

Item 23: Board Operating Policies and Procedures (BOPP)

INFORMATION ONLY

SUMMARY: This information item presents the State Board for Educator Certification (SBEC) Board Operating Policies and Procedures (BOPP).

STATUTORY AUTHORITY: The statutory authority for the BOPP is the Texas Education Code (TEC), §21.041(a) relating to adopting rules as necessary for its own procedures.

C. Scope

These Board Operating Policies and Procedures apply to all activities conducted by the Board.

D. Responsibility for Implementation

The Board and its officers are responsible for ensuring the implementation and adherence to the Board Operating Policies and Procedures.

E. Nondiscrimination Policy

The Board shall comply fully with the nondiscrimination provisions of state and federal law, rules, and regulations. The Board shall ensure that no person shall be excluded from consideration for appointment as an officer or committee member of the Board, or be denied benefits of, or participation in, any program or activity overseen by the Board, on the grounds of race, religion, color, national origin, sex, disability, age or veteran status, in violation of law.

II. THE BOARD

A. Powers and Duties

1. **Authority.** The Powers and Duties of the Board are set out in Subchapter B, Chapter 21 of the Texas Education Code. Other duties of the Board may be included in provisions of the Texas Government Code and General Appropriations Act.
2. **Signature Authority for Disciplinary Orders.** The Chairperson may sign on behalf of a majority of the Board a decision or order issued in a disciplinary case or other matter arising under 19 Texas Administrative Code Chapter 249, relating to Board disciplinary proceedings, including enforcement of the educator's code of ethics. Members of the majority, however, retain discretion to sign any decision or order.
3. **Communications.** The Chairperson officially represents the Board in communicating policy and procedures. However, this provision does not prohibit other Board members from commenting publicly about the Board in their individual capacities or otherwise expressing personal opinions about the Board.
4. **Purpose.** The primary purposes of the Board, as set out in Section 21.031 of the Education Code, are as follows:

The Board is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The Board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public-school educators. In proposing rules under this Subchapter, the Board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

B. Board Composition

The Number, Term, Qualifications and Method of Appointment of the Board are provided in Subchapter B, Chapter 21, of the Texas Education Code.

- The Board is composed of 15 members. The commissioner of education shall appoint an employee of the agency to represent the commissioner as a non-voting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a non-voting member. The governor shall appoint a dean of a college of education in this state as a non-voting member and appoint a person who has experience working for and knowledge of an alternative educator preparation program as a non-voting member. The remaining 11 members are appointed by the governor with the advice and consent of the senate, as follows:

- a. four members must be teachers employed in public schools; votim te, as egluM2-6.6 (he s61

- c. Board member responsibilities, including the proper role of the member in policy making, deliberations, communications, and relations with the administrative staff of the Texas Education Agency;
- d. Standards of conduct as public officials;
- e. Board meetings and other Board functions;
- f. Legislative and rule-making processes;
- g. Texas open government laws, including information regarding mandatory training in open meetings and public information as required by the Chapters 551 and 552 of the Texas Government Code;
- h. Disciplinary proceedings and code-of-ethics enforcement laws, including pertinent Board rules and the Texas Administrative Procedure Act;
- i. Texas Education Agency staff functions (certification, accountability, professional discipline, recruitment & retention, general administration); and
- j. Travel reimbursement/*per diem* procedures and state regulations.

III. OFFICERS OF THE BOARD

A. Election and Service of Board Members

The Board shall elect a Chairperson, Vice-Chairperson, and Secretary, as authorized by Section 21.036 of the Education Code. Officers shall serve for a term of two years, or until a successor has been duly elected in the event of a vacated position. Elections shall take place at the last regularly scheduled Board meeting of each odd-numbered calendar year, unless a special election to fill a vacant position is necessary. The officer-elect assumes office at the first regularly scheduled meeting of the following calendar year, or for a special election, immediately upon Board vote.

