional opportunities to attract new teachers, establish a new form of accountability, and encourage different and innovative learning methods in the public school system. Currently, 204 open-enrollment charters exist.

Since charter schools are a mechanism for testing a variety of educational approaches, they are exempted from some standard rules and regulations applied to traditional public schools. SBOE approves initial charter school applications, and the Commissioner of Education may approve amendments and renewals. TEA provides assistance regarding applications and renewals, and coordinates periodic training programs for charter school administrators. The Commissioner also has authority to revoke or otherwise sanction a charter.

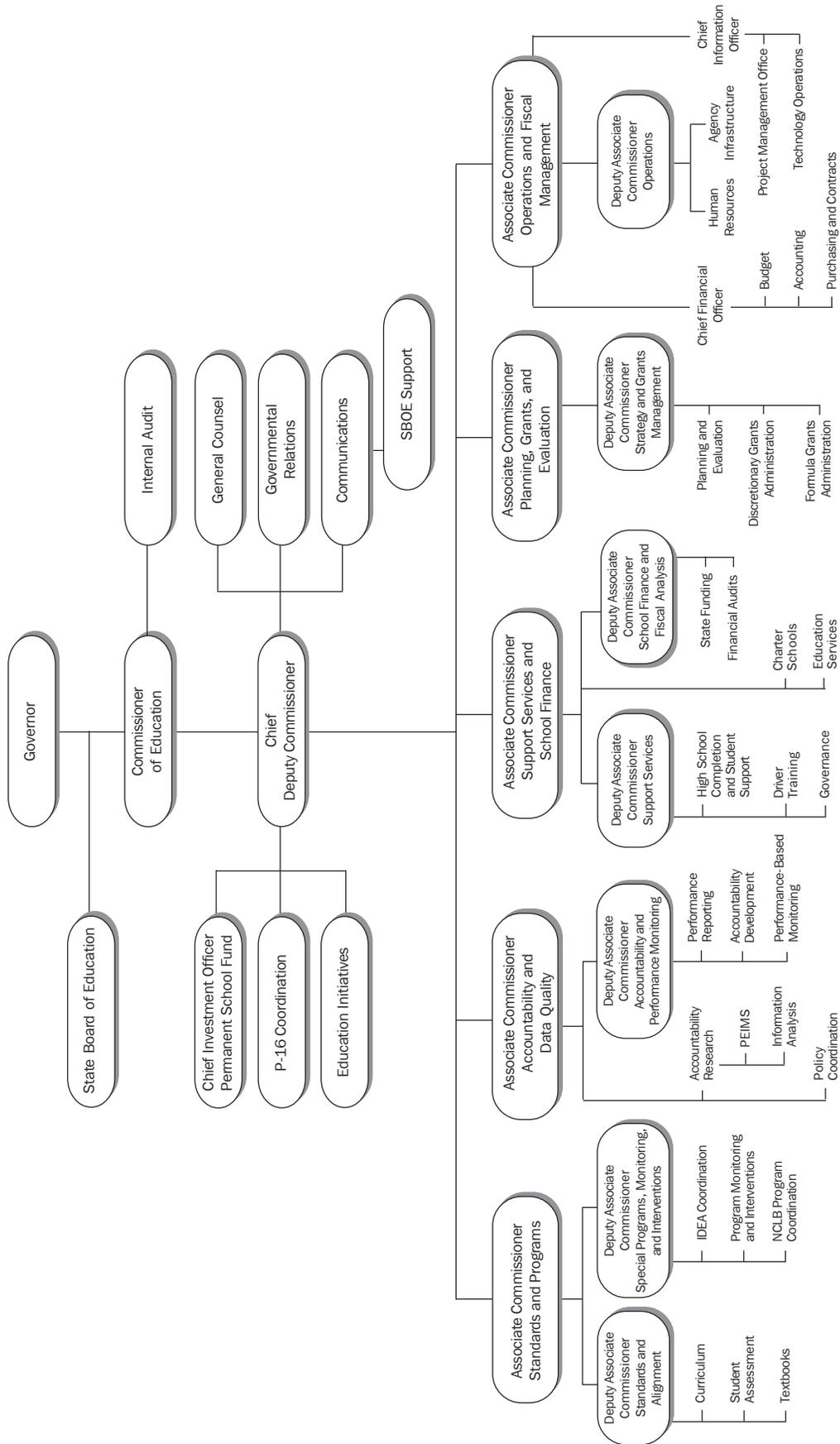
Education Service Centers

In 1965, the Legislature directed SBOE to establish 20 media centers throughout the state to help provide instruction-related training and services for teachers. Established in 1967, these media centers eventually evolved into regional education service centers (ESCs) and currently provide training, technical assistance, administrative support, and other services to meet the needs of local school districts, charter schools, teachers, and administrators in the public education system. Appendix B shows the region each ESC serves. The primary functions of ESCs are to:

- assist school districts in improving student performance in each region of the system;
- enable school districts to operate more efficiently and economically; and
- implement initiatives assigned by the Texas Legislature or the Commissioner of Education.

The ESCs offer services to school districts, private schools, governmental and non-governmental entities, charter schools, and the public. The ESCs are statutorily prohibited from performing a regulatory function. The Commissioner of Education has oversight authority over ESCs, including the authority to appoint and/or remove ESC executive directors and members of ESC boards of directors.

Texas Education Agency Organizational Chart

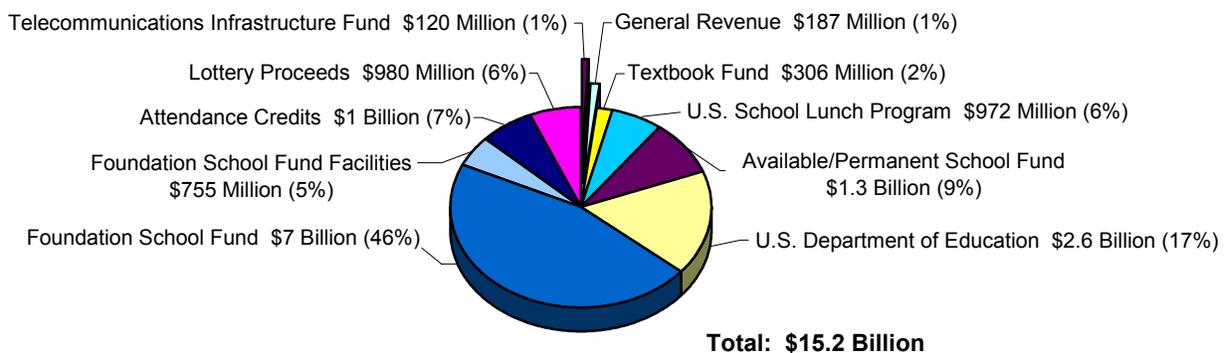


Funding

Revenues

TEA received \$15.2 billion in funding for fiscal year 2004, as shown in the pie chart, *TEA Sources of Revenue*. The Foundation School Program accounts for four sources of revenue – Foundation School Fund, Foundation School Fund Facilities, Lottery Proceeds, and Attendance Credits – which accounted for 64 percent of the agency’s total revenue. General Revenue accounted for only 1 percent of the agency’s revenue. In addition, TEA received about \$3 billion in federal funds. Other sources of revenue include the State Textbook Fund and the Telecommunications Infrastructure Fund.

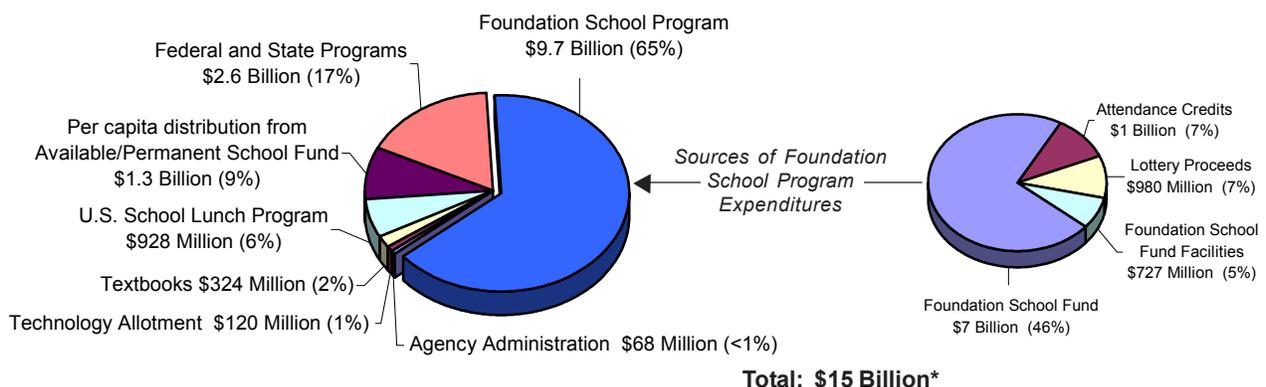
**TEA Sources of Revenue
FY 2004**



Expenditures

The pie chart, *TEA Expenditures*, depicts the agency’s expenditures in fiscal year FY 2004. The largest expenditure was the distribution of \$9.7 billion in education funds through the Foundation School Program. About \$68 million went to support the administration of the agency. Appendix C describes the agency’s use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2001 to 2004. TEA uses HUBs in the special trade and commodities categories, but generally falls behind the statewide goals in professional services and other services categories.

