



State Board for Educator Certification

Special Purpose Review

The State Board for Educator Certification underwent a full Sunset review for the 2003 Legislature. The legislation containing the Sunset Commission's recommendations, including to continue SBEC for 12 years, did not pass. Instead, the Legislature continued the agency for two years and required a special-purpose review focused on the appropriateness of the Sunset Commission's 2003 recommendations. The Sunset Commission recommendations from that special-purpose review are contained in this material.

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 (SBOE) has a continued role with the profession through its veto authority over SBEC 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.



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- **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.

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Recommendations

1. Continue the State Board for Educator Certification for 12 Years.
2. Expand SBOE's Authority Over SBEC Rules, and Improve Stakeholder Involvement in the Rule Development Process.
3. Provide Further Improvements to SBEC's Process of Conducting Criminal Records Checks.
4. Require SBEC to Adopt Rules Ensuring Comprehensive Disciplinary Investigations.
5. Provide SBEC Statutory Authority Over Teaching Permits, Waivers, Educational Diagnosticians and Ability to Accept Gifts, Donations, and Non-Federal Grants.
6. Conform Key Elements of SBEC's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

Issue 1

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

Key Findings

- No significant changes have occurred to affect the 2003 Sunset Commission recommendation to continue SBEC.
- SBEC and TEA have implemented an agreement to consolidate administrative functions and services as required by the Legislature.

Texas has a continuing need to ensure that elementary and secondary public schools have access to well prepared educators. The Legislature and the 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.

In 2003, the Legislature directed SBEC and TEA to consolidate administrative functions and services, and directed the Sunset Commission to evaluate the agencies' compliance with this directive. The agencies formalized an agreement to consolidate administrative functions in December 2004. The agreement transfers SBEC's accounting and budget; human resources and payroll; general counsel legal services; purchasing and contracts, including HUB coordination, central supply, and printing services; and information technology functions to TEA. Under the agreement, SBEC will pay TEA for the cost, estimated at \$1.1 million, of the administrative functions and associated 20 employees.

Recommendation

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 would remain administratively attached to TEA as required by the Legislature in 2003.

Issue 2

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

Key Finding

- No significant changes have occurred to affect the 2003 Sunset Commission recommendations to expand the State Board of Education's authority over SBEC rules, and to ensure the early involvement of stakeholders in developing rules.

The State Board of Education has authority to reject, but not modify, rules proposed by SBEC. In 2003, the Sunset Commission found that SBOE should have better means to provide input on rules governing certification of educators. SBOE 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 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.

Recommendations

Change in Statute

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

This recommendation would provide SBOE with better means to exercise its oversight of education policy. The recommendation would authorize SBOE to reject all or part of an SBEC rule proposal, or take no action and allow the rule to go into effect. 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.

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. 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 Procedure Act.

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 Findings

- While SBEC has taken steps to implement many of the 2003 Sunset Commission recommendations, statutory changes are still appropriate and necessary to ensure the criminal history check process continues.
- Prospective educators experience delays in obtaining the results of their criminal history checks and, therefore, their education credentials.

In 2003, the Sunset Commission concluded that SBEC's limited background searches might allow unsuitable individuals to teach Texas schoolchildren, and made a series of recommendations regarding fingerprinting and conducting national criminal history background checks of applicants for educator certification. SBEC has taken some steps to implement these recommendations, but has experienced implementation difficulties, resulting in extensive delays for educators applying for certification.

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 the Department of Public Safety (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.

The Sunset Commission included this recommendation as a non-statutory management action in 2003, however, SBEC has not implemented the recommendation and students in preparation programs remain unaware of situations that could prevent certification. SBEC would 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.

3.5 Authorize SBEC to 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.

Management Action

3.6 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.

Issue 4

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

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 2003 recommendations to improve complaint investigations, and statutory changes are still appropriate.

In 2003, 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 that SBEC include educators in the development of the rules. The Board has not adopted rules to address this issue, therefore, these recommendations remain appropriate.

