

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, white, sans-serif font.

**Texas  
Sunset  
Advisory  
Commission**

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STAFF EVALUATION

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*Texas Education Agency*

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A Staff Report  
to the  
Sunset Advisory Commission

1988

# **Texas Education Agency**

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**November 1988**

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## **Background and Focus**

## **Creation and Powers**

The Central Education Agency is defined in statute as being composed of the State Board of Education, the state commissioner of education, and the state department of education. The board also serves as the State Board for Vocational Education. The State Board of Education is to be reviewed but not abolished under the Sunset Act. In contrast, the office of commissioner and the department are scheduled to be abolished in 1989 unless continued by the legislature.

The Central Education Agency, more commonly known as the Texas Education Agency, is part of an educational system that began its development in the mid 1800's. After the civil war, the constitution of 1869 required free public schools for all children of the state. The constitution also established a permanent funding source for public education called the Permanent School Fund. While the law changed frequently through the years, the real basis of the modern public school system began with passage of the Gilmer-Aiken Act in 1949.

The Gilmer-Aiken Act formalized a partnership between the state and local school districts. The state's role was set up to be carried out by an elected policy body, the State Board of Education, and administered through the Texas Education Agency.

The purpose and responsibility of the agency is to exercise general control of the system of public education through the planning of public education policy, distribution of funds to local school districts, oversight of local districts through the accreditation process, establishment of curriculum standards, provision of technical assistance to districts, and ensuring the quality of teachers. Over time, the agency has been given additional detailed responsibilities by the legislature. Some of the more recent changes include:

- a statewide student testing program in 1979;
- major curriculum reform in 1981 which set in law the subjects which must be taught in schools, and required the board to designate the essential elements of each subject at each grade level; and
- the Education Reform Act of 1984 (House Bill 72) which included teacher testing, a teacher career ladder system, limits on class size and extra-curricular activities and other measures designed to improve student achievement.

The direct provision of educational services to school children is through the 1060 local school districts throughout the state. These districts have local policy boards which have taxing authority and set local public education policy based on state laws and regulations of the State Board of Education. The activities of these districts are overseen through the various monitoring functions of the Texas Education Agency.

## **Policy-making Body**

The State Board of Education is currently composed of 15 members appointed by the governor from 15 geographic districts throughout the state. Prior to passage of House Bill 72 in 1984, one member of the State Board of Education was elected from each congressional district in the state. In 1984, legislation created the current

15-member appointed board on an interim basis. In November of 1987, a statewide referendum was held on the question of having an appointed or elected State Board of Education. The voters preferred an elected board, and under current law, the board will change to an elected body of fifteen members in 1989. Members will be elected from the fifteen districts in November 1988. All terms of the current board expire on January 1, 1989, at which time the elected board will take office. The elected board will serve staggered four-year terms. The chair of the board will be appointed by the governor for a two-year term. The vice-chair and secretary will be elected by the membership of the board.

The current board is assisted by 15 advisory committees. Ten of these are statutory and five are created by the board. The statutory advisory committees are the Advisory Council for Technical-Vocational Education, the Accountable Costs Advisory Committee, the Apprenticeship and Training Advisory Committee, the Proprietary School Advisory Commission, the Commission on Standards for the Teaching Profession, the Price Differential Index Advisory Committee, the Software Advisory Committee, the State Textbook Committee, the Teachers' Professional Practices Commission, and the Training for School Board Members Advisory Committee. The commissioner of education also has created some eight advisory committees to assist him in his duties.

## **Funding and Organization**

The Texas Education Agency is headquartered in Austin and most of the activities of the agency are carried out from its central office. However, there are seven field offices for the School Lunch Program and five field offices for the Regional Day School Program for the Deaf. The agency has 1007 full time employees, 985 of which are headquartered in Austin. Exhibit A illustrates the organizational structure of the Texas Education Agency.

Funding for public school education in Texas is supported by federal, state, and local governments. The Texas Education Agency distributes most state and federal funds to school districts. In fiscal year 1988, federal and state funds that TEA either expended or passed through to local school districts amounted to approximately \$5.9 billion. Local school districts also make considerable effort to support their education programs. While the exact figure is not available at this time, it is estimated that local expenditures for operations were roughly \$5 billion in 1988.

Exhibit B and Exhibit C provide information only on the \$5.9 billion in federal and state funds that TEA either expended in its internal operations or passed through to local school districts in 1988. Exhibit B illustrates how the funds were expended by category. Of the \$5.9 billion, approximately \$37 million or less than one percent was devoted to agency operations. TEA distributed the remaining amounts to local school districts. Regular Education/General Purpose was the largest category of distribution and accounted for about 66 percent of the \$5.9 billion. These funds basically provide financial support to the regular education programs in the public schools. Additional state and federal funds were expended for instructional materials, school transportation, vocational education, child nutrition, special education, and programs for the educationally disadvantaged. Included in the item titled "Other Programs" in Exhibit B are Bilingual Education with \$30 million, Gifted and Talented with \$5.6 million, Adult and Community Education with \$15.6 million, and Discretionary/Agency-Related Programs with \$44.5 million.

# Exhibit A

## Texas Education Agency Organizational Structure

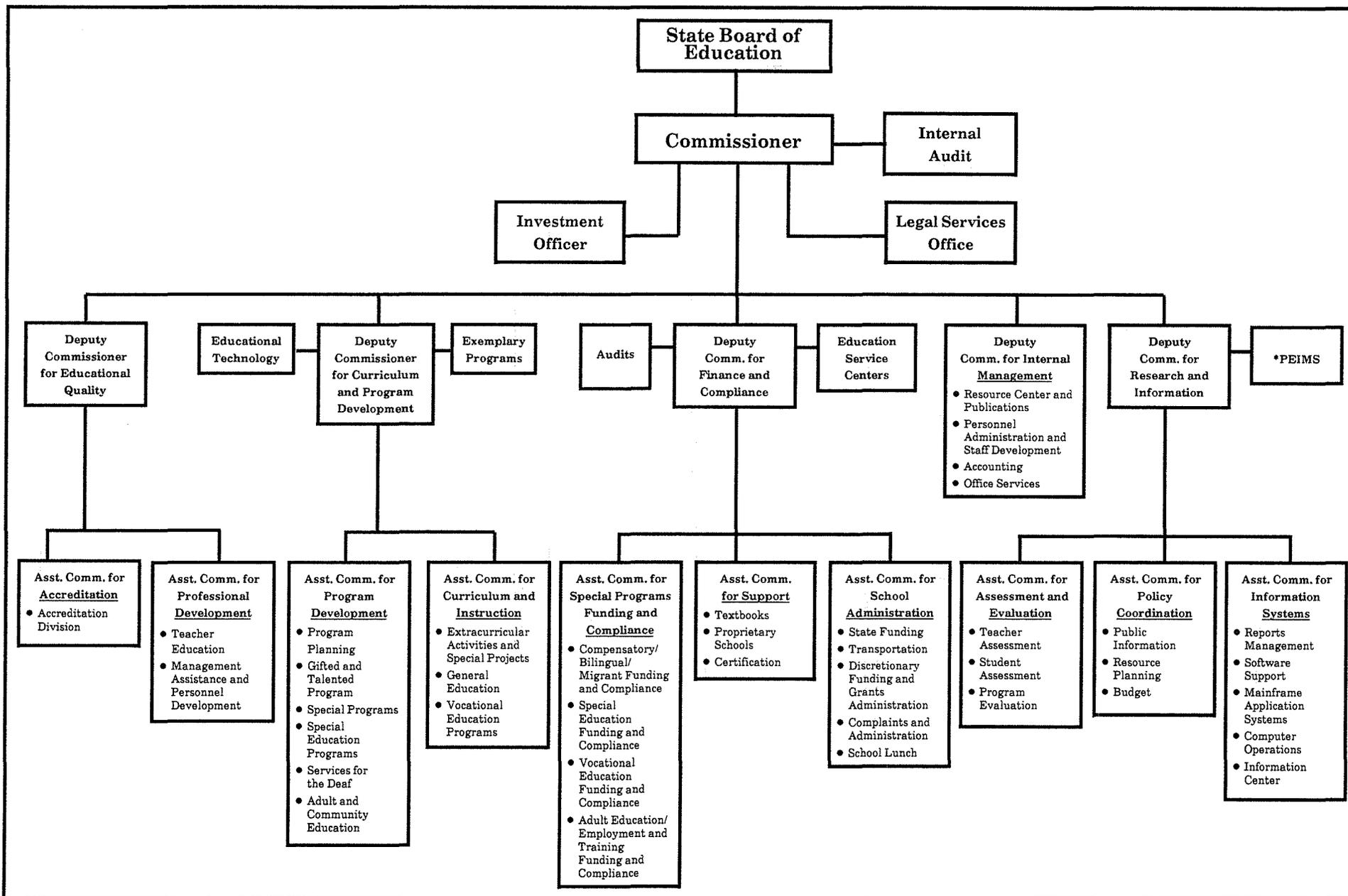


Exhibit B

Estimated State and Federal Funds Distributed by TEA by Category  
Fiscal Year 1988