**TEA Expenditures
FY 2004**



* The \$200 million difference between FY 2004 revenue sources and expenditures is attributable to federal funds. Most of the federal programs receive funding for 27 months and have varying start dates.

Agency Operations

TEA supports and oversees the public education system in Texas. The agency carries out this responsibility through eight primary functions.

- Curriculum Development and Implementation
- Textbook Review, Purchasing, and Distribution
- Student Assessment
- State and Federal Performance Accountability
- Monitoring
- Distribution and Oversight of Public Education Funds
- Support Services
- Agency Administration

Curriculum Development and Implementation

In 1981, the Legislature required SBOE to establish essential elements of instruction for the subjects and courses that school districts must offer. In 1997, SBOE adopted the Texas Essential Knowledge and Skills (TEKS) to replace the essential elements with new statewide curriculum standards for public schools. The TEKS set statewide curriculum standards for the content and skills that students must know and be able to accomplish in specific subjects. TEA assisted SBOE with the initial TEKS development, and now aids Board members with any TEKS modifications.

TEA oversees the development and implementation of TEKS in public schools. The agency provides curriculum and professional development information and guidance in the 17 curriculum and program unit areas listed in the textbox, *Curriculum Areas*. TEA provides information to school administrators, counselors, parents, and students on course offerings and meeting the learning needs of students.

TEA also works to align textbook content requirements with the TEKS standards, and assists school districts with implementation of curriculum areas to comply with associated federal funding requirements. Major curriculum areas with federal funding supplements include career and technology education, educational technology, bilingual education, and early childhood education.

Curriculum Areas

Bilingual/English as a Second Language
Career and Technology
Early Childhood Education
Educational Technology
English/Language Arts
Reading
Fine Arts
Advanced Academic Services
Health/Physical Education
Languages Other Than English
Master Teacher Programs
Mathematics
Science
Social Studies
Technology Applications
Texas Math Initiative
Texas Reading Initiative


*Texas Essential
Knowledge and Skills
(TEKS) define the
curriculum content
and skills students
must know in each
subject area.*

Textbook Review, Purchasing, and Distribution

Historically funded through the state textbook fund, TEA coordinates efforts leading to the adoption of textbooks, as well as their purchase and distribution to school districts. Texas is one of 22 states that uses a statewide adoption process for purchasing textbooks for use by local school districts. The flowchart, *Texas Textbook Process*, briefly describes this process.

SBOE adopts elementary and secondary textbooks for math, science, English/language arts, and social studies, as well as enrichment areas. TEA coordinates with SBOE to facilitate the review of the textbooks for TEKS compliance and for factual errors, which are requirements for adoption.

TEA also manages the online textbook purchasing and ordering system and the distribution of these books to school districts. Texas school districts do not receive state funds to purchase state-adopted textbooks. Instead, the districts select the books, and TEA pays publishers directly from the State Textbook Fund. For the 2003-2004 school year, TEA spent \$305 million to purchase and ship about 7.6 million textbooks. Agency staff also acquire and distribute textbooks to school districts for students with disabilities who require modified books, including Braille, large type, and audiotape.

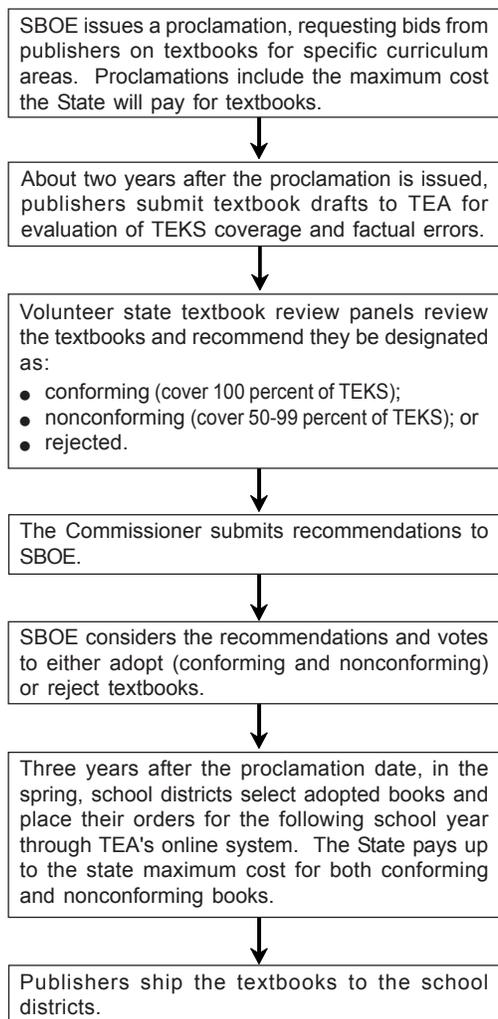
Student Assessment

TEA implements the state and federal requirements for public education testing. The Texas Assessment of Knowledge and Skills (TAKS) measures student performance in the state-mandated TEKS curriculum in various subject areas at certain grade levels. The State-Developed Alternative Assessment (SDAA) measures academic progress toward TEKS mastery for special education students for whom TAKS is not appropriate. In 2003-2004, about 2.8 million students took TAKS or SDAA. TEA also oversees other assessments to measure academic progress of students with limited English proficiency.

The State Board of Education implements the statewide assessment program to measure student achievement, and sets passing standards for students on the TAKS and other assessments. TEA assists SBOE in developing the passing standards and acts as a resource when SBOE members reevaluate the standards.

TEA oversees a \$55 million contract with Pearson Educational Measurement for the development, administration, scoring, analysis, and reporting of the TAKS and other statewide assessment instruments.

Texas Textbook Process



State and Federal Performance Accountability

TEA develops and manages both the state and federal performance accountability systems for school districts, campuses, and charter schools.

State Performance Accountability System

In 1993, the Legislature required the agency to create a public school accountability system to rate school districts and evaluate campuses. The first ratings were based on student academic performance on the statewide assessment, annual dropout rates, and attendance rates. Since then, the accountability system has evolved, but it is still based upon eight key principles shown in the textbox, *State Accountability System Principles*. The three main goals of the current state accountability system are to:

- improve the achievement of all students in the core subjects of the state curriculum;
- increase the number of students who earn a high school diploma; and
- reduce the performance and high school completion gaps among student groups.

State Accountability System Principles

- **Student Performance** – the system is designed to improve student performance.
- **Recognition of Diversity** – the system is fair and recognizes diversity among campuses and students.
- **System Stability** – the system is stable and provides a realistic, practical timeline for measurement, data collection, planning, staff development, and reporting.
- **Statutory Compliance** – the system is designed to comply with statutory requirements.
- **Appropriate Consequences** – the system sets reasonable standards for adequacy, identifies and publicly recognizes high levels of performance and performance improvement, and identifies campuses with inadequate performance and provides assistance.
- **Local Program Flexibility** – the system allows for flexibility in the design of programs to meet the individual needs of students.
- **Local Responsibility** – the system relies on local school districts to develop and implement local accountability systems that complement the state system.
- **Public's Right to Know** – the system supports the public's right to know the levels of performance in each school district and on each campus.

Under the current state accountability system, TEA assigns a rating of exemplary, recognized, academically acceptable, or academically unacceptable to each district, campus, and charter school. These ratings are based on students' academic performance as measured by statewide assessment results (TAKS and SDAA), and the completion rate and annual dropout rate.

Based on these ratings, and the nature and severity of the problem(s) identified through the accountability system, the Commissioner of Education can issue sanctions for districts and campuses. These sanctions range in severity, from requiring a district to issue public notice of the deficiency to appointing a management or special campus intervention team. If a district or campus receives the lowest rating for two consecutive years or more, the level of state intervention increases and includes possible closure, consolidation, or reconstitution.

Federal Performance Accountability System

Under the accountability provisions in the federal No Child Left Behind Act (NCLB), the state must ensure that all students achieve academic proficiency in mathematics, reading/language arts, and, beginning in 2007, science. NCLB requires states to determine whether all students are making adequate yearly progress (AYP) on state assessments to ensure that all

students attain 100 percent proficiency by 2013-2014. The textbox, *NCLB Performance Goals*, discusses the four performance goals of NCLB.

