

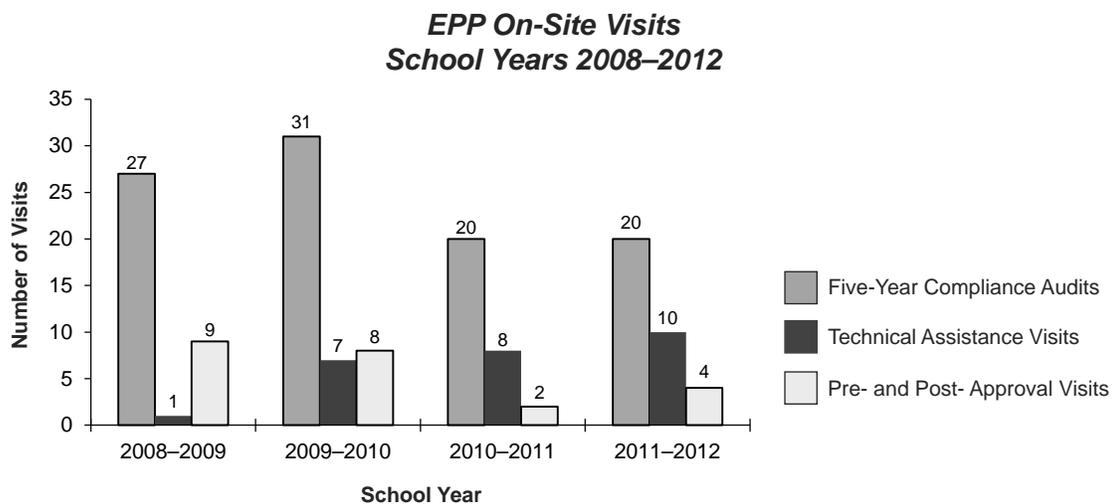
# ISSUE 10

## *Elements of the Regulation of Educator Preparation Programs Do Not Conform to Commonly Applied Licensing Practices.*

### Background

The State Board for Educator Certification (the Board) approves educator preparation programs (EPPs) and adopts the rules for EPP regulation.<sup>1</sup> TEA staff administers this regulation on behalf of the Board by monitoring 241 programs at 151 institutions in the state. Educator certification candidates can receive training through two types of programs: traditional four-year university or college programs and alternative certification programs. Alternative programs offer a nontraditional route to certification for individuals who already have a baccalaureate degree and are more likely to be midcareer. Approximately 60 percent of initially certified teachers in Texas attended alternative programs, and 40 percent attended traditional programs.

To ensure quality performance, TEA staff visits each program before and after initial approval. For at-risk or low-performing EPPs, staff offers technical assistance, both on site and over the phone. Every five years after initial approval, staff also conducts an on-site compliance audit to ensure the EPP's ongoing adherence with established standards and requirements. The chart, *EPP On-Site Visits*, illustrates the type and number of visits conducted by staff over the last four years.



In 2009, the Legislature raised the standards for educator preparation in Texas by implementing an accountability system for existing and new programs.<sup>2</sup> Under this system, the Board assigns each EPP an accreditation status based on their students' educator certification examination pass rates. The accreditation statuses are: accredited, accredited with action plan, accredited-warned, accredited-probation, not accredited-revoked, and not rated.<sup>3</sup> During the 2010–2011 school year, the Board required 18 low-performing EPPs to create an action plan for their program's improvement, and placed three EPPs on accredited-warned status because they failed to improve their pass rates after completing an action plan. In addition to pass rates, over the next two years the Board will also begin using the following standards to determine an EPP's accreditation status:

- beginning teacher performance based on an appraisal system;
- achievement of students taught by teachers in their first three years, including improvement in achievement; and
- compliance with the Board's rules regarding the frequency, duration, and quality of field supervision of first-year teachers.

Regulating EPPs requires common activities that the Sunset Commission staff has observed and documented over more than 30 years of reviews and compiled into a set of standards for licensing and regulatory programs. The following material highlights areas where EPP statute and rules differ from the model standards and describes the potential benefits of conforming to standard practices.

## Findings

### **The Board's rules fail to provide for regular renewal of EPPs and place greater burdens for continuing approval on some programs, creating inequities.**

A licensing agency should have a renewal process that helps ensure adequate oversight of regulated activities and continued competence of licensees on a regularly scheduled basis. Before renewing a license, a licensing agency should be aware of any past compliance issues, and the licensee's efforts to resolve those problems.

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*EPPs do not have to regularly prove their ongoing competence to prepare educator candidates.*

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In regulating EPPs, statute authorizes the Board to adopt rules to establish minimum standards for renewing EPPs.<sup>4</sup> However, the Board's rules do not provide for a standard, period renewal process; or the standards that an EPP should meet for renewal. Thus, in practice, EPPs do not have to regularly prove their ongoing competence to adequately prepare educator candidates or face non-renewal for failure to meet basic standards.