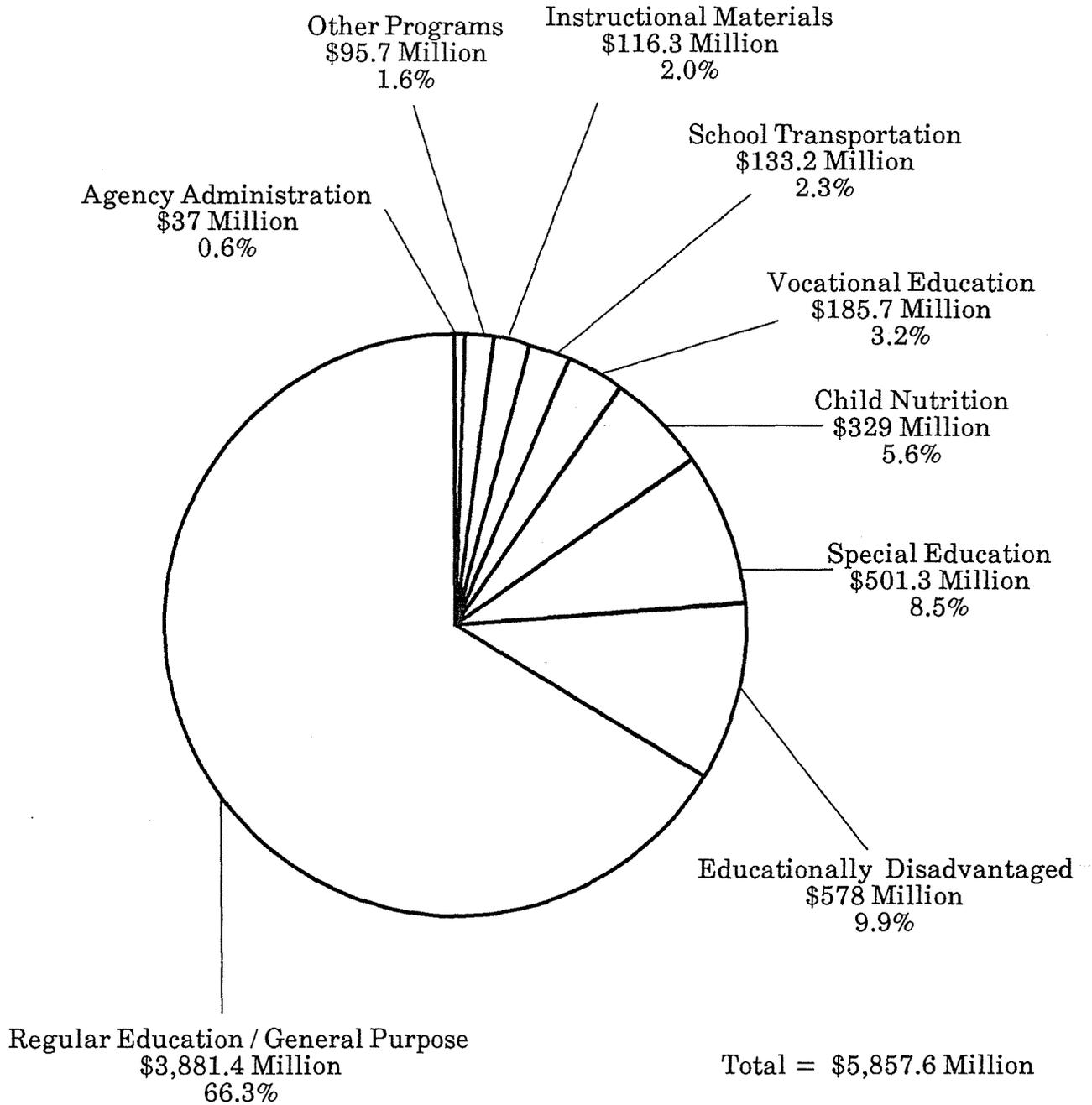
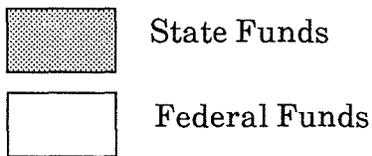
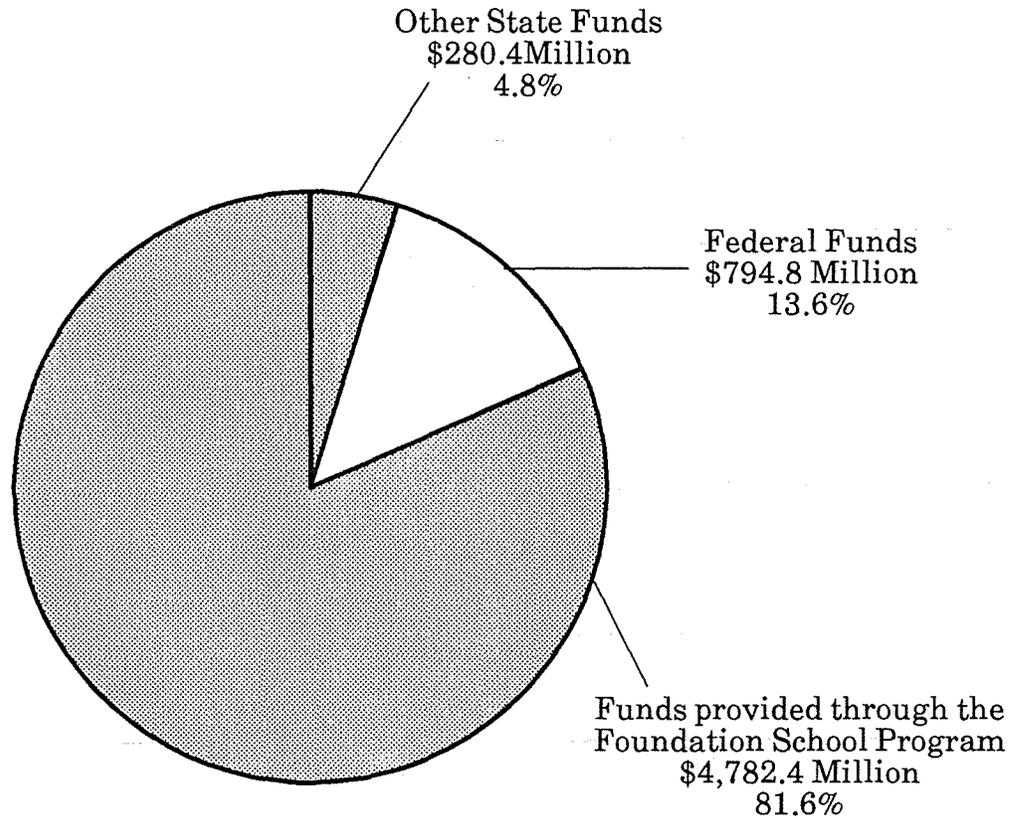


Exhibit C

Estimated State and Federal Funding Distributed by TEA for  
Public Education in Texas  
Fiscal Year 1988



Total = \$5,857.6 Million

Exhibit C shows primarily the portion of the \$5.9 billion contributed by the state as compared to the portion contributed by the federal government. The state's part amounts to approximately 86 percent of the total, with federal funding making up the remaining 14 percent.

As Exhibit C shows, by far the largest amount of state funding is made available through the Foundation School Program. This funding program is intended to guarantee that each school district in the state has adequate resources to provide each student with a basic instructional program suitable to his educational needs. The program funds regular, special, and vocational education; gifted and talented programs; bilingual or English as a second language programs; student remediation programs; teacher career ladder; additional pay for the retention of experienced teachers; salaries of non-teaching personnel; and student transportation systems.

The cost of the Foundation School Program is shared between the state and local school districts. On a statewide basis the state pays for two-thirds and the local districts pay for one-third of the program. Exhibit C depicts the state share only. In fiscal year 1988 the state share totaled almost \$4.8 billion or approximately 82 percent of all state and federal expenditures distributed or expended by TEA that year.

In addition to the Foundation School Program, in fiscal year 1988 the state allocated \$280.4 million through other state funding sources. Out of this total allocation, \$113.5 million was expended for the purchase of textbooks, and the remaining funds were primarily distributed to the Regional Day Schools for the Deaf, the state schools, the regional education service centers, and adult education.

A third source of school district funds, as shown in Exhibit C, is the federal government. Federal funds for public education in fiscal year 1988 accounted for \$794.8 million. These funds are available for 21 programs including special education, vocational education, national school lunch, and funds for the remediation of educationally disadvantaged children.

## **Programs and Functions**

The substantive operations of TEA can be divided into eight functions:

- curriculum development
- textbook selection
- evaluation of student performance
- evaluation of school districts
- assurance of quality teacher performance
- research and information activities
- technical assistance to school districts
- regulation of proprietary schools

The first five of these functions comprise TEA's activities to develop a quality educational curriculum, to monitor that system, and to provide for qualified teachers. These activities are supported by the research and information function as well as the provision of technical assistance to school districts. As a final aspect of its authority apart from public schools, the agency also regulates proprietary schools.

Not all of the activities of TEA can be categorized in these functions; however, these eight areas represent the majority of the agency's responsibilities. The sections that follow highlight these primary agency functions.

