

Item 13:

Discussion and Action on Proposed Revisions to Board Operating Policies and Procedures (BOPP)

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) the opportunity to revise the Board Operating Policies and Procedures (BOPP). The proposed revisions would add procedures to grant the opportunity to conduct a public hearing before the Board adopts a substantive rule, to clarify a quorum of the Board for meeting purposes, to add provisions for oral argument regarding educator preparation program (EPP) sanctions, and to make technical and clarifying edits. This item also provides the Board with an opportunity to amend the procedures for receiving oral comments and written materials at SBEC meetings.

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. The statutory authority for the public comment period and public hearing opportunity is the Texas Government Code, §2001.029.

EFFECTIVE DATE: Upon Board approval.

PREVIOUS BOARD ACTION: The BOPP was initially adopted in October 1996. They were amended on the following dates: September 1997, May 2000, May 2002, August and December 2004, January and March 2005, July 2006, January, March, May, July and, October 2008, February and June 2009, May and October 2013, February, August and October 2014, and August 2015.

BACKGROUND INFORMATION: The BOPP provides the SBEC with its general power and duties, as well as, the procedural rules governing the Board. At the August 2016 SBEC meeting, the Board requested the opportunity to revise the BOPP to address oral and written testimony procedures to manage the volume of oral testimony and written materials received at SBEC meetings. Texas Education Agency (TEA) staff proposes additional revisions to the BOPP concerning public hearings, quorum requirements, provisions for oral argument regarding EPP sanctions, and technical and clarifying edits.

Below outlines the options and proposed revisions to the BOPP that are not technical and/or clarifying edits:

III. Officers of the Board

TEA staff proposes adding wording in (A), Election and Service of Board Members, to allow for a special election for SBEC officer(s) to fill a vacant position if necessary.

IV. Meetings of the Board

A. Meetings of the Board:

- TEA staff proposes revisions in (6), Quorum/Action, to clarify quorum requirements and procedures for SBEC Board and committee meetings.

- As stated above, section (10), Public Comment, is presented to the Board for possible revisions based on a directive by the Board to consider options in addressing the volume of oral testimony and written materials received by the Board at SBEC meetings as well as some additional changes proposed by TEA staff.
 - TEA staff proposes moving the provision currently in (10)(b)(2)(ii), Agenda Items, to new (10)(a)(3), Policy, concerning the presiding officer determining which speakers will be heard and in what order in which they will be heard if the number exceeds that number which may be reasonably be expected in the allotted time. Given that this provision applies to all public comment for Board meetings and committee meetings, TEA staff believe this provision is more applicable in the Policy section of Public Comment.
 - Section (10)(b)(1)(i), allows up to 30 minutes, each speaker having three minutes, at the beginning of each regularly scheduled meeting for public comment on non-agenda and consent agenda items. TEA staff proposes inserting “total time” for the 30 minutes allotted to align with public comment on agenda items and inserting “exclusively” to clarify that this time period is only for non-agenda and consent agenda items.
 - Section (10)(b)(1)(ii), allows each speaker to have three minutes on non-agenda and consent agenda items. TEA staff proposes replacing “extends” with “adjusts” to allow the Board to adjust how much time a speaker will have during public comment on non-agenda and consent agenda items.
 - Section (10)(b)(2)(i), allows each speaker to have three minutes on each posted agenda item. TEA staff proposes replacing “extends” with “adjusts” to allow the Board to adjust how much time a speaker will have during public comment on agenda items.
 - As stated above, TEA staff proposes moving the section of (10)(b)(2)(ii), concerning the presiding officer retaining discretion to determine which speakers will be heard if the number exceeds the time limit, to new (10)(a)(3), the Policy section of Public Comment.
 - Section (10)(b)(3)(ii), allows each speaker to have three minutes on each posted agenda item for SBEC committee meetings. TEA staff proposes replacing “extends” with “adjusts” to allow the committee to adjust how much time a speaker will have during public comment on agenda items during committee meetings.
 - TEA staff proposes adding section 10(b)(3)(iii), allocating 30 minutes at the beginning of each committee meeting, to align with public comment sections on SBEC agenda, non-agenda and consent agenda items during Board meetings.
 - Section (10)(c)(1) requires that the registration form for public comment be adopted by the Board. TEA staff recommends removing that requirement because the information on the form is prescribed in the wording of the registration requirements in (10)(c)(1)(i) and minor

edits suggested by the chair or TEA staff, such as a title box or limiting characters in a box, have to first be brought to the Board for adoption before updates can be made.