To meet these requirements, TEA evaluates all public school districts and campuses, including charter schools, for AYP. In Texas, evaluations are based on reading/language arts, and mathematics participation and performance, and either graduation or attendance rates (depending on grade level). Districts and schools must reach or exceed certain performance targets to meet AYP each year. The performance targets rise each year until they reach 100 percent in the 2013-2014 school year. In 2003, 37 districts and 563 schools did not meet AYP for two or more consecutive years.

NCLB Performance Goals	
Goal 1	By 2013-2014, all students will reach high standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
Goal 2	All limited English proficient students will become proficient in English and reach high academic standards, at a minimum attaining proficiency or better in reading/language arts and mathematics.
Goal 3	By 2005-2006, all students will be taught by highly qualified teachers.
Goal 4	All students will be educated in learning environments that are safe, drug-free, and conducive to learning.

Schools that do not meet AYP requirements must provide supplemental services, such as free tutoring or after-school assistance, and take corrective actions to ensure school improvement. The level of corrective action is based on the number of years the campus or district has failed to meet AYP. If a school fails to make AYP for two consecutive years, the district must offer school choice by providing all students enrolled in the low-performing school the option to transfer to another school that is meeting AYP.

Special Education

TEA also oversees the statewide system of education for students with disabilities, and ensures school districts implement federal and state special education requirements. Texas schools currently serve more than 500,000 students with disabilities. States receiving federal funding for special education must comply with certain standards detailed in the Individuals with Disabilities Education Act (IDEA). The textbox, *Six Principles of IDEA*, lists the fundamental precepts of IDEA.

Six Principles of IDEA
<ul style="list-style-type: none">● Free appropriate public education● Appropriate evaluation● Individualized education program● Least restrictive environment● Parent/student participation in making decisions● Procedural safeguards

TEA conducts special education complaint investigations to ensure local school districts abide by state law and federal regulations, and resolves issues of non-compliance through improvement planning, interventions, and sanctions. The agency also conducts reviews of private facilities that offer educational programs for students with disabilities.

TEA also coordinates implementation of state and federal education requirements for students who are hearing impaired, including developing a statewide plan for deaf education, and administers emergency permits for public school interpreters who are not yet certified. The Regional Day School Program for the Deaf, administered by TEA, serves 4,619 students in Texas who are hearing impaired.

Monitoring

TEA monitors public education entities, including school districts and charter schools, to ensure compliance with federal law and regulations; financial

accountability; and data integrity. TEA also monitors state special education program effectiveness and compliance, and evaluates the effectiveness of local bilingual education programs.

To ensure compliance with federal law and regulations, TEA must monitor requirements pertaining to segregation and discrimination in extracurricular activities and student transfers, and enforcement of civil rights regulations.

TEA monitors financial accountability through several types of activities, including reviews, audits, and investigations. TEA reviews audit reports to ensure compliance with generally accepted accounting practices. The agency also conducts student attendance, transportation, and special program audits. Finally, TEA performs investigations of acts of impropriety related to the receipt, expenditure, or use of state and federal education funds. These auditing activities result in follow-up actions by the agency, including the issuance of an audit report or letter of findings, an on-site investigation, or recommendations for corrective action.

In addition, financial accountability is evaluated through the School Financial Integrity Rating System of Texas (FIRST). Under this system, the agency annually rates all school districts based on their overall performance on financial measures and other indicators, which are used to assign each school district a rating of superior achievement, above standard achievement, or substandard achievement.

TEA's New Monitoring System

According to TEA, the new monitoring system will emphasize the following:

- local control;
- minimal state intervention in districts with strong student performance, financial accountability, and data integrity;
- optimization of limited agency monitoring resources; and
- use of on-site visits only when other alternative interventions are not appropriate.

The proposed monitoring system will conduct data driven analyses to ensure compliance with federal laws and regulations and financial accountability. The results of these analyses will be consolidated to provide a picture of a district or charter school's overall effectiveness. Different levels of interventions or sanctions will be implemented based on performance and risk levels.

TEA monitors data integrity through several different analyses, including an annual analysis of leaver and dropout records, student absences from the state assessment program, and data errors. TEA uses the results of these analyses to determine an appropriate level of intervention or sanction.

TEA is currently developing a new performance-based monitoring system to help ensure the agency's different monitoring activities are better coordinated. The textbox, *TEA's New Monitoring System*, discusses the proposed system in more detail.

Distribution and Oversight of Public Education Funds

In fiscal year 2004, TEA distributed more than \$15 billion in funds throughout the Texas education system to provide all students a quality education.

State Funding

TEA administers three major school finance programs that provide operation and facility funding to Texas school districts and charter schools.

The Foundation School Program provides almost \$10 billion in state funding to school districts. The program consists of three tiers of funding

mechanisms designed to give substantially equal access to revenues to all school districts for operations and facilities, regardless of taxable wealth. The textbox, *Foundation School Program Tiers*, provides more detailed information on funding mechanisms used to distribute state funds. TEA calculates the amount of each district's entitlement and payment at the beginning of each fiscal year.

The Texas Constitution provides for two educational funding mechanisms, the Permanent School Fund (PSF) and the Available School Fund (ASF). The PSF is a \$19.6 billion endowment fund that provides a permanent, perpetual source of funding for present and future generations of Texans. The PSF produces a distribution that is deposited, along with one-quarter of all motor fuels tax proceeds, into the ASF, which is used to fund the state's textbook purchases and an annual per capita distribution of state aid to all Texas school districts.

Since 1983, the state has also used the PSF to guarantee school district bonds, allowing districts to earn high bond ratings that result in decreased interest rates and associated costs to taxpayers. TEA processes and approves about 200 applications for bond guarantee per year. The PSF currently guarantees about \$31 billion in bonds, and has almost reached the \$34 billion maximum capacity, allowed by the Internal Revenue Service for guaranteeing bond payments.

State and Federal Grants

TEA manages the process for granting more than \$2.5 billion in federal and state entitlement and formula funds to school districts. About \$2.2 billion are federally funded programs, including grants to low income schools, and special education programs. State grants include funding for the Accelerated Reading and Math, and Pre-Kindergarten programs. TEA determines a school district's entitlement to funding based on either state or federal law, calculates the funding amount, and manages the application and award process. School districts can apply for their funding through a TEA-developed online, integrated federal funds application for a number of programs under the No Child Left Behind Act.

The agency also disburses about \$393 million in state and federal funds through discretionary grants. TEA develops the grant program and application requirements; administers the application process; ranks and scores applications; awards grant funds; monitors performance and spending; and closes out completed grants. All grants have some form of performance measures, some of which are based on data collected through the Public Education Information Management System (PEIMS). Larger post-grant program evaluations are performed by outside contractors, typically university researchers.

Foundation School Program Tiers

Tier I

Provides a basic allotment to school districts based on the number of students enrolled in their regular education program.

Districts receive additional funds based on the number of students enrolled in special programs, such as compensatory education, special education, bilingual education or English as a second language, or gifted and talented. Other adjustments are made based on factors outside the districts' control and to help small districts.

Tier II

Provides additional guaranteed funding to school districts based on the number of students in special programs in Tier I. However, Tier II guarantees a minimum level of funding *per tax effort*, rather than simply per student, to ensure local discretion over tax rates.

Tier III

Provides debt assistance payments to school districts for facilities through two programs, the Instructional Facilities Allotment (IFA), and the Existing Debt Allotment (EDA). The IFA program provides assistance for bonds on new facilities, primarily in districts with low property wealth, and the EDA is for existing debt regardless of a school district's property wealth.

Source: Legislative Budget Board



TEA distributes more than \$3 billion in state and federal grants to school districts.

Support Services

TEA is responsible for several programs that support the educational system, but are not found directly within PK-12 education curricula, including those briefly described in the table, *High School Completion Programs*. In addition to these programs, TEA also regulates the private driver education and driving safety industries, and handles local school board governance issues.

Driver Training

TEA regulates private driver education and driving safety training programs. TEA approves curriculum, issues instructor and school licenses, and provides certificates of completion. Currently, TEA monitors almost 5,000 active licensees. The agency also monitors schools to ensure compliance through on-site inspections, and investigates any complaints against licensees.

Governance

TEA conducts special investigations in response to allegations involving a conflict between school board members, or between school boards and the district administration if the conflict appears to involve a violation of state statute.

Agency Administration

The remaining agency functions provide management and support for the agency's operations as discussed below.

Chief Deputy Commissioner provides leadership and supervision to all functional areas of the agency's operations, and directs the day-to-day operations at TEA.