### **Curriculum Development**

House Bill 246, which was enacted in 1981, amended the statute to require school districts to offer a well-balanced curriculum that includes: English language arts, mathematics; science; fine arts; social studies; economics; Texas and U.S. history; health; physical education; other languages, to the extent possible; business education; and vocational education. The legislation directed the State Board of Education to designate the essential elements for each of these subject areas and the appropriate grade level at which they should be taught.

The agency's division of Curriculum and Instruction is responsible for the development of the essential elements and for assisting local school districts in developing curriculum that incorporate the essential elements. The essential elements provide local school districts with a broad outline of the key areas to be covered in each subject area and grade level. The school districts are responsible for developing a curriculum that reflects these essential elements in what is to be taught on the local level.

School districts began implementing these requirements in 1983 and districts throughout Texas have now established curriculums in which these essential elements are covered. The Texas Education Agency staff have developed a number of publications to assist districts in this task. In fiscal year 1987, the agency responded to approximately 4,500 requests for assistance in this area from local school districts.

The essential elements, according to board rules, are to be reviewed and updated every five years. A statewide advisory committee composed of some 725 members representing all grade levels and subject areas has been established to assist the board in this area. The members of this group meet periodically to discuss areas within the essential elements which need improvement. The first formal review and update is scheduled for school year 1990-1991.

### **Textbook Selection**

Textbooks are an important element in teaching the curriculum developed by the state and local school districts. The State Board of Education is responsible for approving a list of textbooks for use in schools throughout the state. The legislature established the State Textbook Committee to assist the board in this task. The committee examines all the textbooks submitted for adoption and recommends to the board a list of textbooks it determines are appropriate for adoption by the board. Legislation passed in 1987 expanded the number of textbooks that could be adopted by the board in each subject area from five to eight textbooks. Local school districts select their textbooks from the list of state adopted textbooks for use in their schools.

The committee consists of 15 members, one person from each of the 15 State Board of Education districts. The board appoints the textbook committee members based on the recommendations of the commissioner of education. Members are allowed to serve only one term which lasts one year.

All of the committee members must be experienced and active educators teaching in the public schools, who are appointed because of their expert background in subject fields in which adoptions are being made. The committee members are allowed to select up to six official advisors in each of the subject fields being considered for adoption. On the average, the committee reviews books in six to twelve subject areas. This results in committee members having as many as 72 advisors each to assist them in reviewing books which are outside their subject area. The total amount budgeted for the textbook committee in fiscal year 1987 was \$40,500 with staff support provided by the agency.

The textbook adoption process in Texas is a three year process. In the first year, a proclamation is issued by the State Board of Education calling for bids on textbooks in specific subject areas. The proclamation is developed by the curriculum staff at TEA. The proclamation lays out a summary of what the books in various subject areas should address, particularly in relationship to the state's essential elements. A public hearing is held to provide for input on what should be included in the proclamation. The agency staff also obtains input from a variety of educational organizations and teacher groups statewide. In 1987, the board called for books in nine subject areas including science, social studies, mathematics, fine arts, language arts, business education, physical education, and trade and industrial education.

In the second year of the textbook selection process, the textbook committee is appointed to review books submitted based on the proclamation issued the year before. Committee members and their advisors review an average of 175 to 200 texts over a period of approximately three months. Public hearings are held before the commissioner and the textbook committee in order to obtain input on the books under consideration. The committee later meets to select by ballot the books it recommends for adoption by the State Board of Education. The committee can select up to 8 books in each subject area and grade level. In 1988, the committee reviewed 175 books and recommended 157 for adoption. Another public hearing is held by the State Board of Education prior to their final decisions on which books to adopt. The board has the authority to remove a textbook recommended by the committee, but it is prohibited by the statute from adopting a book that has not been recommended by the committee. The board can also require that changes be made to a book before adoption. Once the textbooks are formally adopted by the State Board of Education, the local districts are informed of the official list of adopted textbooks. Publishers are currently required by board rule to furnish each school district with a sample of the adopted textbooks for review on the local level.

In the third year of the selection process, the local school districts review the state adopted textbooks and select those textbooks they want to use in their schools. The local districts send their textbook orders to TEA which then orders the books from the textbook depositories where the publishers store their books. There are eight textbook depositories in Texas. One of the textbook depositories is owned by the state, is located in Austin, and serves mainly to repair worn textbooks. The other seven depositories are in Dallas and provide a centralized location to store the books to be used in classrooms. The agency typically pays the depositories for the textbooks delivered to the schools and the depositories pay the publisher for the books. The board recently adopted changes in rules which allow direct payments for

textbooks to publishers upon request of a publisher. In fiscal year 1988, the state spent over \$113 million on textbooks and instructional materials, or approximately \$35 per enrolled student.

### Evaluation of Student Performance

One of the agency's primary responsibilities is to determine how well students learn the curriculum established by the state and local school districts. The evaluation of the educational performance of public school students stems from increasing legislative interest over the past decade. In 1979, the legislature first directed the Texas Education Agency to implement a student testing program. Thus, the agency started the Texas Assessment of Basic Skills testing program which tested students in grades three, five, and nine for basic skills. This program was designed to assess Texas school children on a sample basis and provide data to improve teaching performance.

The scope of the testing program was widened with the passage of House Bill 72 in 1984, when the legislature greatly expanded student testing requirements. Students are now required to be tested for basic skills in reading, writing, and mathematics in first, third, fifth, seventh and ninth grades as well as in the 11th grade as a graduation requirement. To fulfill this requirement the Texas Education Agency developed the Texas Educational Assessment of Minimum Skills program (TEAMS). The TEAMS testing program has been administered annually since the 1985-1986 school year.

The State Board of Education sets the minimum level of satisfactory performance for students taking the TEAMS test. As students become better prepared for the exam, the criteria indicating student mastery of the subject area are adjusted. The board, under directive of the long-range plan, is also responsible for reviewing and raising the passing standards as appropriate.

The Texas Education Agency currently contracts with a private testing company on a two year basis for the development, production, and grading of the TEAMS test. The Division of Student Assessment, currently operating with a full-time staff of 11 and an administrative budget of approximately \$520,000, has coordinated the efforts to develop the TEAMS test. Committees of educators are used to develop specifications for test questions and review the actual test items after being written by the testing company. The test questions are field tested and statistically evaluated and screened again by committees of educators. This process allows a bank of test items from which to draw for different forms of the TEAMS test and allows additional test questions to be added to the bank of test questions when necessary. The testing company is responsible for grading the tests and providing the results to the school districts who in turn are required to report to the agency. The statute requires that individual test scores remain confidential. However, aggregated student scores are reported on a statewide, district, and campus basis.

The statute requires that all school districts provide remediation for students failing the basic skills test in order to bring students up to a minimum level of competency in reading, writing, and mathematics. In addition to being used for remediation purposes, TEAMS scores are used as a part of the school accreditation process. In preparing for an accreditation visit, accreditation staff review a school's TEAMS scores to assist in identifying any potential problem areas.

The Texas Education Agency coordinates the administration of the testing program. The agency prepares instructional strategy guides to assist teachers in preparing students for the exam. The agency trains members of the TEAMS Advisory Committee and education service center personnel to deliver test administration training to local school district personnel. The TEAMS Advisory Committee consists of testing coordinators and district superintendents throughout the state.

Approximately 1.4 million students are tested annually. The agency contracted with the testing company for \$4.75 million in fiscal year 1988 to develop and to administer the testing program. Exhibit D provides information on the performance of students on TEAMS for the past three school years. The figures demonstrate the percentage of students passing the reading, writing, and mathematics segments of the exam.

#### Exhibit D

#### Percentage of Students Mastering TEAMS Test

	<u>1986</u>	<u>1987</u>	<u>1988</u>
Grade 3	52%	63%	69%
Grade 3 (Spanish)	not available	72%	78%
Grade 5	56%	60%	72%
Grade 7	57%	65%	73%
Grade 9	55%	58%	58%
Grade 11	83%	72%	not available

#### Evaluation of School Districts

Assessment of the performance of school districts is another aspect of TEA's evaluation responsibilities. The agency has two main activities in this area: compliance monitoring and accreditation. While these duties may appear very similar, they are in fact different. The compliance monitoring process focuses specifically on whether the special educational programs offered by the district (such as vocational education, compensatory education and special education) are operated in compliance with federal and state requirements. In contrast, the accreditation process evaluates the quality of all educational programs within the district.

The two programs operate separately with two distinct staffs. While joint inspection visits have been attempted in the past, such practices were discontinued. Each program examines the district from a different perspective and covers a different set of material. Because of this, each program currently conducts inspections of districts separately.

Both compliance monitoring and accreditation reviews are conducted on a five year cycle. The agency has recently implemented a staggered cycle of review in which compliance monitoring is done one year before the accreditation review. This eases the workload on the district by having the two on-site visits conducted a year apart. The compliance monitoring program provides its findings to the accreditation program for consideration in its review of the district. This provides additional information to focus accreditation efforts as well as an additional method of following up on compliance problems. Both programs also make follow-up visits to districts in which significant problems were noted in the regular review.