- TEA staff proposes moving a section of (10)(c)(1)(i) concerning requiring a separate form for each agenda item to new (10)(c)(1)(ii) due to it more appropriately listed separately.
- TEA staff proposes moving a section of (10)(c)(1)(v) concerning late registration for written materials submitted at Board meetings to (10)(c)(2), which addresses all late registration or oral testimony and written materials submitted for public comment.
- TEA staff proposes adding a section (10)(c)(1)(vi) to clarify that registrations will be listed based upon registration date and time or alternating points of view in order of registration date and time.
- Section (10)(c)(2) allows for late registration at the Board meeting to be accepted up until 30 minutes prior to the beginning of the meeting. TEA staff proposes adding a statement that late registrants are not guaranteed an opportunity to testify due to time restraints.
- Section 10(d), Public Hearings, would be added to grant the opportunity for a public hearing before the Board adopts a substantive rule.
- TEA staff proposes amending section (11), Oral Argument Regarding Disciplinary Cases, to add the provision for oral argument for educator preparation program (EPP) sanctions.
 - TEA staff proposes amending section (11)(b) to clarify what matters can be argued before the SBEC concerning disciplinary cases.
 - TEA staff proposes amending section (11)(c) to clarify what matters can be argued before the SBEC concerning EPP sanctions.
 - TEA staff proposes deleting section (11)(f) to remove the requirement for prior notification to present oral argument to the SBEC.
- TEA staff proposes amending section (12), Motions for Rehearing, removing sections (12)(g)-(i) to align with current SBEC procedures.

V. Board Committees

A. Board Committees

- TEA staff proposes revisions in (1), Legislative Committee, to clarify the purpose and role of the SBEC Legislative Committee.

VII. CONTRACTS AND MEMORANDA OF AGREEMENT

TEA staff proposes revisions to sections (A), (B), and (C), to remove redundancy in language and align with current SBEC procedures.

MOTION TO BE CONSIDERED: The State Board for Educator Certification:

Approve the revisions to the Board Operating Policies and Procedures.

Staff Member Responsible: Christie Pogue, SBEC Manager
Educator Leadership and Quality

Attachments:

- I. Statutory Citations
- II. Proposed Revised State Board for Educator Certification Board Operating Policies and Procedures

ATTACHMENT I**Statutory Citations for Proposed Revisions to Board Operating Policies and Procedures
(BOPP)****Texas Education Code, §21.041, Rules; Fees (excerpt):**

- (a) The board may adopt rules as necessary for its own procedures.

Texas Government Code, §2001.029, Public Comment:

- (a) Before adopting a rule, a state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing.
- (b) A state agency shall grant an opportunity for a public hearing before it adopts a substantive rule if a public hearing is requested by:
- (1) at least 25 persons;
 - (2) a governmental subdivision or agency; or
 - (3) an association having at least 25 members.
- (c) A state agency shall consider fully all written and oral submissions about a proposed rule.

State Board for Educator Certification Board Operating Policies and Procedures

I. PREAMBLE

A. Purpose

The State Board for Educator Certification (the Board) adopts and implements the Board Operating Policies and Procedures to achieve the following purposes:

1. To outline the Board's general powers and duties under ~~chapter~~ Chapter 21, ~~subchapter~~ Subchapter B, of the Texas Education Code, and other applicable laws;
2. To establish procedural rules governing the Board pursuant to ~~section~~ Section 21.041(a) of the Texas Education Code;
3. To apprise board members of the standards of conduct and conflict of interest provisions applicable to their conduct pursuant to ~~chapter~~ Chapter 572 of the Texas Government Code; and
4. To adopt policies that clearly define the responsibilities of the Board and Texas Education Agency (TEA) staff.

B. Goals

In exercising its powers and fulfilling its duties the Board shall strive to:

1. Establish major visionary guiding policies and procedures;
2. Establish the vision and goals that define the results that the Board seeks to achieve;
3. Serve as a link between the Board and state policy makers;
4. Accept accountability for its decisions and actions;
5. Establish an effective relationship with TEA staff;
6. Maintain objectivity in reviewing the facts during the decision-making process;
7. Act in the best interest of school children, their parents, professional educators, and the public;
8. Continually learn and be willing to take risks to improve the educational system within the boundaries of statutory authority; and
9. Review the Board Operating Policies and Procedures annually.