High School Completion Programs	
Program	Description
General Educational Development (GED) Testing	GED tests allow adults who have not graduated from high school to earn a high school level educational certificate. TEA administers these tests, including outreach, staff development, and test security. TEA contracts with the General Educational Development Testing Service to manage the administration of GED tests.
Pregnancy, Education, and Parenting (PEP)	TEA provides funding and support to schools for programs to reduce the number of students who drop out of school due to pregnancy or parenthood, and to recover those parents, 21 years old or younger, who have dropped out.
In-School Driver Education	TEA develops and administers a driver instruction program for public school students, and supplies driver education certificates for parent-taught programs.
Safe Schools	TEA serves as a resource for school districts concerning student disciplinary actions and persistently dangerous school requirements.
Communities in Schools (CIS)	TEA funds and supports this national program with the goal of reducing the dropout rate. CIS accomplishes this by coordinating needed community resources at schools.
Guidance and Counseling	TEA provides staff development and technical assistance for superintendents, district staff, principals, counselors, and teachers on the wide range of counseling issues for students.
High School Equivalency Program	TEA works with districts and charter schools who operate programs to prepare students to take a high school equivalency examination.
Educator Development	TEA supports programs to decrease teacher shortages through loan deferments for educators in low-income schools, and retire/rehire programs.

Associate Commissioners are responsible for the operations of the functional areas of the agency, including school finance, accountability, and support services.

Legal Services provides legal counsel and representation to the Commissioner and the agency; legal information to school districts and parents; and legal support of agency enforcement matters. Legal Services also conducts administrative hearings and issues proposals for Commissioner decisions regarding local employment hearings; and manages special education due process and mediation systems.

Governmental Relations serves as the liaison to the Legislature, legislative agencies, other state agencies, and professional organizations.

Communications is the primary contact for media and members of the public seeking information about the agency or public education. Communications also provides support to SBOE, including scheduling meetings, and preparing meeting agendas and minutes.

Policy Coordination handles the agency's administrative rulemaking functions for SBOE and the Commissioner of Education. The division also handles all open meetings postings.

Budget prepares the legislative appropriations request and the agency's operating budget; manages the agency's program and administrative budgets; and prepares and negotiates the annual federal indirect cost proposal.

Accounting administers a system of internal controls to ensure all purchase orders, contracts, allocations, payments, and travel are processed in accordance with state and federal laws and regulations.

Purchasing and Contracts ensures compliance with Texas Building and Procurement Commission procedures and requirements.

Information Systems and Accountability Research oversees agency information resources management and coordinates technical information services across the agency.

Project Management Office and PEIMS develops and maintains automated systems that support agency and program area needs.

Technology Operations provides desktop support; database design and administration; and network, server, and mainframe support.

Agency Infrastructure provides asset management; mailing operations; publications distribution and sales; facilities support and space management; media services; risk management; and security.

Human Resources is responsible for employment services, benefits, payroll, and employee relations.

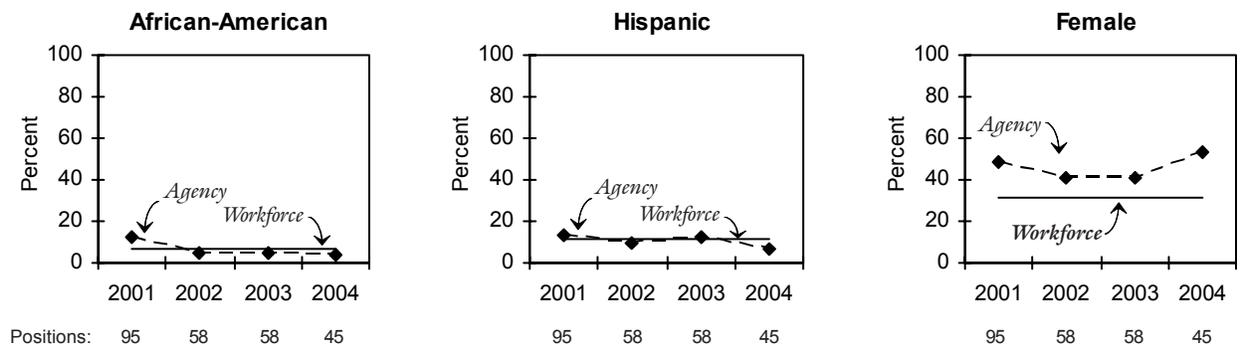
Information Analysis provides data and information analysis and reporting services.

APPENDICES

Equal Employment Opportunity Statistics 2001 to 2004

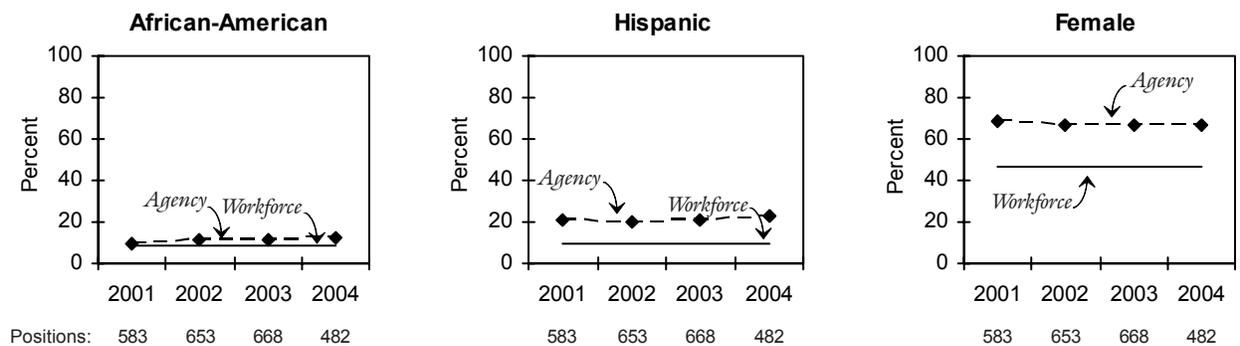
In accordance with the requirements of the Sunset Act, the following material shows trend information for the Texas Education Agency employment of minorities and females in all applicable categories.¹ The agency maintains and reports this information under guidelines established by the Texas Commission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

Administration



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

Professional

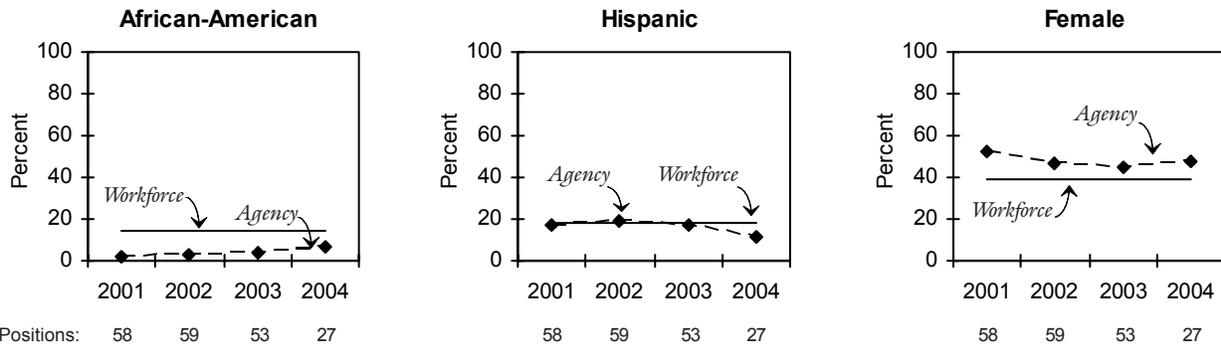


The agency met or exceeded the percentages for all three groups.