## Compliance Monitoring

The federal government requires the agency to monitor federally funded programs provided by local districts to ensure that the programs operate in compliance with federal requirements. In addition, there are monitoring requirements for programs that are supported with state funds. The compliance monitoring program focuses on what is known as special programs, meaning those that are available in addition to the regular education program. Examples of special programs include: vocational education, special education, bilingual education, and compensatory education (for educationally disadvantaged students). If federally funded programs are not operated by local school districts in compliance with federal requirements, funding for those programs throughout the state can be discontinued.

Due to the complexity of the requirements and the unique types of instruction provided by each special program, the agency has three main divisions within the compliance monitoring program: vocational education, special education, and a consolidated program to monitor compensatory, bilingual, and migrant education programs. The agency uses staff from each division to conduct a monitoring visit. While monitoring a district, the team reviews each local special program based on that program's regulations and agency requirements.

Following the monitoring visit, the agency develops a report citing any discrepancies observed, recommended corrective actions, and time frames for those corrective actions. The school district has the right to appeal any of the findings to the agency. If the district repeatedly fails to respond to the agency's requests for corrective action, the agency is authorized to withhold all or part of the district's funding for that program or withhold the superintendent's salary. Each year, the agency visits approximately 200 districts for regular compliance monitoring. The agency also conducts follow-up visits to examine compliance efforts, as time permits. The agency has never found it necessary to use either of the sanctions available in compliance monitoring.

## Accreditation

While the compliance monitoring program focuses mainly on compliance with state and federal regulations in special programs, the accreditation program focuses on the quality of education throughout the school. Accreditation is a requirement for districts receiving state funding. By ensuring the quality of education in public schools, the accreditation process provides a uniform system for the transfer of student credits between districts and ready recognition of the validity of transcripts. State statute sets out the basic standards for an accreditation review. These include, for example: the quality of learning based on achievement scores; the quality of teacher and administrator performance appraisal practices; fulfillment of curriculum requirements; and the effectiveness of programs for special populations.

The accreditation review is, generally, an evaluation based on performance indicators and a site-visit to the district. Prior to the site-visit, the agency examines performance indicators such as scores on achievement tests and basic skills tests (TEAMS), attendance information, and personnel information. This analysis provides a "district performance overview" which the accreditation team uses to identify areas for closer examination. During the site-visit, the team conducts a structured evaluation. This includes observing classroom activity, examining teaching materials and talking with teachers and administrators, as well as

examining documents such as student and school board records, curriculum, and district and campus plans.

Once an accreditation review is completed, the division reports the findings of the evaluation to the commissioner of education and to the district. The report includes evaluative information about the district's educational services and a listing of practices which the team found to be commendable, as well as those practices in which discrepancies with standards were found. For practices that do not meet agency standards, the report suggests corrective actions and sets time frames for improvements. The report also recommends an accreditation status for the district. The district may appeal any of the findings in the report. There are four accreditation classifications established in state law, including:

Accredited - A district is in substantial compliance with accreditation requirements.

Accredited, Advised - A district has significant discrepancies between its operations and accreditation requirements.

Accredited, Warned - A district has either serious discrepancies or has not corrected problems after being placed on "advised status".

Unaccredited - A district has failed to meet or maintain the accreditation requirements.

The commissioner of education is authorized by state law to lower a district's accreditation to "advised" or "warned" status. However, only the State Board of Education may revoke a district's accreditation. When a district's accreditation status is lowered to advised status, a "monitor" may be appointed by the commissioner to advise a district's board on ways to address the discrepancies. A monitor is appointed when a district has not taken corrective actions as requested or circumstances in the district warrant immediate intervention. The commissioner is authorized to appoint a "master" to oversee the major functions of the district when the efforts of a monitor have not been successful. A master may approve or disapprove any action of the district's board of trustees or superintendent. Salaries of monitors and masters are paid by the local school district.

During fiscal year 1988, approximately 200 school districts were scheduled for accreditation reviews. Approximately 40 districts were scheduled for follow-up visits to review whether previous, serious deficiencies had been corrected. As of October 1988, 26 districts were on advised status and one of these districts had a monitor in place. Thirteen districts were on warned status. Seven of these districts had been assigned a monitor and three had been assigned a master. The revocation of one district's accreditation was recommended to the board and, unless significant improvements are made, the district's accreditation could be revoked at the end of the school year.

### Assurance of Quality Teacher Performance

Preceding sections described TEA's responsibilities to set essential elements and monitor performance of school districts. The legislature has also assigned the overall responsibility for ensuring the quality of teachers in the public schools to the Texas Education Agency. To accomplish this, the Texas Education Code gives the agency the authority to oversee teacher education programs in Texas colleges and

universities, set standards for teacher certification, and develop a system for local school districts to use in evaluating the performance of their teachers. Under this authority, the agency has developed programs in the areas of teacher education, teacher certification and teacher appraisal.

### Teacher Education

The Texas Education Agency is responsible for overseeing the services and programs provided by colleges and universities for students pursuing a career, or advanced training, in teaching. The agency's primary role in maintaining quality teacher education is through the approval and monitoring of teacher education programs.

The approval and monitoring of teacher education programs is performed by the Commission on Standards for the Teaching Profession in cooperation with TEA's Division of Teacher Education. The commission was created in 1979 as a replacement for the State Board of Examiners for Teacher Education. The commission has a separate sunset date and unless continued by a specific act of the legislature, will be abolished in 1989. The purpose of the commission is to recommend standards for teacher education and certification programs to the state board. The commission is also responsible for reviewing individual teacher education institutions and their programs. The state board has delegated the authority to approve or disapprove teacher education programs in Texas to the commission.

The State Board of Education adopted new teacher education standards in 1987 as a result of the requirements of Senate Bill 994, passed by the 70th Legislature. The bill requires candidates for teacher certification to hold an academic degree, and in most cases, limits the schools from requiring more than 18 credit hours of education courses toward the degree. With the new standards in place, the commission will review approximately 3,400 programs at 68 institutions, both public and private, by September 1989 to determine their compliance with the guidelines.

The Division of Teacher Education assists the commission by providing technical assistance to colleges and universities concerning implementation of the education standards, reviewing teacher certification programs of the colleges and universities, and coordinating with the commission in the on-site evaluations of teacher education programs. The Division of Teacher Education is also responsible for administering the alternative certification program. The alternative certification program prepares college graduates without formal training in education to become certified teachers. The agency has developed guidelines for this new program and provides technical assistance to school districts and colleges concerning the program's requirements in addition to monitoring the programs on-site.

The Division of Teacher Education works with the Higher Education Coordinating Board in a cooperative effort to develop teacher recruitment and induction programs. The aim of the teacher recruitment program is to identify and recruit talented students into the teaching profession through information and multi-media presentations in high schools and institutions of higher education. The teacher induction program, still in the development stage, will establish a support network for new teachers to assist them in their first year of teaching.

## Teacher Certification

The Texas Education Agency is responsible for issuing teaching certificates to individuals that have successfully completed TEA certification requirements. The Division of Teacher Certification issues certificates to those students who have completed the required course work and field work, passed the appropriate certification tests, and have been recommended by approved teacher education programs.

To become a certified teacher in Texas, satisfactory performance on one or more examinations is required. The teacher testing programs are shown below.

- **PPST (Pre-Professional Skills Test)** - a basic skills test required for admission to teacher education programs in colleges and universities.
- **TASP (Texas Academic Skills Program - still in development)** - a basic skills test for all incoming college freshman. The purpose of this test will be to identify areas of academic weakness for remediation. When implemented, the TASP will replace the PPST currently used for students entering teacher education programs.
- **EXCET (Examination for Certification of Educators in Texas)** - a test that examines the person's knowledge in general teaching principles as well as specific subject areas. The test must be taken upon graduation from college in order to become a certified teacher.
- **TECAT (Texas Examination of Current Administrators and Teachers)** - a test of basic literacy skills which was given to teachers and administrators who were certified before May, 1986. Teachers certified after May 1986 take the EXCET test.

The agency issues four basic types of teaching certificates: provisional, professional, one-year, and temporary. The provisional certificate is the basic lifetime certificate that requires completion of an approved teacher education program including: educational course work, an academic specialization, and field experience. In 1987, the agency issued 12,760 provisional teaching certificates.

The professional certificate is a lifetime certificate that requires completion of requirements for a basic classroom teaching certificate and the completion of at least 30 semester hours of graduate-level courses beyond a bachelor's degree in an approved teacher education program. This certificate also requires previous of teaching experience. In 1987, the agency issued 3,806 professional teaching certificates.

The one-year certificate is non-renewable and may be issued to an individual who has been issued a standard teacher certificate by another state department of education and who meets all requirements for certification except for the passage of the appropriate components of the EXCET test. The agency issued 2,033 one-year certificates in 1987.

Temporary certificates are issued to previously certified individuals who are seeking certification for school administrative positions. They are also issued to persons seeking naturalization who have satisfied all academic and examination requirements for certification. Temporary certificates are issued for a period of five years and are non-renewable. The agency issued 640 temporary certificates in 1987.