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~~ Subchapter B, ~~chapter~~ 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~~ 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~~ 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~~ Subchapter, the ~~board~~ 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~~ Subchapter B, ~~chapter~~ 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;
 - b. two members must be public school administrators;
 - c. one member must be a public school counselor; and
 - d. four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education.

C. Terms

1. The Board members appointed by the governor hold office for staggered terms of six years with terms of one-third of the members expiring on February 1 of each odd-numbered year.
2. A member appointed by the commissioner of education or commissioner of higher education serves at the will of the commissioner.
3. In the event of a vacancy during a term of a member appointed by the governor, the governor shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

D. New Member Orientation

A new appointee to the Board shall be given an orientation to the activities of the Board.

- New Member Orientation shall include the following topics:
 - a. Board mission, goals, objectives, and strategic plan;
 - b. Board organization, function, and powers and duties;
 - 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~~ 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~~ 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~~ 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 during that absence or disability. In case of vacancy of the office of Chairperson, the Vice-Chairperson shall serve as presiding officer of the Board and carry out all duties of the Chairperson until the position of Chairperson is filled.
3. Secretary. The Board shall elect one of its members to serve as Secretary. In the event of absence or disability of the Chairperson and Vice-Chairperson, the Secretary shall serve as presiding officer of the Board and carry out all duties of the Chairperson during that absence or disability. In case of vacancy of the office of Chairperson and Vice-Chairperson, the Secretary shall serve as presiding officer of the Board and carry out all duties of the Chairperson until the position of Chairperson is filled.

B. Board Member Compensation

A board member receives no compensation for service on the Board. A board member is entitled to reimbursement for expenses incurred in performing board member duties, as provided by ~~subchapter~~ Subchapter B, ~~chapter~~ Chapter 21 of the Texas Education Code and other applicable law.

C. Board Member Conduct

Board members shall adhere to the standards of conduct and conflict of interest provisions set out in ~~section~~ Section 572.051 of the Texas Government Code and other applicable law. Pursuant to that ~~section~~ Section, a ~~Board~~ board member must adhere to the following:

1. Not accept or solicit any gift, favor, or service that might reasonably tend to influence the ~~Board~~ board member in the discharge of official duties or that the ~~Board~~ board member knows or should know is being offered with the intent to influence the member's official conduct;
2. Not accept other employment or engage in a business or professional activity that the ~~Board~~ board member might reasonably expect would require or induce the ~~Board~~ board member to disclose confidential information acquired by reason of the official position;
3. Not accept other employment or compensation that could reasonably be expected to impair the ~~Board~~ board member's independence of judgment in the performance of the ~~Board~~ board member's official duties;
4. Not make personal investments that could reasonably be expected to create a substantial conflict between the ~~Board~~ board member's private interest and the public interest;
5. Not intentionally or knowingly, solicit, accept, or agree to accept any benefit for having exercised the ~~Board~~ board member's official powers or performed the officer's or employee's official duties in favor of another;
6. Complete the financial disclosure statement, as required by ~~chapter~~ Chapter 572 of the Texas Government Code;
7. Complete the open government training as required by Government Code ~~section~~ Section 552.012;
8. ~~Be mindful of~~ Adhere to the Open Meetings Act when communicating with other Board members outside of a posted meeting of the Board; or
9. Seek counsel when presented with a situation that the ~~Board~~ board member feels may raise a conflict of interest.

D. Board Member Participation

To facilitate open discussion and united representation of the Board, the Board agreed to the following:

1. Not participate in stakeholder meetings;
2. Not attend a conference as a Board representative;
3. Not participate in educator preparation program monitoring visits.
4. Make all requests to staff for information between ~~board~~ Board meetings through the associate commissioner copying the chair.