Appendix A

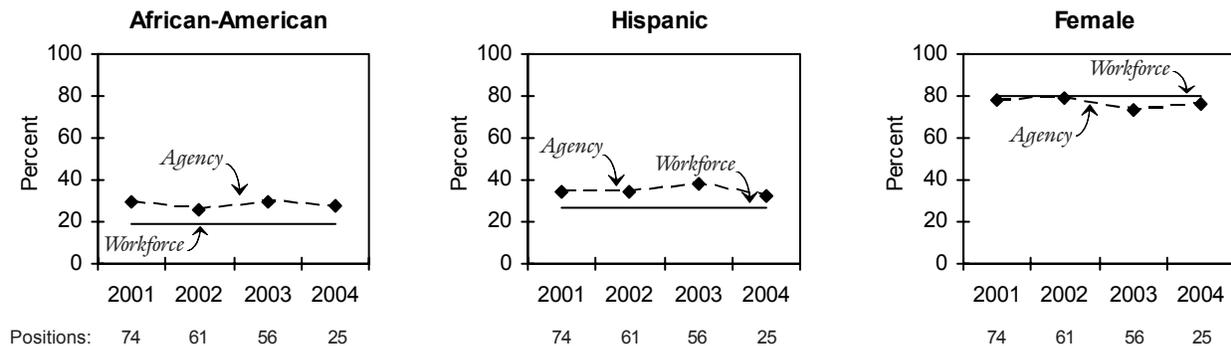
Equal Employment Opportunity Statistics

Technical



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

Administrative Support

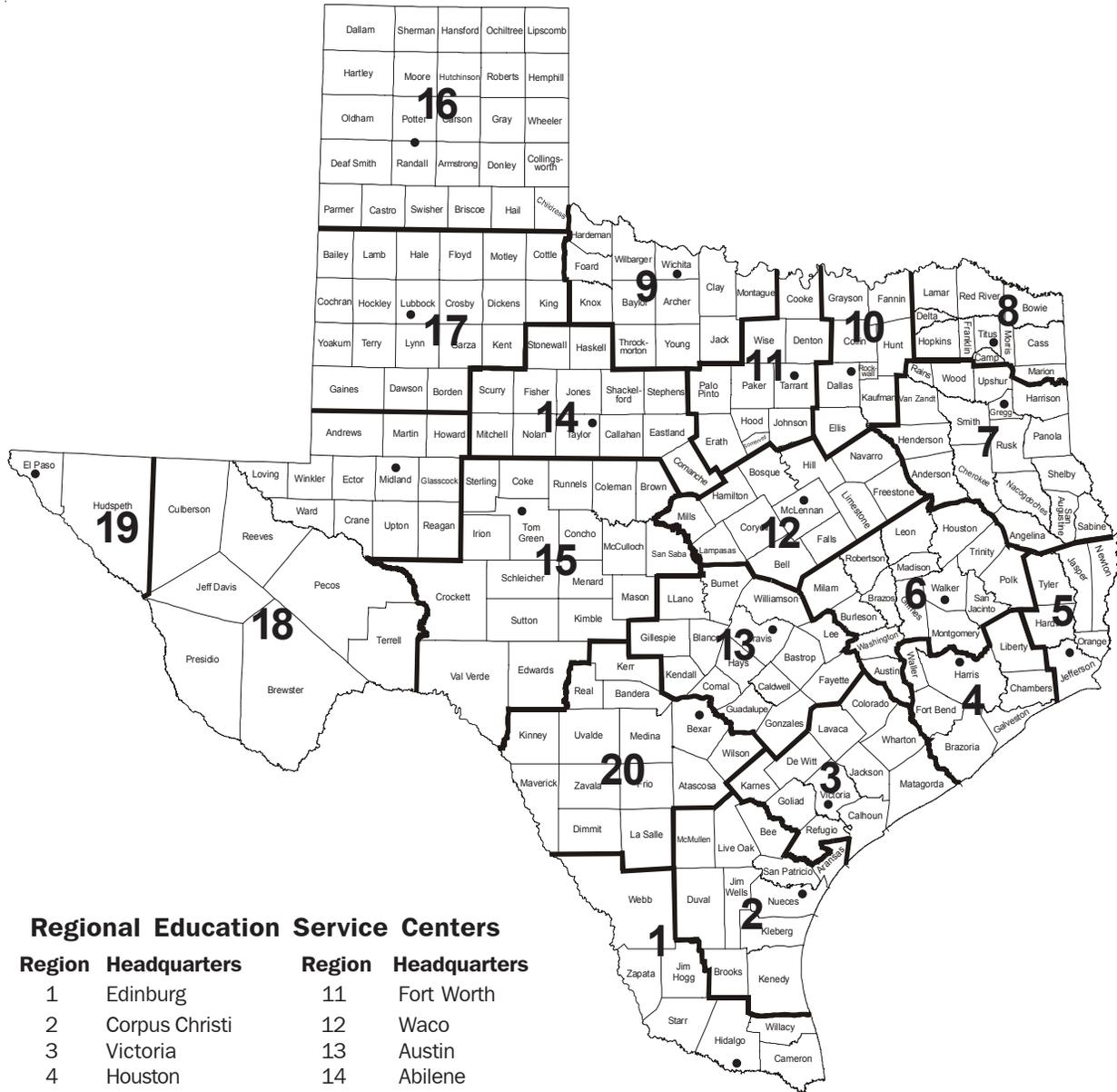


The agency met or exceeded the percentages for African-Americans and Hispanics each year, but fell short for females in three of the last four years.

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

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

Regional Education Service Centers



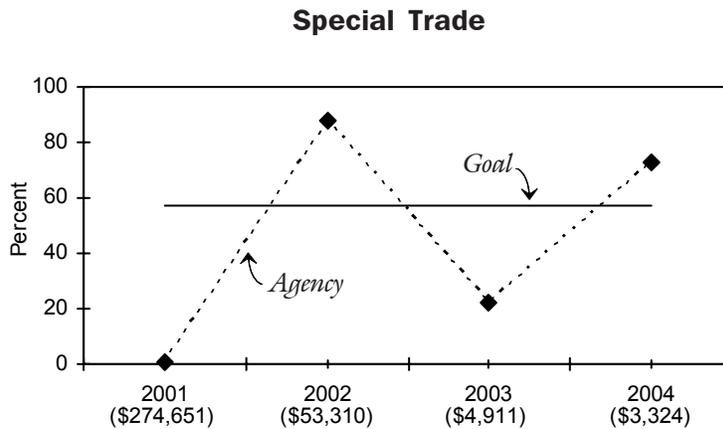
Regional Education Service Centers

Region	Headquarters	Region	Headquarters
1	Edinburg	11	Fort Worth
2	Corpus Christi	12	Waco
3	Victoria	13	Austin
4	Houston	14	Abilene
5	Beaumont	15	San Angelo
6	Huntsville	16	Amarillo
7	Kilgore	17	Lubbock
8	Mount Pleasant	18	Midland
9	Wichita Falls	19	El Paso
10	Richardson	20	San Antonio

Historically Underutilized Businesses Statistics 2001 to 2004

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹ The review of the Texas Education Agency revealed that although the agency does not currently have HUB rules in place, the Commissioner plans on adopting these rules in December 2004.

The following material shows trend information for the Texas Education Agency use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in the Texas Building and Procurement Commission's statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Texas Building and Procurement Commission. The diamond-dashed lines represent the percentage of agency spending with HUBs in each purchasing category from 2001 to 2004. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The agency fell short of all statewide goals in the professional services and other services categories in 2001-2004.

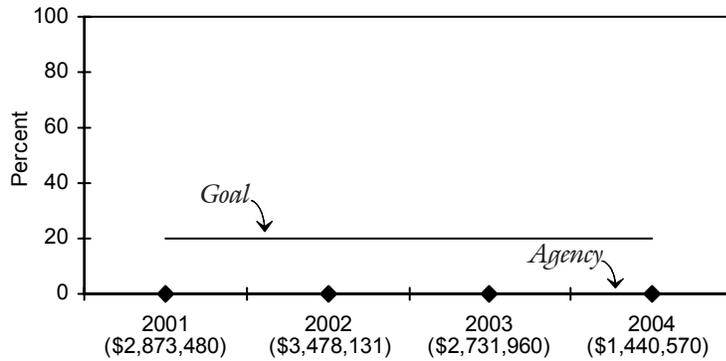


The agency exceeded the goals in 2002 and 2004, but fell below the goals in 2001 and 2003.

Appendix C

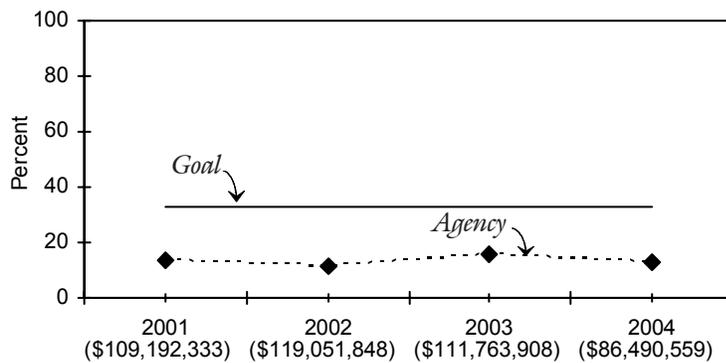
Historically Underutilized Businesses Statistics

Professional Services



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

Other Services

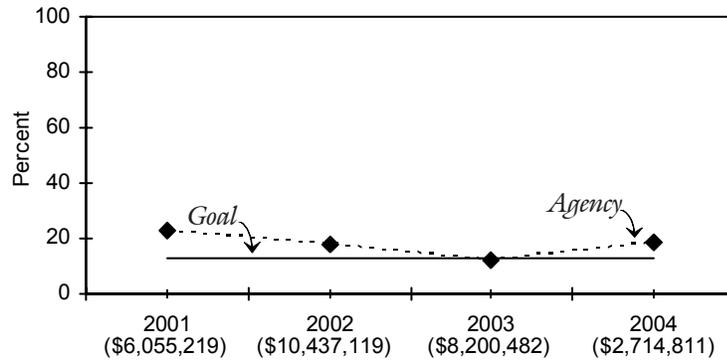


The agency fell below the goals in all four years in this category.