In 1984, the legislature established an alternative method for certification of persons who are not graduates of a teacher education program to be certified. This program provides the opportunity for individuals with college degrees, but who are not graduates of teacher preparation programs, to become certified teachers. Developed and monitored by TEA staff, the alternative certification program is implemented at the local district level. Currently, 11 programs are underway with 87 schools, districts participating. Since the program was established, approximately 750 students have been certified through alternative certification. For the 1988-1989 school year, approximately 700 interns are participating in the program. The components of an alternative certification program are as follows:

- the district must demonstrate a teacher shortage and design a program for training program interns to gain approval of the State Board of Education;
- the student must complete the alternative certification program requirements as set out by the district, including passage of the EXCET test in his or her chosen academic field;
- the local district must recommend the individual for certification through the agency; and
- the individual is reviewed and certified like those in the traditional certification process.

### Teacher Appraisal

The mandate to assess teacher performance was an important element in the educational reform efforts of House Bill 72. The Texas Education Code requires the State Board of Education and the Texas Education Agency to develop and maintain a teacher appraisal process and career ladder system. The purpose of the teacher appraisal and career ladder system is to generally improve teaching performance and provide incentives for quality teachers to remain in the classroom. Whereas the agency is responsible for developing the appraisal system, the local school districts are responsible for conducting the appraisals and making career ladder placements.

The agency developed the Texas Teacher Appraisal System (TTAS) which was implemented in the fall of 1986. Approximately 150,000 teachers were appraised in the 1987-1988 school year. According to statute, most teachers receive two appraisals each year, although certain more experienced teachers may receive only one appraisal. Teachers are appraised on teaching performance in five major areas: instructional strategies, classroom management and organization, presentation of subject matter, learning environment, and professional growth and responsibility. Teachers are evaluated by two appraisers who are trained through appraiser training programs designed by the agency and provided by the regional educational service centers. Usually, the school principal and other school district personnel conduct the appraisals.

The State Board of Education requires two formal, 45 minute observations for one appraisal. One observation must be scheduled in advance. The other observation may be unscheduled or scheduled depending on the policy of the local school district. Results of the TTAS are used for career ladder decisions by the local districts.

In addition to the TTAS, efforts to improve teacher performance are made through in-service training and continuing education. Agency staff are responsible for coordinating advanced academic training courses, teacher and administrator in-service programs and school board member training.

A final component in the basic method used to monitor teacher performance is the Teacher's Professional Practices Commission. This commission was created, by law, in 1969. Its role is to establish standards of ethical practice for the teaching profession and to provide for a system of professional self-discipline. The commission consists of 15 members from various professional groups of educators. All members must have at least five years teaching experience. The commission receives complaints concerning violations of the "Code of Ethics and Standard Practices for Texas Educators" and makes recommendations to the commissioner of education as to the disposition of those complaints. Only the commissioner may take action on a teaching certificate, including: warnings, reprimands, and certificate suspensions or revocations. From 1972 to 1987, the commission held an average of three hearings annually, and received an average of fourteen complaints each year. The commission is subject to the Texas Sunset Act and will be abolished September 1, 1989 unless continued by the legislature.

### **Research and Information Activities**

The research and information function supports the need for information in all the agency's substantive operations. Emphasis on this function increased with the passage of House Bill 72 in 1984. This bill directed TEA to conduct ongoing research and provide current information on the status and condition of the Texas public school system. This effort is accomplished through the agency's research and information program which includes three major areas: assessment and evaluation, policy coordination, and the Public Education Information Management System (PEIMS).

The assessment and evaluation area implements the statutory requirements to conduct the statewide assessment of students' basic skills, the teacher certification testing program and the admissions test for teacher education. These activities are discussed previously in this section of the report. Evaluations of the effectiveness and impact of certain programs in public schools are performed as part of the activities in this area. In the past year, this division has completed extensive evaluations of compensatory education, programs for gifted/talented students and the bilingual education program.

The area of policy coordination is responsible for the development of the agency's operating and program budget, and for the administration of the operating budget. In addition, this area develops studies on issues in public education identified by the state board or the commissioner, and facilitates communication between the agency and other entities, including the general public and school districts.

The research and information activity includes the development and implementation of the Public Education Information System (PEIMS). The purpose of PEIMS is to manage the collection, storage and use of information from and about local school districts. The system was developed as a result of the legislative mandate of House Bill 72 for greater accountability in public education. The basic concept is to combine the bulk of school district data collections under one umbrella to streamline reporting, reduce district effort and duplication, return data for local

district use and produce a standard set of statewide data. When complete, the collected data will include information on school district staff, school finance, school district organization, students, dropouts, and facilities. The project is in its second year of a five-year implementation plan. An increasing amount and type of data is expected to be collected in each year of implementation. The system is expected to be completed by the 1992-93 school year .

### Technical Assistance to School Districts

One of the primary responsibilities of the Texas Education Agency is to provide assistance to school districts in meeting the requirements of the Texas Education Code and the regulations of the agency. The agency gives technical assistance in all of the preceding functional areas.

The agency's technical assistance efforts can be categorized into four basic groups: publications; requested assistance; targeted assistance; and services provided through regional education service centers. In the area of publications, a large variety of informational items are produced by the agency to inform and assist school districts, education service centers, professionals in the teaching field and the public. These items may range from informational pamphlets to curriculum guides to audiovisual training tapes.

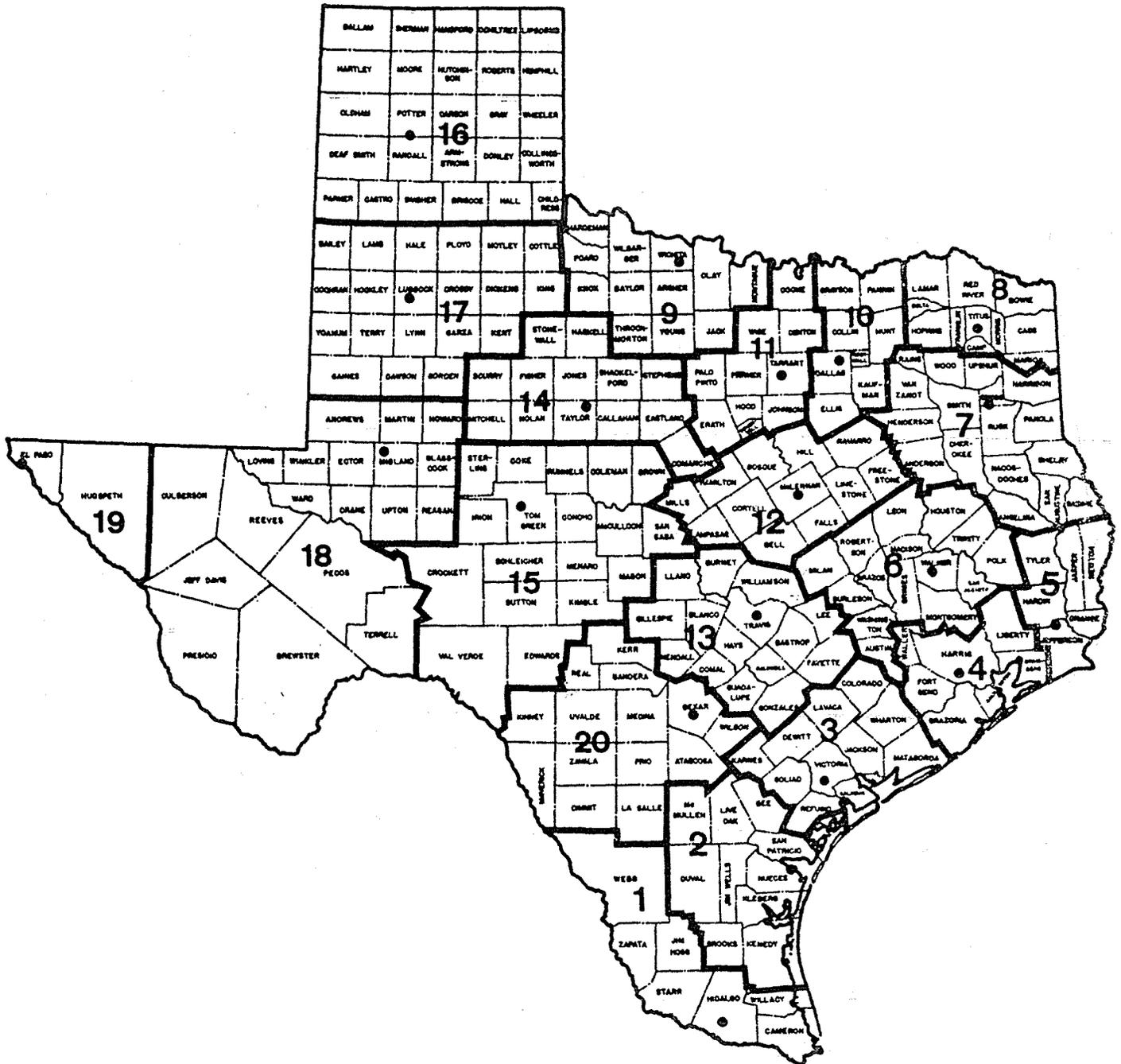
The agency receives many requests for assistance and training each year. These requests can fall into any of the programmatic or technical areas of the agency. In most cases, in order to maximize the effectiveness of their employees and programs, the assistance is usually provided in the form of workshops or seminars and not on a one-to-one basis.