IV. MEETINGS OF THE BOARD

A. Meetings of the Board

1. Regular Meetings. Regular meetings of the Board shall be held at such intervals as may be determined by the Board. The Board shall meet at least once per quarter of the calendar year on dates determined by the Board. In setting its meetings, the Board shall attempt to avoid scheduling conflicts with meetings of the State Board of Education.
2. Emergency Meetings. An Emergency Meeting of the Board may be called by the Chairperson or the Vice-Chairperson. Notice of such meeting shall be communicated in the manner most likely to give the greatest amount of notice to the members and complies with the Texas Open Meetings Act. Every meeting notice to Board members shall contain the meeting time, place, day, and general nature of the business to be transacted.
3. Special meetings of the Board. Special meetings of the ~~board~~ Board may be held at times and places as ordered by the ~~board~~ Board during a regular meeting, or special meetings may be called by the ~~chair~~ Chairperson of the ~~board~~ Board to be held at a time and place the ~~chair~~ Chairperson shall designate.
4. Notice. The Chairperson shall designate a location for each Board meeting. Notice of the meetings, including the location shall be posted pursuant to the requirements of the Texas Open Meetings Act. All meetings shall be open to the public, except executive sessions as discussed below. Notice to the public of emergency meetings shall be given pursuant to the Texas Open Meetings Act.
5. Agendas. The Chairperson shall determine the agenda for a Board meeting. Any member of the Board may request that an item be placed on the agenda. The Chairperson makes the final determination as to whether to place an item on the agenda unless a majority of the Board members request to add an item or otherwise amend the agenda. If an item is removed from the agenda, the Board Chairperson will timely inform other Board members the reason for removing an agenda item after it has been posted. Final approval of the agenda lies with the Board Chairperson. Board members shall receive the agenda and supporting materials for an upcoming meeting at least ten calendar days before the meeting. In the event the agenda and/or supporting materials cannot be delivered at least

ten calendar days prior to the meeting the Commissioner or Commissioner's designee shall notify the Board's Chairperson as to the reason why.

6. Quorum/Action. At each regular or emergency meeting, the Chairperson shall certify a quorum is present in order to conduct official business of the Board. A quorum of the ~~board~~ Board is a majority of the number of members fixed by statute, including non-voting members. ~~Accordingly, eight members is a quorum of the board~~ Board for all purposes. However, the Texas Open Meetings Act prohibits less than a quorum of members from discussing or deliberating official business of the Board. ~~A majority of members present, whether or not they comprise a quorum, may adjourn the meeting from time to time.~~ A majority shall mean, for all purposes, more than half of the votes cast, ignoring abstentions. At each committee meeting, the Chairperson shall certify a quorum is present in order to conduct official business of the Board. A quorum of the committee is a majority of the number of members, including non-voting members.
7. Rules Governing Board Action. The Board Operating Policies and Procedures shall govern the action of the Board. In the event that the policies and procedures do not specify how an action shall be conducted, the Board may refer to the Robert's Rules of Order Newly Revised Edition.
8. Recordation of Meetings. All or any part of the public meeting may be recorded by any person in attendance by means of tape recorder, video camera, or any other means of sonic or visual reproduction unless determined by the Chairperson to be disruptive of the meeting. The Chairperson shall determine the location of any such equipment and the manner in which the recordings are conducted.
9. Webcast. Regular and special meetings of the full ~~board~~ Board may be webcast, whenever feasible, for people interested in watching meetings from a computer or device. Should technical difficulties prevent webcasting, the Board meeting will continue.
10. Public Comment
 - a. Policy
 - (1) Opportunity for public comment shall be provided at each regularly scheduled meeting of the Board and its standing committees. This policy excludes special and *ad hoc* committee meetings.
 - (2) The presiding officer of the ~~board~~ Board or committee shall take appropriate action to avoid unduly repetitive comment and to assure that different members of the public with differing points of view have reasonable access to the ~~board~~ Board or committee. The presiding officer shall strive to ensure that representatives from both sides of an issue are able to address the ~~board~~ Board or committee.
 - (3) The presiding officer shall determine which speakers will be heard and in what order they will be heard if the number of speakers exceeds the number that may reasonably be expected to testify in the allotted time for presentations. The presiding officer shall also determine whether speakers

who registered late will be heard and whether persons asking to testify as a substitute for a registered speaker may do so.