Appendix C

Historically Underutilized Businesses Statistics

Commodities



The agency met or exceeded goals in all four years for commodity purchases.

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

² Texas Government Code, ch. 2161.

Staff Review Activities

The Sunset staff engaged in the following activities during the review of the Texas Education Agency.

- Worked extensively with TEA executive management and staff.
- Observed TEA stakeholder meetings, textbook committee meetings, a student assessment data review committee meeting, and charter school orientation.
- Met with individual SBOE members, and observed numerous board and committee meetings.
- Met with and received comments from representatives of several school districts, including superintendents, school board members, principals, grant coordinators, special education coordinators, curriculum coordinators, and textbook coordinators.
- Interviewed and received written comments from parents, teachers, administrators, and interest groups.
- Visited five regional service centers including San Antonio, Austin, Houston, Waco, and Fort Worth.
- Visited numerous charter schools in Austin, Houston, and Dallas, as well as a residential charter facility in Lockhart. Interviewed representatives from a charter school management company.
- Visited a textbook distribution facility in Dallas, and met with representatives of textbook publishers.
- Attended a special education due process hearing, interviewed TEA-appointed conservators and special education hearing officers.
- Attended education-related seminars and conferences.
- Met with staff and reviewed reports from the Governor's Office, Lieutenant Governor's Office, Speaker's Office, legislative committees charged with examining education-related issues, Legislative Budget Board, State Auditor's Office, State Office of Administrative Hearings, and Texas Department of Licensing and Regulation. Attended Senate Education Committee, House Public Education Committee, House Appropriations Committee, and Senate Finance Committee hearings.
- Researched past legislation and legislative reports involving education issues, including information on No Child Left Behind and the Individuals with Disabilities Education Act.
- Researched state education agency operations in other states.
- Performed background and comparative research using the Internet, and reviewed literature on education issues.

**SUNSET REVIEW OF THE
TEXAS EDUCATION AGENCY**

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**SUNSET STAFF REPORT
NOVEMBER 2004**

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SUMMARY

State Board for Educator Certification

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



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

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

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

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

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

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

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

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

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

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

Issues/Recommendations

Issue 1

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

Key Recommendations

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

Issue 2

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

Key Recommendations

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

Issue 3

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

Key Recommendations

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

Issue 4

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

Key Recommendations

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

Issue 5

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

Key Recommendations

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

Fiscal Implication Summary

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

**STATUS OF 2002
SUNSET COMMISSION RECOMMENDATIONS**

Status of Recommendations

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

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

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

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

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

ISSUES

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

Summary

Key Recommendations

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

Key Findings

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

Conclusion

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

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

Support

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

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

SBEC Board Composition – 14 Members

Eleven Governor-appointed, voting members.

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

Three ex-officio, non-voting members.

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

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

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

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

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



Texas has a continuing interest in preparing and certifying educators.

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

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

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

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



The Legislature determined that SBEC would benefit from consolidating its administrative functions with TEA.

Recommendations

Change in Statute

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

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

Management Action

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

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

Impact

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

Fiscal Implication

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

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

Summary

Key Recommendations

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

Key Findings

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

Conclusion

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

Support



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

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

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

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

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

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



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

Recommendations

Change in Statute

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

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

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

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

Impact

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

Fiscal Implication

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

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

Summary

Key Recommendations

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

Key Findings

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

Conclusion

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

Support

SBEC conducts criminal history background checks on prospective educators.

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

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

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

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

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



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

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

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

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

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

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



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



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

Recommendations

Change in Statute

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

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

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

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

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

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

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

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

Management Action

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

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

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

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

Impact

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

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

Fiscal Implication

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

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

Summary

Key Recommendations

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

Key Findings

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

Conclusion

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

Support

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

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

SBEC Complaint Proceedings

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

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

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


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

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

Recommendations

Change in Statute

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

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

Management Action

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

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

Impact

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

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

Fiscal Implication

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

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

Summary

Key Recommendations

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

Key Finding

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

Conclusion

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

Support

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

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

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

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

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

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



Some educators do not hold an SBEC certificate.



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

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

Recommendations

Change in Statute

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

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

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

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

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

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

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

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

Impact

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

Fiscal Implication

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

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

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

ACROSS-THE-BOARD RECOMMENDATIONS

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

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

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

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

AGENCY INFORMATION

Agency Information

Agency at a Glance

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

SBEC's major functions include:

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

Key Facts

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



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

Major Events in Agency History

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

Organization

Policy Body

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

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

Staff

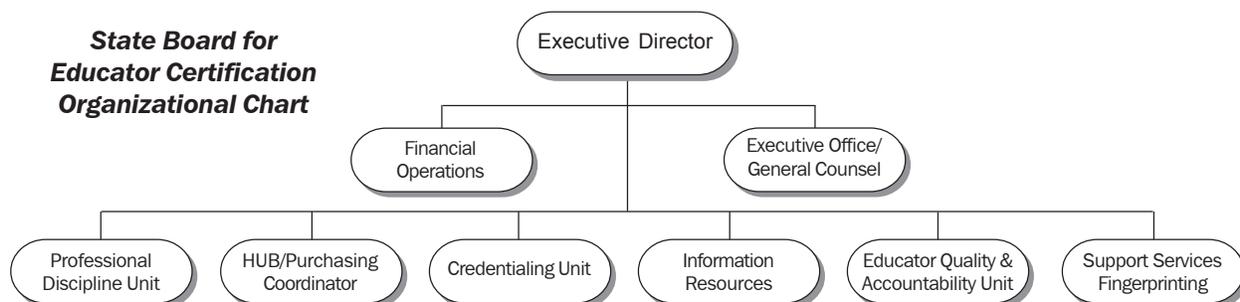
The *State Board for Educator Certification Organizational Chart*, depicts the structure of the agency. In fiscal year 2004, SBEC employed 63 employees, all of whom work in its Austin headquarters. The agency no



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

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

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



Funding

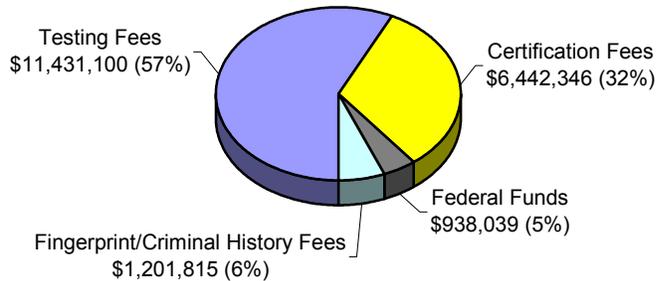
Revenues

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

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

**SBEC Sources of Revenue
Fiscal Year 2004**

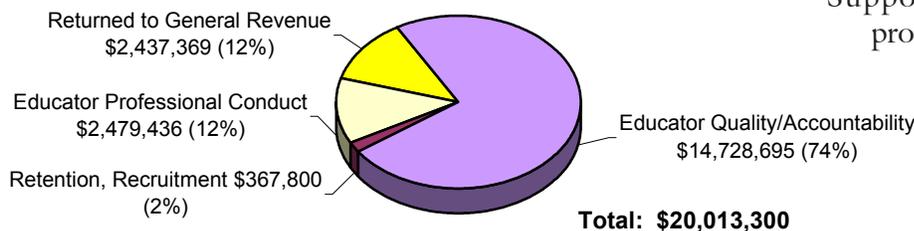


Total: \$20,013,300

Expenditures

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

**SBEC Expenditures
Fiscal Year 2004**



Total: \$20,013,300

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

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

Agency Operations

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

Educator Quality and Accountability

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

Educator Preparation Programs

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

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

Certification Exams

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

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

Educator Recruitment

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

Retention of New Teachers

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



*SBEC has approved
127 educator
preparation
programs.*



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

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

Credentialing Services

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


*Most credentialing
functions are now
online.*

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

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

Classes of Certificates

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

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


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

Types of Certificates

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

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

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

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

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

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

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

Routes to Educator Certification

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

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

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

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

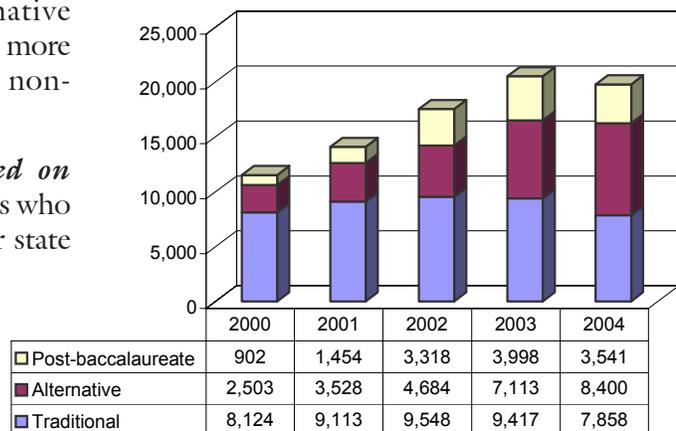
In 2004, SBEC created the *Temporary Teacher Certificate* to provide another route to full certification. Individuals must possess a bachelors' degree in the academic area they will teach, pass the pedagogy and content exam, and then receive appropriate training from the employing school district. The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