In certain areas, the agency identifies the need for and initiates technical assistance efforts. For example in the curriculum area, a targeted assistance program has been initiated for low-performing schools identified in the latest accreditation cycle. These schools are provided assistance in the analysis and use of student performance data scores and how to plan and implement appropriate programs to increase student performance.

The regional education service centers (RESC's) are the other primary provider of technical assistance to local school districts. There are twenty service centers located throughout the state as can be seen in Exhibit E. The service centers are funded through a combination of federal, state and local funds to provide programs and services for the school districts in that region.

The State Board of Education adopts a plan for RESC's that, among other things, outlines a series of 15 core services that each center must provide. The larger core services that relate to technical assistance and training include the following:

- assisting school districts with education technology and computer services;
- assisting school districts in developing and reporting PEIMS data to TEA;
- assisting districts before and after accreditation visits from TEA;
- assisting in curriculum development;



REGIONAL EDUCATION SERVICE CENTERS

REGION	HEADQUARTERS	REGION	HEADQUARTERS
1	Edinburg	11	Fort Worth
2	Corpus Christi	12	Waco
3	Victoria	13	Austin
4	Houston	14	Abilene
5	Beaumont	15	San Angelo
6	Huntsville	16	Amarillo
7	Kilgore	17	Lubbock
8	Mount Pleasant	18	Midland
9	Wichita Falls	19	El Paso
10	Richardson	20	San Antonio

- assisting in the development and implementation of gifted and talented, bilingual, and special education programs; and
- providing various direct training activities including training of teacher appraisers and school board members.

### Regulation of Proprietary Schools

Most of TEA's activities involve public schools. One smaller area of responsibility involves proprietary schools. The Texas Proprietary School Act assigns the oversight of proprietary schools to the Texas Education Agency through responsibilities for the regulation and certification of such schools. The statute also creates the nine member Proprietary School Advisory Commission whose membership is appointed by the State Board of Education. The advisory commission is responsible for making recommendations to the state board on any proposed rule changes that would affect the proprietary school industry.

A proprietary school is defined in the education code as any business enterprise operated for a profit, or on a nonprofit basis, which offers instruction to persons for the purpose of training the person for a business, trade, technical or industrial occupation or for a vocational or personal improvement. The statute also exempts many schools from regulation, such as those supported by taxation from either local or state funds; a religious, denominational or similar public institution that is exempt from taxation; schools offering pure a vocational or recreational subjects; private colleges or universities which award a recognized baccalaureate or higher degree; aviation schools which are approved and regulated under the Federal Aviation Administration; and any other school which is otherwise regulated under any other law of the state.

The Act specifies that in order to operate in Texas, proprietary schools must be certified annually by the Texas Education Agency. The general criteria for certification is set out in statute. Some of these criteria are, for example, that schools must provide quality courses and curriculum, adequate space and equipment, and adequate and qualified instructors and administrators, and copies of refund policies to student. The statute also requires that schools be bonded for either \$5,000 or \$25,000, depending on the total amount of annual gross tuition before a certificate of approval can be issued by the Texas Education Agency.

The Division of Proprietary Schools and Veterans Education is the division within TEA that has the responsibility for regulating and certifying proprietary schools. This division has approximately 14 full-time equivalent employees involved in the regulation of proprietary schools. In fiscal year 1988, the budget associated with the regulation of proprietary schools was approximately \$460,000. The current appropriations act states that proprietary school regulation should be self supporting through fees. The division was able to achieve this goal in Fiscal Year 1988.

The division is responsible for all activities related to the proprietary school certification process. Prior to original certification, agency staff conduct an in-house review of the school's financial status and an on-site survey to ensure that the school is in compliance with the criteria in the Act and state board rules. This initial review process determines whether or not a school is eligible to be certified and operate in Texas. If a school is eligible it pays the appropriate fees and receives certification for a one year period. The school must then apply annually for recertification. The annual recertification process is similar to the original certification process.

The agency staff issue a report after each recertification survey. The report details any problems that were found and includes recommendations to correct the problems. According to the agency, typical problems include violations of the refund policy, poor record-keeping, failure to terminate students according to attendance policies, lack of or faulty equipment, and violations of the admissions policy. Schools are notified of any discrepancies and given 15 to 30 days to come into compliance.

If a school is in full compliance the agency will issue a certificate of approval for one year. The agency can also issue a conditional certificate of approval, indicating that there are some areas in which the school needs to improve. However, if a school fails to comply within the 15 to 30 days, the agency sends the school a notice of intent to revoke. If a school still does not resolve the problems after receiving the notice of intent to revoke, the certificate of approval is revoked. Schools have the right to appeal any decisions made by the division to the commissioner and ultimately to district court.

Besides the ability to revoke certification, the agency has two other mechanisms that allow them to enforce the statute. The commissioner has the authority to seek injunctive relief through the Office of the Attorney General as well as the ability to file a criminal suit with a county or district attorney for violations of the Act. In fiscal year 1988, there were four active cases with the Office of the Attorney General but the agency has never pursued a criminal suit against a school.

In fiscal year 1988, the agency conducted 496 on-site reviews, closed 36 schools, and certified 51 new schools. As of August 31, 1988 there were 394 schools certified in the state. Agency data shows that approximately 1,170 discrepancies were found during surveys conducted in fiscal year 1988 and the division's most recent status report indicated that they had issued 57 intent to revoke notices.

## **Focus of Review**

The focus of the review of TEA and the recommendations developed from that focus resulted from a number of activities. These activities included:

- a review of recent legislation on public education;
- discussions with representatives of groups interested in public education issues;
- discussions with division directors, assistant commissioners, deputy commissioners and the commissioner of education;
- discussions with staff of other legislative offices interested in the operation of the Texas Education Agency, including the Speaker's Office, the Lieutenant Governor's Office, and the Governor's Office;
- a review of previous studies and evaluations of TEA and public education;
- a review of other efforts currently being made to evaluate TEA's operations or change education policies; and
- telephone interviews with staff of other state public education agencies.

From these activities, a determination was made to exclude several areas from the review. The first area excluded was the structure of the policy-making body. The State Board of Education has been the subject of significant recent discussion, legislation and voter participation to determine whether to re-create an elected 15-member policy-making body to oversee public education in Texas. The review, therefore, did not focus on the structure of the board.

School finance is another issue that has been the subject of considerable recent discussion, as well as being the subject of a current court suit, *Edgewood Independent School District v. Kirby*. The court suit involves the constitutionality of the Texas public school finance system. The district court ruled that the system is, in part, unconstitutional. This decision is currently being appealed by the state. The final results of the suit may cause significant changes in the state's financing system. As a result, the Governor has created the Select Committee on Public Education to look into school finance and other issues. The sunset evaluation did not focus on this area because of the court-mandated changes and the significant attention already being given to the school finance issue.

Major questions of public education policy have been debated heavily in the last few years. House Bill 72, passed in 1984, was the focal point of recent policy activity. This legislation made dramatic changes in state educational policies with the aim of improving the educational performance of the state's public schools. These changes must have time to be implemented fully, and the review did not attempt to evaluate or change the focus of these efforts.

The final area that was not included in the review concerned major policy questions that are currently being addressed by interim legislative committees. The major focus of such activity relates to the Select Committee on Public Education which, in addition to the finance issues previously mentioned, is also looking at student performance and other related issues. The Joint Interim Committee on High School Dropouts is also examining proposals for addressing the problem of student dropouts.

The exclusion of the areas discussed above led to an examination of the need for the agency and the way the board and the agency carry out their current statutory mandates. The primary aim of this effort was to look at board actions and agency programs to see if the mandates were being met, and if those activities could be performed in a more effective and efficient manner.

From this analysis, a number of issues were identified which generally fell into eight areas. First, an analysis was made of whether or not there was a need for the agency and its functions. The examination of the overall need for the agency indicated that the agency and its functions should be continued. A review of the oversight of public education in other states showed that all 50 states had a central agency to perform certain statewide education functions. Although the structure of the policy-making body varied across the states, the operating agencies had a number of common functions such as distribution of state funds and administration of categorical programs which involve compliance monitoring, technical assistance, auditing and evaluation responsibilities. This type of involvement in public school education is necessary and is appropriately performed by a separate state agency such as the Texas Education Agency.

The second area of inquiry concerned the effectiveness of certain administrative activities of the agency. The review focused on whether the board

and the agency have sufficient mechanisms in place to evaluate their activities. The review showed that limited efforts are currently in place for the board and agency administration to evaluate the management of programs and the cost effectiveness of certain activities. In particular, the functions of the agency's internal auditor are limited at the current time and should be expanded. Expansion of the auditor's scope of review and greater organizational independence for the auditor should give the agency and the board better information on which to base management and policy decisions.

The evaluation also identified one administrative area, the Office of Hearings and Appeals, where a significant backlog of uncompleted cases had accumulated. One of the causes of the backlog is the current statutory language which allows almost any action of a local school board to be appealed to the state commissioner of education. Limits on the types of items that can be appealed to the commissioner would help reduce the backlog and the division's workload. In addition, the review identified certain areas where the agency performs support activities in-house which are available through the private sector. No systematic review is performed to determine whether these activities could be performed less expensively if contracted to the private sector. Recommendations to address these problems are in the Findings and Recommendations section of the report.