Instead, the Board's rules create two different processes for the continuing approval of EPPs: one for programs approved before September 1, 2008 and another for programs approved after that date.<sup>5</sup> For EPPs approved before 2008, currently representing about 90 percent of institutions, TEA staff conducts on-site compliance audits every five years, at which time each program must submit a status report regarding compliance with existing standards and the entity's original proposal. These rules allow TEA staff to conduct this review at any time at their discretion, but do not address procedures if the review indicates that an EPP fails to meet the standards. Thus, the process does not have a predictable timeframe, as with most renewal processes, but, more importantly, staff have no clear authority to not renew an EPP that no longer meets basic requirements.

For EPPs approved after 2008, the Board's rules add another requirement — that these EPPs only be granted approval to operate for 10 years. After 10 years, these EPPs must reapply for approval in the same manner as a new program. This includes filling out a new application, paying the program approval fee, and receiving a pre- and post-approval visit from TEA. While

ensuring compliance after 10 years, this approach goes well beyond the minimal assurance of ongoing compliance necessary for renewal. In contrast, the timeframe is much longer than generally provided for renewal, allowing the EPPs to operate for a long period of time with no renewal requirements.

While only 10 percent, or 15 institutions, currently fall into the requirement to reapply, that number will grow over time. Having approvals expire for this subset of EPPs places a much heavier administrative and cost burden on this group of EPPs, in comparison to programs approved before 2008. Subjecting EPPs to two different criteria for continuing approval creates inequities among regulated entities and, since programs compete with each other for students, also creates the potential for an unfair competitive advantage for one group over the other.

**Nonstandard enforcement provisions could reduce TEA's effectiveness in protecting students enrolled at EPPs, schools that later hire these educators, and the public school students these educators eventually teach.**

- **Complaint filing.** The public should be able to file a written complaint against a licensed entity on a simple form provided by the agency, and the process should be clearly communicated in rules, brochures, and websites to promote awareness both among members of the public and within the regulated community.

While TEA provides the public with information on how to file complaints with the agency generally, it does not specifically address how to file a complaint against an educator preparation program.<sup>6</sup> TEA's general complaint process allows the public to submit a written allegation of non-compliance with school laws and rules that fall under the jurisdiction of the agency, but a member of the public would not know this includes EPPs, especially since EPPs are technically under the Board's jurisdiction.

Because the agency has no process for informing EPP students about how to file a complaint, TEA staff reports receiving a total of only 10 complaints against EPPs over the last several years. The ability to file a complaint with an outside oversight body is especially important for students attending an alternative certification program, as many of these programs may not have the same kind of established governance structure as a traditional EPP at a college or university.

In comparison, the Texas Workforce Commission (TWC) requires approved career schools and colleges to adopt a policy for handling complaints from students and post a notice about filing complaints on the school's website and in several centrally located areas within the facility. The notice must state that the school is certified by TWC and include instructions for filing a complaint against the school with the agency.<sup>7</sup>

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*Subjecting EPPs to two different renewal criteria could create an unfair competitive advantage.*

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*A student would not know who to file a complaint with regarding an EPP.*

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*TEA has no process for addressing EPP complaints.*

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- **Complaint procedures.** Agencies should adopt rules that clearly lay out policies for all phases of the complaint process. These rules should include complaint intake, preliminary evaluation, investigation, adjudication, resulting sanctions, disclosure to the public, and handling of non-jurisdictional complaints. Having rules that clearly explain the complaint process protects consumers, increases administrative efficiency, and ensures fairness for licensed entities. Neither the Board nor TEA staff have developed a process for addressing EPP complaints.

Licensing agencies should track, analyze, and report the sources, types, and resolutions of jurisdictional complaints. TEA lacks procedures to guide EPP complaint tracking and analysis. While the Ombuds Office at TEA receives and tracks formal complaints across the agency, TEA's educator certification staff separately handles informal complaints about EPPs. They do not combine their data to analyze the total number of EPP complaints, and therefore cannot use the data identify problems and trends to target regulation and monitoring.

- **Efficient monitoring.** A licensing agency should have processes in place to evaluate the risk level of entities subject to inspection and target staff time and resources to the highest-risk areas. As described earlier, the staff perform several types of on-site monitoring audits of EPPs. During its five-year audits, staff check the accuracy of the program's data, course materials, and the educator certification qualifications the program reported to the agency. These audits generally target one certification area at each program, for example, teacher, counselor, or principal preparation.<sup>8</sup> Staff interview the EPP's staff and current students and review documentation, including the curriculum, admission criteria, course materials, syllabi, credentials of faculty, duties and composition of the governing board, and certificate candidate records.

Although TEA staff follow a risk-assessment tool to guide the questions and documentation requested, the agency does not adjust the amount of time, staff, or effort dedicated to these audits based on the EPP's status or risk. For each program, TEA sends at least two of its four monitoring staff on site for two to three days, even if the program exceeds the operational requirements, meets accountability standards, and has no history of non-compliance. Further, some EPPs are accredited by associations, such as the National Council for Accreditation of Teacher Education, but without a process to factor in risk, TEA staff cannot consider outside accreditation ratings in targeting its audit efforts. In some instances, TEA staff cannot assist at-risk EPPs because much of their time is dedicated to conducting the five-year audits.