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

Professional Discipline

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

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



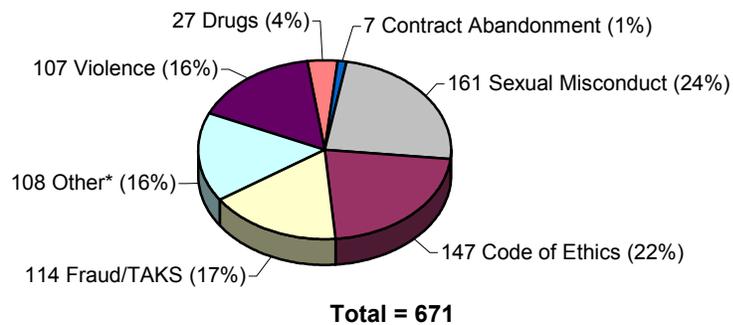
Complaint and Investigation Types

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

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

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

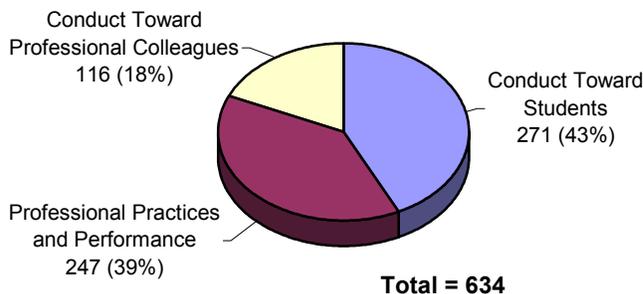
Cases as of August 2004



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

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

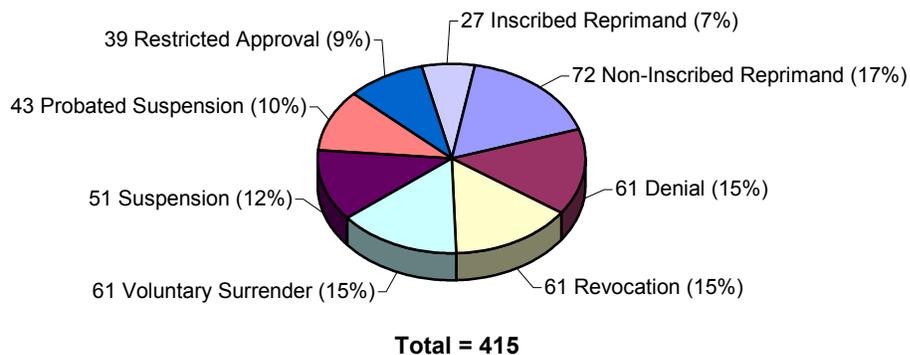
**Code of Ethics Complaints
Fiscal Year 2004**



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

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

Educator Sanctions
Fiscal Year 2004



¹ As of August 31, 2004.

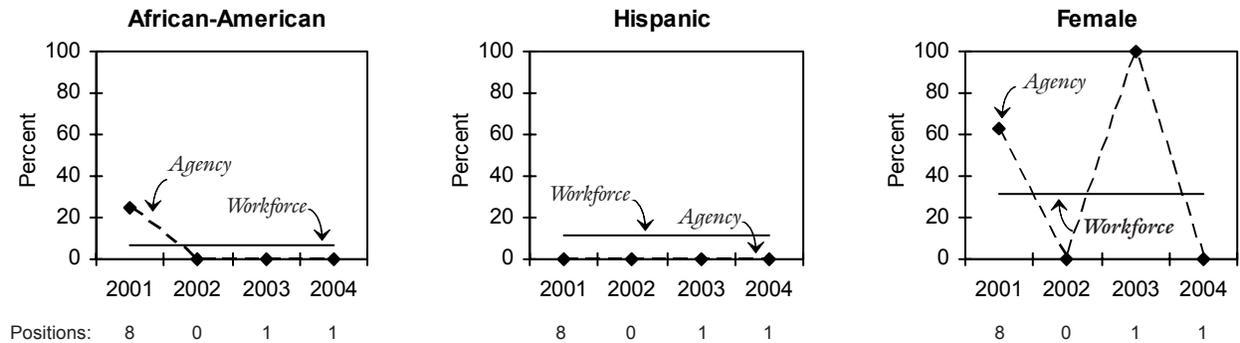
² Ibid.

APPENDICES

Equal Employment Opportunity Statistics 2001 to 2004

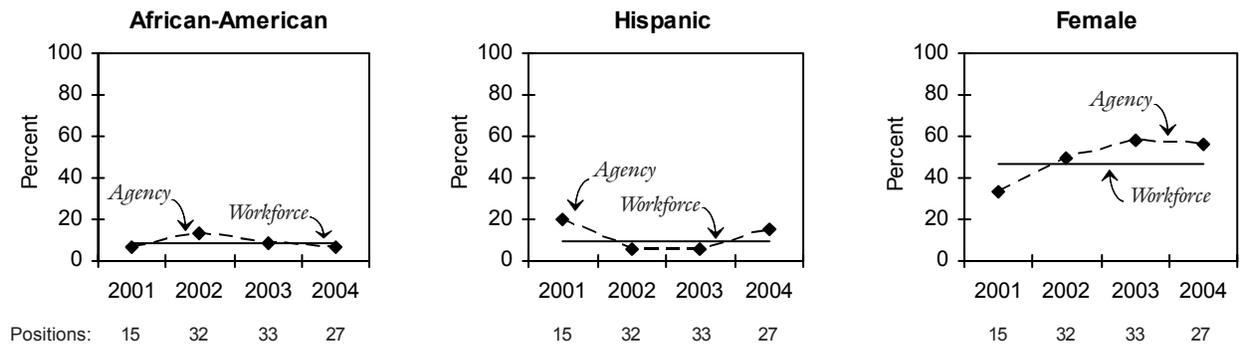
In accordance with the requirements of the Sunset Act, the following material shows trend information for the State Board for Educator Certification employment of minorities and females in all applicable categories.¹ The agency maintains and reports this information under guidelines established by the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

Administration



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

Professional

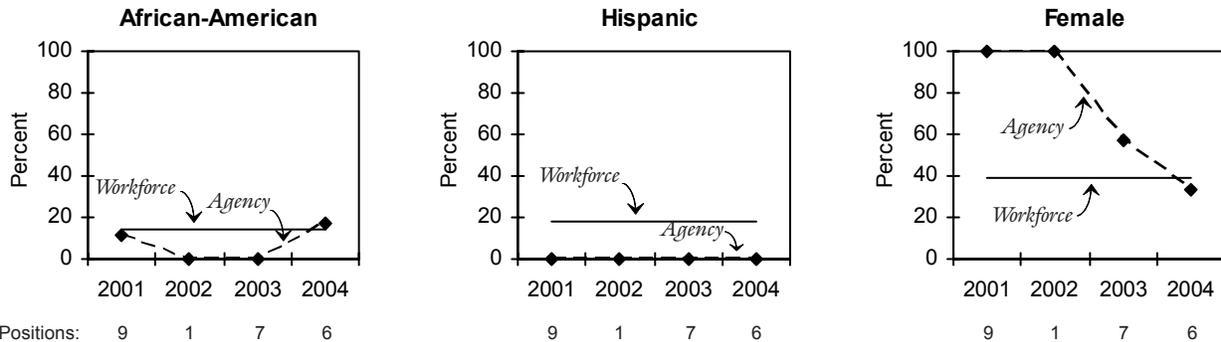


The agency generally met or exceeded the percentages for African-Americans and females for the last three years, and for Hispanics in 2004.