- (4) The ~~board~~ Board shall not allow public comment regarding individual agreed orders.
- b. Procedure
- (1) Non-Agenda and Consent Items
- i. The Board shall allocate up to ~~thirty (30) minutes, total time,~~ at the beginning of each regularly scheduled meeting of the full ~~board~~ Board for public comment on exclusively non-agenda and consent agenda items.
 - ii. Each speaker shall have three minutes, unless the Board ~~extends~~ adjusts the time. Comment invited by ~~board~~ Board members shall not be counted against the speaker's time.
 - iii. The presiding officer shall announce in open session which registered speakers, if any, shall not be heard and the basis for this determination. The Board may not overrule a decision of the presiding officer with regard to a non-agenda or consent item.
 - iv. Appropriate physical arrangements for taking comment shall be provided.
- (2) Agenda Items
- i. Each speaker shall have three minutes, unless the Board ~~extends~~ adjusts the time. Comment invited by ~~board~~ Board members shall not be counted against the speaker's time on agenda items.
 - ii. The Board shall allocate up to 30 minutes, total time, to public comment on each agenda item; however, the Board may, by majority, vote to adjust the total time allocated to public comment on agenda items. ~~The presiding officer retains discretion to determine which speakers shall be heard if the number of speakers exceeds or is expected to exceed the time allocated for public comment, giving priority to new speakers and alternating comment by viewpoint.~~
 - iii. Appropriate physical arrangements for taking comment shall be provided.
- (3) Committee Comment
- i. Public comment to a committee shall be limited to items posted for action or discussion.

- ii. Each speaker shall have three minutes, unless the committee ~~extends~~ 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 ~~adopted by the board, which is~~ 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. ~~A separate form shall be submitted for each agenda item or topic on which the speaker shall testify.~~ 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., ~~but must be submitted no later than 30 minutes prior to the meeting.~~ Board minutes shall reflect the name of the registrant,

affiliation if any, and the item or topic addressed. Copies of the written comment shall be provided to all board members but shall not be attached to the board minutes.

- vi. Registration will be listed based upon registration date and time or alternating points of view in order of registration date and time.
- (2) Late registration at the ~~board~~ Board meeting. Late registration for providing oral comment or written ~~comment~~ materials will be accepted up to 30 minutes prior to the beginning of the ~~board~~ Board meeting, however, late registrants are not guaranteed an opportunity to testify due to time restraints.
- d. Public Hearings Regarding Proposed Board Rules. TEA staff shall conduct a public hearing on a substantive rule of the SBEC upon proper request pursuant to Texas Government Code §2001.029. Public comment is restricted to comments regarding the proposed action. The hearing must be set to take place before any action is adopted.
11. Oral Argument Regarding Educator Disciplinary Cases and Educator Preparation Program Sanctions
- a. Oral argument to the Board is not an evidentiary hearing and may not include presentation of new facts or testimony.
 - b. Oral argument for cases referred to the State Office of Administrative Hearings (SOAH) is strictly confined to matters contained in the record before the State Office of Administrative Hearings SOAH and legal challenges to the Proposal for Decision, including the proposed sanction.
 - c. Oral argument for cases not referred to SOAH is strictly confined to matters contained in the record of the informal review in 19 TAC Section 229.7 including the proposed sanction.
 - ~~e.d.~~ Oral argument ~~shall~~ may be presented by up to two individuals authorized by the party. Presenters may be a licensed attorney representing the party, an authorized party representative or the party.
 - ~~d.e.~~ ~~The authorized individual or individuals representing the party~~ An authorized party representative or the party may present oral argument for a period not to exceed ten minutes in total. Responses to questions of Board members shall not be counted against the party's time.
 - ~~e.f.~~ The Board's attorney shall assist the Board in implementing this procedure.
 - f. ~~The party, authorized party representative, or licensed attorney representing the party shall notify the Administrative Liaison to the Board of the intent to present oral argument to the Board by facsimile to (512)~~

~~463-8762. Notification must be made four calendar days before the board meeting and include all proposed speakers.~~