- **Sanctioning authority.** A licensing agency should have the authority to enforce its rules and law. For EPP enforcement, statute only authorizes the Board to sanction EPPs based on their accreditation status, which is based solely on four measures: exam pass rates, teacher appraisals,

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*TEA's ability to assist at-risk EPPs is limited due to the staff time spent on five-year audits.*

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achievement of students taught, and field supervision.<sup>9</sup> For problems with accreditation, statute allows the Board to revoke the approval of a program having a status of accredited-probation for at least one year. If a program has an accredited-probation status for three consecutive years, statute requires the Board to revoke its approval. Also, the agency can require an EPP to obtain and pay for professional services or appoint a monitor to help improve their program.<sup>10</sup>

These sanctions do not extend to problems uncovered through monitoring or complaints. TEA may find operational issues during its five-year compliance audits or technical visits, but the agency does not have clear statutory authority to take enforcement action to address those concerns. TEA may also receive complaints with valid concerns about an EPP, but it does not have authority to take enforcement action against an EPP in response to a complaint. TEA often finds problems unrelated to accreditation status, such as not keeping adequate student documentation, not providing student teachers or teachers of record with proper supervision, or not incorporating the Texas Essential Knowledge and Skills into their curriculum.<sup>11</sup> While these problems may be violations of rule, the agency has no authority to take enforcement action when staff identifies such problems.

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*TEA lacks authority to take enforcement action against an EPP based on complaints or problems identified by staff.*

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## Recommendations

To conform with Issue 8 that recommends transferring the Board's duties to the Commissioner of Education, the following recommendations assume the Commissioner performing these oversight functions.

### ***Change in Statute***

#### **10.1 Establish a five-year renewal process for EPPs in statute.**

Statute would set a five-year renewal requirement for EPPs and require the Commissioner of Education to adopt, in rule, an evaluation process tied to EPPs' compliance with basic standards and requirements to adequately prepare candidates for educator certification. As part of this recommendation, the Commissioner should repeal the rules specifying the ten-year reapplication process and five-year compliance audit. The new renewal process could include a risk-based compliance visit, but it would not be a necessary condition for renewal. EPPs would have to meet all renewal requirements every five years in order to remain a fully accredited program. These changes would eliminate differences across programs, as EPPs approved before August 31, 2008 would have to adhere to the same renewal standards as EPPs approved after that date.

#### **10.2 Require the Commissioner to adopt rules to make information about how to file a complaint about an EPP accessible to EPP students and the public.**

This recommendation would require the Commissioner of Education to adopt rules requiring EPPs to inform their students about the EPP complaint process and post TEA's contact information along with the complaint process in their facilities. The Commissioner should refer to TWC's *School Policy*

*Regarding Complaints* as an example when developing complaint process requirements for EPPs. As part of this recommendation, the agency should also provide the public with instructions for contacting the agency about a complaint against an EPP on the agency's website.

### **10.3 Require the Commissioner to establish a comprehensive risk-assessment model to guide the monitoring of EPPs.**

This recommendation would require the Commissioner of Education to establish a risk-based approach to conducting on-site monitoring and inspections that would adjust the amount of time staff spends on site during compliance audits, including visits associated with the EPP renewal process. The Commissioner should use the assessment model to determine risk, such as a program's compliance history, operational standards, accountability measures, and accreditations by other organizations. This recommendation would allow the small number of EPP staff to focus their monitoring efforts on programs that need assistance.

### **10.4 Strengthen and clarify the Commissioner's authority to sanction EPPs for violations of law or rules.**

This recommendation would authorize the Commissioner of Education to sanction EPPs that fail to comply with statute and rules, including program admissions, operations, coursework, training, recommendations for certification, and integrity of data submissions; in addition to sanctioning EPPs for not meeting the accreditation standards set in statute. The Commissioner should have the same range of sanctions as he currently has for not meeting accreditation standards. In implementing this change in statute, the agency should establish procedures to ensure that all sanctions are applied fairly. The Commissioner should also make sanctioning information accessible to all EPPs and counsel at-risk programs about the possible sanctions their program could face by not meeting accreditation standards or complying with the rules; the consequences of those sanctions on their program's existence; a timeline to come into compliance with the rules and meet the accreditation standards; and how they can appeal the sanctioning process.

## ***Management Action***

### **10.5 Direct TEA to develop procedures outlining all phases of the EPP complaint process and track and analyze complaint data.**

Under this recommendation, TEA staff should develop procedures that clearly lay out all phases of the EPP complaint process, including complaint receipt, investigation, adjudication, resulting sanctions, disclosure to the public, and handling of non-jurisdictional complaints. TEA should encourage students to go through their institutions' grievance process before filing a complaint with the agency and inform students about TEA's jurisdiction to investigate complaints. For example, TEA has no authority to investigate payment or refund disputes. The recommendation would also require the agency to track and analyze all EPP complaint information to identify trends and issues, report on these trends to the public, and adjust EPP regulation and monitoring efforts accordingly.

## **Fiscal Implication**

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