Appendix A

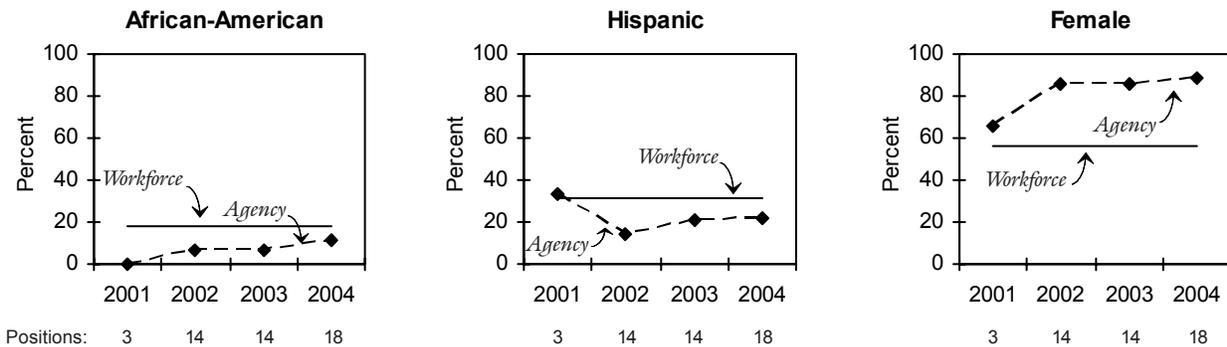
Equal Employment Opportunity Statistics

Technical



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

Para-Professionals

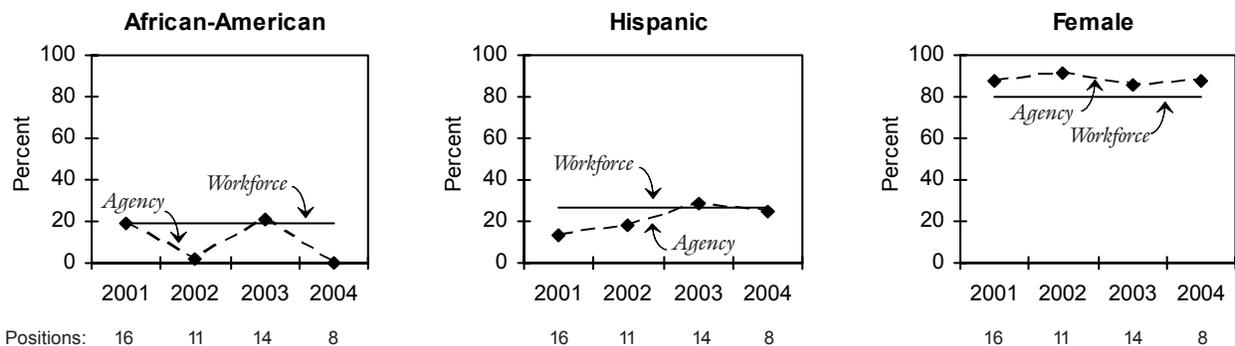


The agency exceeded the percentages for females all four years, but fell short for African-Americans all four years and Hispanics in three of the last four years.

Appendix A

Equal Employment Opportunity Statistics

Administrative Support



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

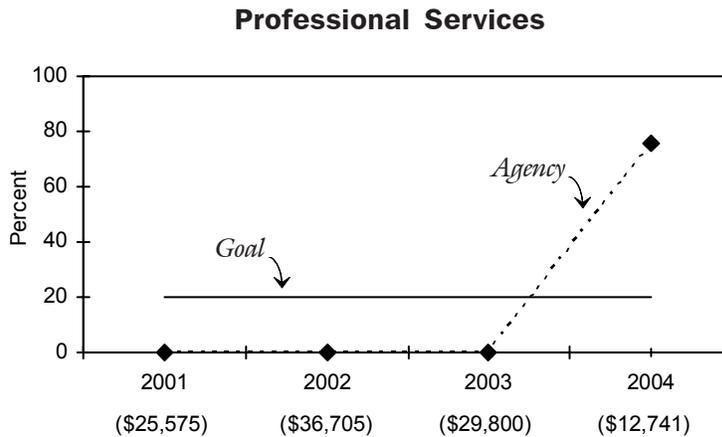
¹ Texas Government Code, sec. 325.011(9)(A).

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

Historically Underutilized Businesses Statistics 2001 to 2004

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

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

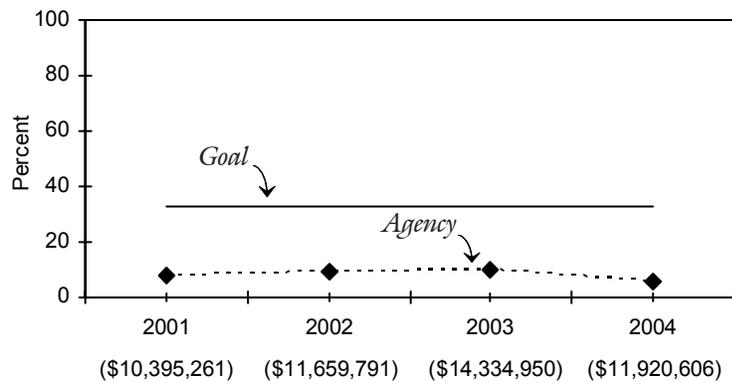


The agency exceeded the goal in 2004, but did not use HUBs for any expenditures in this category in 2001, 2002, and 2003.

Appendix B

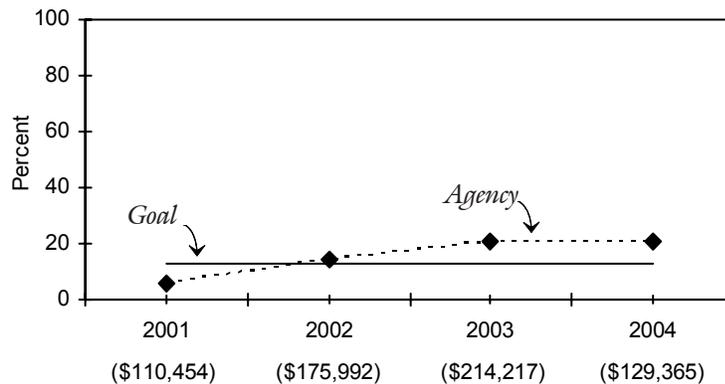
Historically Underutilized Businesses Statistics

Other Services



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

Commodities



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

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

² Texas Government Code, ch. 2161.

Educators' Code of Ethics

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

Enforceable Standards

Professional Ethical Conduct, Practices and Performance.

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

Ethical Conduct Toward Professional Colleagues.

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

Appendix C

Educators' Code of Ethics (cont.)

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

Ethical Conduct Toward Students.

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

Staff Review Activities

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

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

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

Report Prepared By:

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JOEY LONGLEY
DIRECTOR

REGIONAL EDUCATION SERVICE CENTERS

— **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.

Education Service Centers Audit Criteria
Senate Bill 929 required a detailed analysis and review of regional education service centers based on the following elements. <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.

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.

While MGT and LBB have completed the initial performance audit of the education service centers, the final report was not completed at the time of this report's publication. As a result, Sunset staff could not comment on the audit's findings and recommendations, or offer additional context and evaluation of the recommendations as they relate to the Sunset review of TEA. Staff will provide this information to the Sunset Commission once the report is released.

Overview of Regional Education Service Centers

In 1965, the Legislature directed SBOE to establish 20 media centers throughout the state to help provide instruction-related training and services for teachers. Established in 1967, these media centers eventually evolved into regional education service centers and currently provide training, technical assistance, administrative support, and other services to meet the needs of local school districts, charter schools, teachers, and administrators in the public education system. Appendix B, on page 79, shows the region each ESC serves.

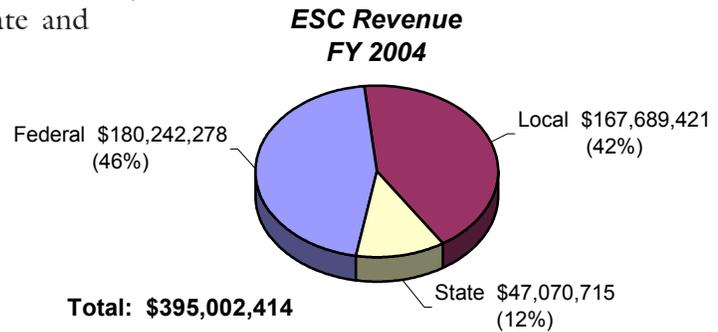
The primary functions of ESCs are to:

- assist school districts in improving student performance in each region of the system;
- enable school districts to operate more efficiently and economically; and
- implement initiatives assigned by the Texas Legislature and the Commissioner of Education.

School districts receive services on a voluntary basis and may work with any ESC in the state, not just the one located in their region.

The Commissioner of Education has broad oversight authority over ESCs, including the authority to appoint and/or remove ESC executive directors and members of ESC boards of directors. State law requires the Commissioner to annually evaluate the performance of each ESC and its director. The Commissioner may decide on any matter concerning the administration or operation of centers; the number, location, and service boundaries of ESCs; and allocation among the centers of state and federal funds distributed by TEA.

The 20 ESCs collectively operate with an annual budget of about \$395 million. The chart, *ESC Revenue*, shows the breakdown of state, federal, and local sources of funding for all of ESCs.



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.¹ 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.

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.

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.

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.

Sunset Staff Comment:

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 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.

Sunset Staff Comment:

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 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.

Sunset Staff Comment:

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.

¹ Texas Education Agency, Modified Invitation to Bid - Windham School District Evaluation, (December 18, 2004), p. 1.