The third area of inquiry relates to the oversight by TEA of the activities and performance of local school districts. The Texas Education Agency has the statutory responsibility to accredit school districts and is required to review each school district every three years. The review of the accreditation process showed that the process itself is generally working well. However, a set cycle does not focus the agency's efforts on districts where educational problems are evident. Furthermore, the three year review cycle is not workable within existing resources.

One particular problem was identified in the course of the review of the accreditation process. The agency is not consistently gathering information from parents as part of the accreditation review of a school district as is currently required by statute. It was determined that parental comment in the accreditation process is quite important and should be emphasized.

The federal government also gives TEA oversight responsibilities. As a requirement for receiving federal funds, the state is required to monitor local districts' programs that use federal funds to ensure that federal guidelines are being met. The agency developed a monitoring process to meet this requirement. The board also assigned oversight responsibilities for certain specially funded state programs to the monitoring staff. The review of the monitoring process showed that although most problems found are brought into compliance in a timely manner, the agency's process does not ensure that compliance has been achieved before the case is closed.

Another problem identified concerns the timing of compliance monitoring visits for special education programs. The agency currently conducts monitoring visits of all school districts with special education programs on a five year cycle. The review showed that a significant amount of complaints received and hearings held by the agency result from problems stemming from special education programs in the local school districts. In addition, in 1981 the legislature set a three year monitoring cycle for bilingual education. Special education program monitoring used to be on a three year cycle, and consideration should be given to returning to this time-frame. Recommendations on the problems identified in the accreditation

and compliance monitoring functions of the agency are found in the Findings and Recommendations section of the report.

The fourth area of inquiry concerned the agency's responsibilities for the certification of teachers and the development of a system for the appraisal of teacher performance. The review focused on the requirements to obtain teacher certification and, in particular, the alternative certification program. The alternative certification program was established by H. B. 72 to provide an opportunity for college graduates to become certified teachers even if they did not take education courses in college. The evaluation showed that the agency has effectively implemented the program. However, the board limited the use of the program to school districts where there is a teacher shortage in a particular subject area. This was not the intent of the legislature, and was not required in H. B. 72.

In the area of development of the teacher appraisal system, the review focused on the steps taken by the board to ensure that the system is evaluated and updated when needed, and that the system ensures the quality of appraisers. The review revealed that neither state board rule nor the statute requires systematic monitoring and adjustment to the appraisal system. Although some changes have been made, they were in response to individual problems as they came up. A more systematic approach could be more effective. The evaluation also showed that the effectiveness and credibility of the teacher appraisal system is dependent, to a large extent, on the qualifications of the appraisers. Although the agency has arranged for appraiser update training through the regional service centers, recertification and testing are not required. These steps would provide a quality assurance measure that is currently not in place. Recommendations to address these issues are located in the Findings and Recommendations section of the report.

The fifth area of inquiry focused on the responsibilities of TEA in the area of special education. As a result of this focus, two problems were identified relating to the decision-making structure developed by the board to be used by local school districts in deciding the educational services to be received by a disabled student. In general, the approach required by the state is more restrictive than either federal requirements or the approaches used by many other states. These issues are addressed later in the report.

Three additional issues relating to special education were identified through the review. First, the Continuing Advisory Committee for Special Education, although active, does not appear to be serving as a focal point for public participation in special education planning as is contemplated by federal law and board rule. Second, the current statutory requirement that all TEAMS scores, including those of special education students, be reported publicly in an aggregated form may cause some special education students who could take the test and benefit from the results to be exempted. This requirement can also be unfair to school districts that have a large population of special education students taking the test. The third and final issue relating to special education concerns the agency's system for determining the amount of funds to be received by the school districts for these students. The system, which is not adopted as a board rule, uses a statewide average of "contact hours" for each type of services received by a student rather than the actual amount of contact hours. The district is then reimbursed on this average rate. Although this system may be appropriate and has reduced paperwork requirements of school districts, it can affect a district's funding and should be considered and adopted by the board. All of these special education issues are addressed later in the report.

The sixth area of inquiry concerns the oversight of proprietary schools in the state. The Texas Education Agency is responsible for the regulation and certification of such schools. The review considered the entire regulatory structure of the program. The evaluation found that the agency does not have an appropriate range of sanctions available. The current sanctions authorized in statute and used by the agency all result in a school having to cease operations, and certain less drastic sanctions would be effective for some violations of the Proprietary School Act.

Two issues were identified which relate to the relationship between proprietary schools and their students. First, the review showed that schools are not required to provide students with information that would assist them in assessing the effectiveness of a school and its programs. Second, a significant number of proprietary schools are being cited by the agency for failure to make tuition refunds in a timely manner to students who leave the school.

Another issue identified concerns the composition of the Proprietary School Advisory Commission. The commission is composed of nine members appointed by the board. Four members must be owners or executive level employees of proprietary schools, three members must be public school officials and two must be distinguished citizens of Texas with an interest in vocational-technical training. The commission's responsibility is to provide advice about the regulation of proprietary schools and the current structure does not ensure a necessary balance between technical and general public perspectives in the regulation of the industry.

One final issue concerns the regulation of certain associate level degree programs offered by proprietary schools. During the review it was determined that confusion and controversy existed regarding the roles of the Texas Education Agency and the Higher Education Coordinating Board in the regulation of associate degree programs offered by proprietary schools. Recommendations addressing these issues on proprietary schools are contained in the Findings and Recommendations section of the report.

The seventh area of inquiry relates to the State Textbook Committee and the textbook selection and purchase processes. The Sunset Act directly places the State Textbook Committee under review with a termination date concurrent to that of TEA. The review focused on the need for the committee as well as its structure, responsibilities and activities. Four particular issues were raised during the review relating to the textbook committee. First, the review examined the need for a textbook committee and the statewide adoption process. It was determined that such a process is used in many other states and that the committee serves a needed function in the adoption process.

The second issue examined concerns the structure of the committee. The review showed that the current structure of one general committee to review all books up for adoption does not provide for adequate expert coverage of all subject areas under consideration. In addition, the current structure, time constraints, and the volume of books submitted do not allow for all books to be carefully read and reviewed. Appointment of subject matter committees will ensure that books are reviewed by those with expertise in that particular subject, and reduce the volume of books to be read by each committee member.

The third and fourth issues relating to the committee concern the composition of and eligibility to serve on the committee. The current statutory requirements do not allow for those outside the public school system to serve on the committee, thus

excluding input from those who may have expertise in a given subject area but are not currently a public school teacher or administrator. Further, the current conflict of interest prohibitions prevent experienced and well qualified teachers in the state from serving on the committee for reasons that represent no current conflict of interest. Recommendations addressing the four textbook committee issues are located in the Findings and Recommendations section of the report.

Two issues were identified relating to the textbook selection process. First, an analysis was performed of the prices paid and total expenditures for textbooks purchased by the state. The analysis showed that prices have risen at a rate substantially higher than the rate of inflation over the past ten years. However, Texas is exerting minimal control over the prices it is paying for textbooks.

The second issue relating to the textbook selection process concerns the ability of local districts to select books not on the state adopted list. The current system only allows non-adopted textbooks to be used if they are paid for by the local district and used as a supplement to a state adopted book. Several other states provide additional flexibility for local school districts to select some books not on the adoption list at state expense. Recommendations concerning the two textbook selection issues are contained in the Findings and Recommendations section of the report.

The eighth and final area of inquiry relates to two TEA advisory committees that the Sunset Act places under review with termination dates concurrent to that of TEA. These committees are the Commission on Standards for the Teaching Profession and the Teachers' Professional Practices Commission. The review of these advisory bodies addressed the need for the committees, as well as their structure, responsibilities, and activities.

The review of the Commission on Standards for the Teaching Profession showed that the commission is active and serves a useful function. The commission recommends a set of standards to the State Board of Education for teacher education programs in public and private institutions, and performs reviews of teacher education programs to see if the standards are being met. The commission has been particularly active in the past year as a result of major changes in the teacher education statutes made by the 70th Legislature.

The review of the Teachers' Professional Practices Commission showed that there is not a continuing need for this commission. The commission was created in 1969 to establish a code of ethical practice for the teaching profession and to hold hearings on allegations of violations of the ethics code. The commission adopted an ethics code in 1971 which has recently been updated. The analysis showed that the duties of the TPPC are duplicative of TEA's regulatory responsibilities for the teaching profession. The agency already has all the elements of a standard licensing structure in place in the area of teacher certification. However, the review also indicated that the code of ethics is an important element in the profession of teaching and should be retained. Recommendations on these two commissions are located in the Findings and Recommendations section of the report.

Several of the recommendations contained in the report will have fiscal impacts. The fiscal impacts that can be determined at this time will result in a cost to the state of approximately \$751,000. However, certain recommendations are expected to result in significant savings, although the amount of those savings cannot be estimated at this time.