1. Chairperson. The Board shall elect one of its members to serve as Chairperson. The Chairperson shall serve as presiding officer of the Board.
2. Vice-Chairperson. The Board shall elect one of its members to serve as Vice-Chairperson. In the event of absence or disability of the Chairperson, the Vice-Chairperson shall serve as presiding officer of the Board and carry out all duties of the Chairperson.

agenda unless a majority of the Board members request to add an item or

- ii. Each speaker shall have three minutes, unless the committee adjusts the time. Comment invited by committee members shall not be counted against the speaker's time.
 - iii. The committee shall allocate up to 30 minutes, total time, at the beginning of each scheduled standing committee meeting of the Board for public comment on items posted for action or discussion. All public testimony shall occur at the beginning of the committee meeting.
 - iv. Appropriate physical arrangements for taking comment shall be provided.
- c. Registering to Provide Comment
- (1) Pre-registration. Speakers may register during regular business hours until two business days preceding the meeting. The speaker is required to use the form available on the TEA's website.
- i. The speaker must provide his or her name, organizational affiliation, if any, and indicate which agenda item or topic shall be addressed. Additionally, the registrant shall disclose his or her viewpoint on the item or topic, as well as whether he or she, and the organization represented, if any, is a lobbyist registered with the Texas Ethics Commission. The date and time the registration was received shall be noted.
 - ii. A separate form shall be submitted for each agenda item or topic on which the speaker shall testify.
 - iii. If all information required by this operating procedure is not provided on the form, the presiding officer may disallow the comment.
 - iv. A person may register only one person, either himself or herself, or another person. Organizations are encouraged to register only one person per item.
 - v. A registrant offering written materials in lieu of oral comment shall provide the materials to staff for distribution. Written comment shall not exceed three pages of double-spaced text and shall be attached to a completed registration form. Written comment may be submitted in person at the meeting or by mail, fax, or electronic mail, as specified on the registration form. Written materials offered in lieu of oral comment should be submitted two business days before the meeting to ensure that members have had an opportunity to consider it. Board minutes shall reflect the name of the registrant, affiliation if any, and the item or topic addressed. Copies of the

463-7795 or by personal delivery in accordance with timelines established under Section §2001.146(d) of the Texas Government Code.

- c. The Administrative Liaison to the Board shall submit copies of the motions and replies to the Board's legal counsel. The Board's legal counsel shall submit copies of the motion and replies to each board member in a separate email using authorized email addresses. The Board's legal counsel shall include a brief reminder of the procedures and timeframes in the correspondence.
- d. Board members shall direct questions regarding motions and replies to the Board's legal counsel and not to TEA staff and shall not confer with each other regarding motions and replies.
- e. Each board member shall send an individual email to the Board's legal counsel indicating approval or denial of the motion for rehearing to the Board's legal counsel within the time frame established under Section §2001.146(d) of the Texas Government Code. Failure to respond within the appropriate time frame shall be considered a denial of the request.
- f. For purposes of IV.A.6, all members shall be deemed present to conduct

B. Advisory Committees

1. The Board may establish advisory committees and shall approve advisory committee members but may not serve as an ex officio member of the advisory committee.
2. An advisory committee may adopt its own rules for internal governance, as long as those rules do not conflict with the Board Operating Policies and Procedures.
3. Reimbursement of an advisory committee member. TEA is prohibited from paying fees and expenses to an advisory committee member unless specifically authorized by the provisions of the General Appropriations Act or other law.
4. The Board has established the following Advisory Committee:
 - Educator Preparation Advisory Committee. The purpose of the Educator Preparation Advisory Committee (EPAC) is to advise the SBEC and TEA staff on matters relating to educator preparation in support of the Board's statutory charge of ensuring all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state. The committee shall reflect the educational community under the Board's oversight, the various types of programs that have been approved by the Board, and the diverse population of Texas.