12. Motions for Rehearing

- a. ~~The Board may consider a motion for rehearing in accordance with Section §2001.146(d) of the Texas Government Code. §2001.146(d) the Board may resolve motions for rehearing outside a formal hearing using suitable means of communication.~~
- b. Motions for rehearing and responses to motions for rehearing shall be submitted to the Administrative Liaison to the Board by facsimile to (512) ~~463-8762~~ 463-7795 or by personal delivery in accordance with timelines established under Section §2001.146(d) of the Texas Government Code §2001.146.
- 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~~ 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 §2001.146. 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 business and a majority needed to grant a motion for rehearing shall be an affirmative vote from ~~6~~ six voting members.
- ~~g. At the conclusion of the appropriate time period or receipt of answers from all voting members, the Board's legal counsel shall inform the board members of the Board's final disposition of the motion. The Administrative Liaison to the Board shall inform the parties of the final disposition of the motion for rehearing.~~
- ~~h. If a motion for rehearing is granted, the Board shall take up the matters addressed in the motion or motions for rehearing at the next meeting of the Board unless alternative meeting dates are otherwise determined. The Board's order granting the motion for rehearing shall include notice of the time when the matters subject to the approved motion for rehearing will be considered by the Board.~~

- i. ~~The Board may utilize any lawful means to resolve motions for rehearing at their discretion.~~

B. Executive Sessions

Executive Sessions of the Board are closed meetings of the Board which may be held as authorized by the Open Meetings Act, Texas Government Code Ch. 551.

V. BOARD COMMITTEES

The Board may establish regular, standing, temporary, or advisory committees as it may deem appropriate to perform such functions as it may designate.

A. Board Committees

The Board Chairperson shall appoint an appropriate number of members to serve on the committees, including one to serve as presiding officer. The Board has established the following standing committees:

1. Legislative Committee. This committee is established to monitor and review bills that affect the Board, and to discuss potential impact of legislative issues and proposals that may be considered during the legislative session, and to propose legislative recommendations priorities and/or interests to the Board for consideration on matters where Board members may be called upon as a resource.

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 aAdvisory cCommittee mMembers. TEA is prohibited from paying fees and expenses to an advisory committee members 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 this committee is to advise the agency and the Board on matters relating to the educator preparation programs in Texas. The committee shall reflect the proportionate representation of the various types of programs that have been approved by the Board, and reflect the diverse population of Texas.

VI. BOARD RULES

A. Rule Making Authority. The Board shall adopt rules as required by ~~section~~ 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 ~~as allowed~~ 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, ~~§2001.039~~, 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 typographical, grammatical, referencing, or spelling errors and technical edits to comply with *Texas Register* style and format requirements.

VII. CONTRACTS AND MEMORANDA OF AGREEMENT

~~A. Contracts. The Board shall execute interagency contracts to perform routine administrative functions and may execute other contracts as allowed by law.~~

~~B. Delegation. The Chairperson of the Board may execute contracts approved by the Board on behalf of the Board and may delegate this authority to another member of the Board.~~

~~C. Memorandum of Agreement. The Board shall enter into a Memorandum of Agreement with the Texas Education Agency to provide administrative services and perform ministerial functions required by law.~~

Contracts and Memoranda of Agreement. The Board may execute interagency contracts to perform routine administrative functions. The Board may approve other contracts as allowed by law. The Chairperson of the Board may execute contracts approved by the Board or may delegate this authority to another member of the Board.

VIII. MISCELLANEOUS

A. Fiscal Year. The fiscal year of the Board shall be the official fiscal year of the State of Texas. It shall begin on September 1 and end on August 31 of each year.

B. Minutes. Minutes of the Board meetings shall be prepared and maintained, as required in the Open Meetings Act.

1. Minutes shall be approved by the Board.
2. Before the Board approves the minutes of the last meeting, the minutes shall be sent to each member of the Board for review, comment, and correction prior to approval.
3. Minutes are available for public review as authorized by the Open Meetings Act. All books and records of the Board shall be stored according to the records retention schedules as set forth by the Texas State Library and Archives Commission.

IX. POLICIES AND PROCEDURES: GUIDELINES

A. Effective Date of Policies and Procedures. These policies and procedures and any amendments to them shall become effective only upon approval of the Board.

B. Amendments to Policies and Procedures. Any of these policies and procedures may be altered, amended, or repealed, and new policies and procedures may be adopted by an affirmative vote of a majority of the Board.

C. Guidelines. These Board Operating Policies and Procedures create no substantive or procedural rights. They are guidelines for the Board's internal governance only.

D. Review of Policies and Procedures. The Board Operating Policies and Procedures shall be reviewed annually.

Table 1

State Board for Educator Certification
Rulemaking Process