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.

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.

Issue 5

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

Key Finding

- No significant changes have occurred to affect the Sunset Commission's 2003 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.

The Commissioner of Education has authority to approve a school district teaching permit to allow a degreed, but non-certified, individual to teach Texas school children. The Commissioner may also issue certification waivers to school districts, which allow certified individuals to teach outside their area of certification.

The Sunset Commission found that 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. In addition, school districts are not required to verify that a certified person is not available before receiving a waiver of statutory requirements to hire certified teachers.

Finally, the Sunset Commission found educational diagnosticians are not statutorily required to hold an SBEC-issued certificate. In addition, SBEC lacks the authority necessary to accept certain funds.

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 certified teachers to teach outside their 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 was 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.

Educational diagnosticians diagnose the learning capabilities of Texas students. 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.

Management Action

5.5 SBEC should require a school district to verify that a certified person is not available within that district before granting a waiver to that district.

This recommendation would ensure that districts make an effort to hire certified teachers before seeking a waiver of certification requirements. Under waiver authority transferred to SBEC in Recommendation 5.2, SBEC should develop methods to verify school districts' efforts to hire certified teachers before granting certification waivers.

Issue 6

Key Elements of SBEC's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.

Key Finding

- No significant changes have occurred to affect the Sunset Commission's 2003 recommendations concerning SBEC's standard licensing functions, and they are still appropriate.

In 2003, the Sunset Commission made a series of recommendations concerning SBEC's licensing functions, formerly known as licensing across-the-board recommendations. SBEC's statutes do not meet several commonly applied practices for its licensing and regulatory functions.

Recommendations

Licensing

Change in Statute

6.1 Require standard time frames for certificate holders who are delinquent in renewal of certificates.

Variations occur among licensing agency requirements concerning the number of days a license renewal may be delinquent before penalties are brought into effect. This recommendation is aimed at ensuring comparable treatment for all licensees, regardless of their regulated profession. This recommendation also clarifies that a person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

6.2 Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.

This recommendation ensures the timely reporting of examination results. The timely notification is important to those persons whose future plans are contingent on their examination scores. This provision also ensures that examinees are informed of the reasons for failing the examination.

6.3 Authorize SBEC to issue provisional certificates to applicants who hold a current certificate in another state.

Provisional licenses allow license applicants who hold a license in another state to practice in Texas while their credentials are being evaluated. SBEC is currently reviewing the licensing exams for all other states to determine which certification requirements are equivalent to Texas'. In the meantime, SBEC issues temporary certificates to educators from other states while they are waiting to take and pass Texas' certification exams, so that they may work in public schools. This recommendation would allow SBEC to continue to issue temporary certificates to out-of-state applicants from states whose tests have not yet been assessed.

6.4 Authorize the staggered renewal of licenses.

This recommendation would encourage the periodic renewal of licenses rather than requiring the renewal of all licenses at one particular time each year. The staggering procedure improves the efficient use of agency personnel by establishing a uniform workload throughout the year, eliminating backlogs in licensing efforts and the need for seasonal employees.

Enforcement

Change in Statute

6.5 Authorize SBEC to use a full range of penalties.

As a general principle, an agency's range of penalties should conform to the seriousness of the offenses presented to the agency. However, in many cases licensing agencies are not given a sufficient range of penalties. This recommendation is intended to ensure that the appropriate sanctions for offenses are available to SBEC. The general range of sanctions includes probation, suspension, revocation, or refusal to renew a certificate or reprimand a certificate holder.

Fiscal Implication Summary

The recommendations would have no net fiscal impact to the State, as discussed below.

- **Issue 5** – Transferring authority over issuing school district teaching permits would have no net fiscal impact. Individuals seeking permits would have to pay the \$45 fee to cover the costs of SBEC's criminal history check process. Because of the small number of applicants, any increased workload related to increased enforcement efforts would not require additional staff.