VI. BOARD RULES

A. Rule Making Authority. The Board shall adopt rules as required by Section 21.041 of the Texas Education Code.

B. Rule Making Process. The Board shall approve a rule making process to be followed by the Board for proposing and adopting new rules, amendments, and repeals. The Board, by majority vote, may agree to a departure from the approved rule making process if authorized by law. A copy of the rule making process shall be incorporated herein and published as part of the Board's operating policies and procedures, as Table 1. The Board shall enter into a Memorandum of Agreement with TEA to perform administrative functions related to the adoption, amendment, repeal of the Board's rules. Upon adoption, that Memorandum of Agreement shall be incorporated herein and published as a part of the Board's operating policies and procedures, as Table 2.

C. Rule Review Process. In accordance with Section 2001.039 of the Texas Government Code, the Board shall review its rules every four years to ensure that statutory authority and reasons for adopting the rules continue to exist.

D. Stakeholder Participation in Rule Making. As part of the Board's rulemaking process, stakeholder input shall be sought on draft Board rules, as appropriate.

E. Filing Non-Substantive Rule Corrections with the Secretary of State. The Commissioner of Education or the Commissioner's designee may approve and file with the Secretary of State non-substantive corrections to the Board's rules. Non-substantive rule corrections may include

Table 1:

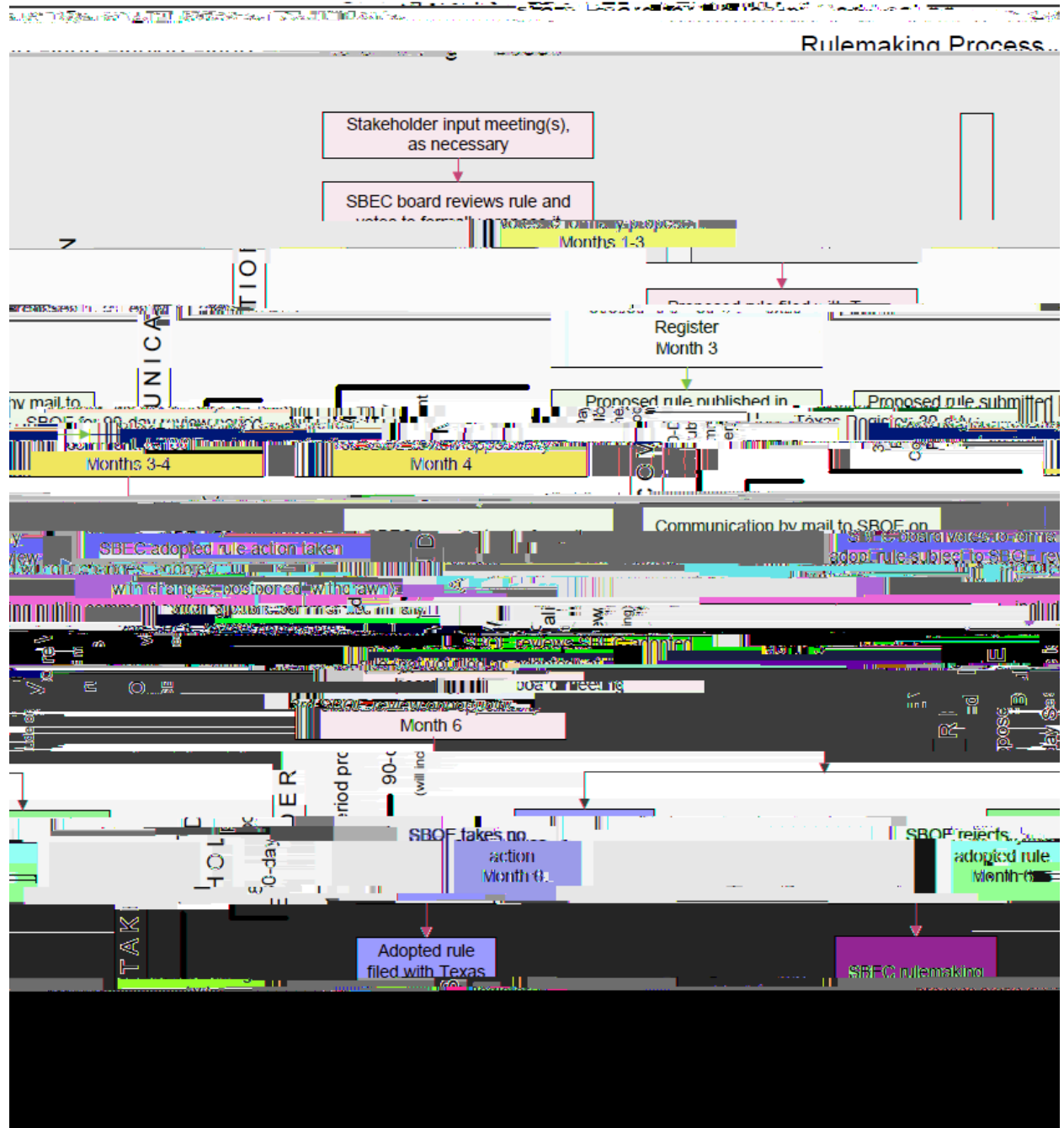


Table 2:

MEMORANDUM OF AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS§

KNOW ALL MEN BY THESE PRESENTS:

This MEMORANDUM OF AGREEMENT (AGREEMENT) between the STATE BOARD FOR EDUCATOR CERTIFICATION (BOARD) Texas state agency acting through its Chair, and TEXAS EDUCATION AGENCY (TEA) Texas state agency acting through the Commissioner of Education AGREEMENT'S purpose is to establish the process by which TEA will provide administrative support and services to the BOARD

WHEREAS Section 21.035(a) of the Texas Education Code provides that the Board is administratively attached to TEA;

WHEREAS Education Code, chapter 21 authorizes the Board to adopt rules and fees relating to the regulation of educators and the administration of chapter 21, and certain other topics specified in chapter 21

NOW, THEREFORE, in recognition of the foregoing, THE BOARD AND TEA AGREE AS FOLLOWS

I. PERIOD OF AGREEMENT:

This agreement becomes effective upon signature of the representatives of parties and continues in effect unless notice is given by either party at least 60 days in advance of a requested termination date.

II. PURPOSE OF AGREEMENT:

The purpose of this agreement is to implement the legislative directive that TEA provide

provided by the General Appropriations Act, accounting for all funds received and disbursed by TEA for the certification function during the preceding fiscal year; and

(D) execute contracts to perform administrative functions and services.

(2) The Board will carry out its duties, including but not limited to the duties required by section 21.040:

(A) to appoint the members of any advisory committee to the Board;

(B) for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the Board; and

(C) develop and implement rules and policies.

(3) The Board must approve the following final actions:

(A) entry of a final order based upon a proposal for decision issued by the State Office of Administrative hearings;

(B) approval or sanction of an education preparation entity; and

(C) proposal, amendment, or adoption of Board rules.

(4) Although the Board will propose and adopt all rules authorized by statute, TEA staff shall be responsible for performing the duties of drafting and revising the rules in accordance with the instruction of the Board, transmitting the proposed and adopted rules to the Texas Register and ensuring that they are properly and timely filed, as required by the Texas Administrative Procedure Act (chapter 2001 of the Texas Government Code). When processing rules for adoption, the TEA internal rule preparation process shall be followed in conjunction with the Board's Operating Policies and Procedures.

(5) The Attorney General's Office will represent the Board in General Counsel matters, and any necessary fees or expenses paid to the Attorney General's Office for such representation shall be paid by TEA from appropriated funds.

(6) The Commissioner of Education will assign one or more attorneys to represent the Board in disciplinary matters (including contested case hearings) to which the Board may be a party. TEA staff will regularly provide the Board with reports regarding pending disciplinary cases.

(7) The Commissioner or the Commissioner's designee-6.7 (n)2.Off(s)-1.39s.2 (Ge)-3.1 (n)2.3 (e0.6

Commissioner or the Commissioner's designee the authority that was previously delegated to the Board's executive director in former TEC §21.039 and in Board Rule 19 TAC 249.35(b) prior to its 2007 amendment.

- (9) The Commissioner of Education will appoint staff to serve as the Board's Officer of Public