



# State Board for Educator Certification

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October 18, 2002

OPINION COMMITTEE

Hon. John Cornyn  
Attorney General, State of Texas  
Price Daniel, Jr., State Office Bldg.  
209 West 14<sup>th</sup> St.  
Austin, TX 78701

FILE # ML-42848-02

I.D. # 42848

Re: State Board for Educator Certification  
Request for Attorney General Opinion

RQ-0622-JC

Dear General Cornyn:

As the Executive Director of the State Board for Educator Certification (SBEC or Board), I am requesting your legal advice in the form of an Attorney General Opinion on the following issues related to a document evaluating the performance of a teacher or administrator under Sections 21.045(a) and 21.355, Education Code:

1. May SBEC have access to an appraisal document or the evaluative results indicated on such document evaluating a beginning teacher under Section 21.352, Education Code, to use in determining the accreditation status of an educator preparation program under Section 21.045, Education Code?
2. If the answer to Question No. 1 is "yes," what procedures must be followed for SBEC to gain access to a district's appraisal of a beginning teacher? That is, assuming SBEC has access to the appraisal document, or the evaluative results indicated on such document, may the district directly provide a copy to SBEC upon request?
3. If the appraisal document may be disclosed to SBEC, may SBEC share a copy of the appraisal or any information from it with the program whose accreditation is affected by the beginning teacher's appraisal? Such sharing would be done to implement the second prong of Section 21.045(a), Education Code.

4. In order to effectuate its statutory mandate under Section 21.045(a), Education Code, may the Board adopt a rule requiring districts to provide such beginning teacher appraisals or the evaluative results of them to SBEC? Is the following proposed language for such a rule acceptable?

“Upon request, a district shall provide SBEC a certified copy of an appraisal document or the evaluative results indicated on such document evaluating a beginning teacher under Section 21.352, Education Code.

“A district providing such a document or any requested information derived from it to SBEC does not violate Section 21.355, Education Code, relating to the confidentiality of a document evaluating the performance of a teacher or administrator. SBEC may provide the evaluative information received from the district to the affected educator preparation program without violating Section 21.355.

“The transfer of information under this (*rule section/subsection*) by a district to SBEC or by SBEC to an affected educator preparation program is not a release to the public for purposes of the Public Information Act (Chapter 552, Government Code).”

5. May SBEC use an appraisal document or the evaluative results indicated on such document evaluating a beginning teacher under Section 21.352, Education Code, to substitute for the Professional Development test now given by SBEC as part of the agency’s certification examination program? That is, if a beginning teacher scores acceptably on an appraisal, may SBEC waive or exempt the teacher from passing the Professional Development test?

The Professional Development test is separate from the one assessing the teacher’s content or subject matter knowledge related to the certificate sought. Under the scenario presented above, SBEC could issue a certificate that reflects limited teaching experience to a beginning teacher who has passed only the appropriate content test(s). To obtain certification reflecting the knowledge and skills expected of a more experienced teacher, the individual would have to pass the Professional Development test or obtain satisfactory scores on an appraisal of his or her performance in the classroom.

Statutes especially relevant to the above questions are listed below (all citations are to the Education Code):

- Section 21.031 authorizes SBEC to regulate all aspects of the certification, continuing education, and standards of conduct of public school educators. The statute further requires SBEC to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

- Section 21.045 requires SBEC to propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs.
- Section 21.048 requires SBEC to prescribe comprehensive examinations for each class of certificate issued by the Board.
- Section 21.352 provides the appraisal of teachers by each school district.
- Section 21.355 provides that a document evaluating the performance of a teacher is confidential.

A sample of the appraisal instrument developed by the Commissioner of Education for use under Section 21.352 is available through the Texas Education Agency's website at < <http://www.tea.state.tx.us/PDAS/> >.

### **Background of Board's Powers and Duties**

The Texas Legislature established the State Board for Educator Certification (SBEC) in 1995 to, among other things, regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators. TEX. EDUC. CODE ANN. § 21.031(a). (Vernon 1996). The Legislature further provided that, in proposing rules, the Board must ensure that all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of Texas. TEX. EDUC. CODE ANN. § 21.031(b). (Vernon 1996).

Significantly for this opinion request, the Board must propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs based on information that is disaggregated with respect to sex and ethnicity and that includes:

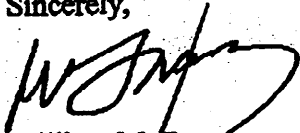
- (1) results of the certification examinations prescribed under Section 21.048(a), Education Code; and
- (2) performance based on the appraisal system for beginning teachers adopted by the board.

TEX. EDUC. CODE ANN. § 21.045(a). (Vernon 1996). (Emphasis added.)

The approval and continuing accountability of educator preparation programs is called the Accountability System for Educator Preparation Programs (ASEP). SBEC seeks to implement the second prong of ASEP—beginning teacher performance—by relying on district appraisals of beginning teachers they employ.

Thank you for considering this important matter. If you need to clarify this request or require further information, please contact me at 469-3003.

Sincerely,



William M. Franz  
Executive Director

cc: Dr. James Harris, Chairman, SBEC  
Dr. Felipe Alanis, Commissioner of Education  
Dr. Don Brown, Commissioner of Higher Education

Interested groups:

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Johnny L. Veselka, Executive Director  
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Association of Texas Professional Educators  
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Texas Association of School Personnel Administrators  
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Texas Classroom Teachers Association  
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Texas Parent - Teacher Association  
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Consortium of State Organizations for Texas  
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