## **Findings and Recommendations**

## **Overall Administration**

**ISSUE 1: The scope of cases appealable to the commissioner should be reduced.**

## **BACKGROUND**

The Texas Education Code establishes that, except for disciplinary actions, any dispute arising under the school laws of Texas or any grievance resulting from an action of a local school board can be appealed in writing to the commissioner. Also, if substantial evidence is presented, appeals by students against decisions of local school districts must be reviewed by the commissioner, who, at no cost to the parties involved, must hold a hearing and make a decision. The commissioner is also statutorily required to hear appeals from teachers' contractual disputes with the local school boards. In addition, federal law requires an independent hearing process for special education cases.

The Texas Education Agency's Legal Division is composed of the Office of Hearings and Appeals and the Office of Legal Services. The Office of Hearings and Appeals receives and processes all appeals to the commissioner. There are four major types of appeals: appeals from actions of local school boards, appeals from actions of the agency, due process hearings before impartial special education hearing officers, and appeals from cases of detachment and annexation. About 300 appeals of all types are received each year by the agency. Currently, the division takes from three to nine months on average to resolve a case. Through the Office of Legal Services, the agency contracts with four private attorneys to hold the special education hearings. These special education hearings are held throughout the state, while all other hearings are held in Austin.

The review of the legal division indicated the following:

- ▶ During the last two fiscal years, approximately 55 percent of the cases received by the division were appeals from local school board actions. Approximately 20 percent of the cases were from appeals of agency actions and 20 percent were special education cases. Five percent were detachment and annexation cases.
- ▶ Appeals from actions of local school boards are divided into eight categories: teacher contract non-renewal, teacher contract termination, demotion/reassignment or other change in employment, appeals of career ladder decisions, appeals of local board policies, student cases, miscellaneous (appeals which do not fall under any other category), and appeals from local grievances.
- ▶ Four of the areas of local board decisions mentioned above primarily do not involve State Board of Education rules or the school laws of Texas. These are: appeals of local board policies, student cases, miscellaneous, and appeals from local grievances. These cases usually stem from a local citizen's disagreement with a school district policy or decision. During the last two fiscal years, approximately 18 percent of the cases were in the aforementioned categories.

- ▶ Students and/or parents have the right to be heard by the local school board if aggrieved by an action or decision of the school district, although the local school board is not required to take action.
- ▶ In fiscal year 1987, the agency held 79 hearings. Seventeen, or 21 percent of the hearings, related to the four types of local school board decisions previously mentioned. In all of the 17 cases, the commissioner's decision favored the school district. See **Exhibit 1 in the Appendix**.
- ▶ Over the last five years, a significant backlog of cases had accumulated in the Office of Hearings and Appeals. By concentrating solely on the backlog during the summer of 1988, the division reduced the backlog to approximately 70 cases by the end of the fiscal year. According to the division's staff, the main reasons for the backlog were: the high turnover in attorneys that the division faced during the period from 1984 to 1986, and the increased number of cases tied to the implementation of the teachers' career ladder mandated by House Bill 72.

## PROBLEM

The broadness of the statutory language regarding hearings and appeals requires the commissioner to receive appeals and hold hearings for an unlimited number of cases. The state, through the agency, is having to resolve a significant number of cases that are solely interpretations of local district policy. This situation is a factor in the backlog of cases in the division. Most of the appeals of local school board actions are decided in favor of the local board at the state level and then are either appealed to district court or the matter is dropped.

## RECOMMENDATION

The statute regarding the commissioner's authorization for hearing appeals should be changed to:

- provide that the commissioner of education hear appeals only from persons with disputes arising under the school laws of Texas or rules adopted by the State Board of Education.

This change continues the commissioner's responsibility to hear appeals from local school board decisions involving State Board of Education rules or school laws of the state, appeals from agency decisions, and conduct hearings on detachment and annexation cases. These appeals will include: teacher contract non-renewal, contract termination, demotion/reassignment or other change of employment, career ladder, agency employees grievances, proprietary schools, and teacher certification. This approach eliminates the commissioner's responsibility to hear appeals that are only interpretations of local school board policy.

The change will reduce the number of appeals received by the division by approximately 15 percent. For example, if this requirement had been in place in fiscal year 1988, there would have been 51 fewer cases filed with the agency. This reduction will thus assist the Office of Hearings and Appeals in resolving the current backlog.

Grievances or disputes from local boards' policies or decisions will be resolved at the local level, and if a continued disagreement exists with the local school board decision, the decision can be appealed to the appropriate district court for resolution. Hearings for special education would remain in place as they currently exist.

### **FISCAL IMPACT**

Operating costs for the Office of Hearings and Appeals should decrease as the backlog is eliminated and the volume of new appeals decreases. In addition, school districts could see some savings from no longer having to travel to Austin and participate in such hearings.

**ISSUE 2:** Modifying the structure and expanding the duties of the Internal Audit Division should provide the agency with better management information.

## BACKGROUND

State agencies obtain information to manage and evaluate their operations in a variety of ways. One of these is a strong internal audit function. The governor's office as well as the state auditor have recognized the importance of this function and have recommended that all major state agencies establish an internal audit function that meets certain guidelines. These guidelines are laid out in Governor Clements' Executive Order WPC 87-18 and in the state auditor's Statewide Report on Internal Auditing. Many of these guidelines are intended to insure that the internal auditor is organizationally independent of agency divisions that might be found deficient. Other guidelines focus on the scope of audits conducted and the systematic review of the agency. The executive order states that the scope of internal auditing should include the examination and evaluation of the organization's performance in carrying out its assigned responsibilities in addition to the review of internal program and financial controls.

In addition to the periodic information that an internal audit function provides, accurate and consistently available information is necessary for managers to evaluate how well programs are operating and for internal auditors and others to use in their reviews of the agency. Large agencies often develop management information systems to provide the information necessary to evaluate and manage their operations. For example, the Department of Human Services has a system that collects both internal and external data for the agency. In addition, the system is designed to allow an individual manager to develop an information base tailored for a particular area of responsibility.

The review of the Texas Education Agency's internal audit function and management information indicated the following:

- ▶ The agency has an internal audit division that operates according to rules set out by the State Board of Education. This division meets many of the guidelines developed by the governor and the state auditor. However, there are some guidelines that are not met.
- ▶ The following guidelines relating to the independence of the internal auditor are not met:
  - According to the guidelines, the commissioner should receive board concurrence in the appointment or removal of the internal auditor. The commissioner currently appoints the internal auditor, but does not receive the concurrence of the board.
  - According to the guidelines, rules or policies should be adopted to provide for a subcommittee of the board to meet periodically with the internal auditor or for a permanent item on the board agenda to discuss the audit function and review internal audit reports. Currently, the board is informed of the progress of the internal audit

plan, but has not regularly been provided with internal auditor findings or discussed those findings.

- ▶ The following guidelines relating to the scope of the internal auditor's responsibilities are not met:
  - According to the guidelines, the scope of internal audit functions should include the examination and evaluation of the organization's system of internal control and the quality of performance in carrying out its assigned responsibilities. The internal auditor's scope of audits are described in State Board of Education rules and have been more limited than the guidelines recommend. The internal auditor's duties are focused on the analysis of electronic data processing systems and internal controls more than on improving the management of agency programs. Recently, a greater degree of the internal auditor's attention has been placed on program performance.
  - According to the guidelines, the internal auditor should give priority to long-range audit planning as well as to annual audit plans. The agency currently prepares annual audit plans, but does not have a comprehensive long-range audit plan. However, the agency has begun a risk assessment study, which is a preliminary step in the development of a long-range audit plan.
- ▶ Several difficulties were noted in the availability of useful management information.
  - In comparison with most agencies previously under sunset review, it was more difficult to obtain requested data in a timely fashion.
  - The agency collects a large amount of raw data, but in several instances this data did not seem to be compiled in a useful way for decision-making or evaluation purposes. For example, individual divisions allowed small percentages of federal program funds they managed to lapse. There was no information flow to top agency management of the overall magnitude of these individually small amounts until the state auditor identified that, when aggregated, these small lapses accounted for approximately \$42 million dollars over a five-year period. In another instance, it was noted that the compliance monitoring divisions of the agency did not aggregate data to determine the primary problem areas discovered through compliance monitoring visits, or how long it took districts to resolve those identified problems. This kind of information would be useful in directing the work of the divisions.
  - The agency has developed a sophisticated system to collect information from school districts and the regional education service centers. However, the agency has not taken the same systematic and planned approach for providing information to manage and evaluate its internal operations. Some large agencies, such as the Department of Human Services and the Texas Department of Agriculture, currently have in place procedures for assisting

managers to determine what information reports they need to manage and evaluate their areas of responsibility.

- In 1987, the State Board of Education Long Range Plan for Public Education in Texas was adopted. The agency then began to implement a semi-annual management plan to assist the staff in planning their efforts toward accomplishing the goals set out in the long-range plan. The agency, however, indicated that administering the data collection for the management plan was overly time-consuming and this activity was set aside. There are no current efforts to reinstate the plan for a management system.

## PROBLEM

The agency's ability to evaluate and make improvements to its operations could be strengthened by increasing the independence of the internal auditor and expanding the scope of the audits conducted to correspond to the guidelines recommended by the governor and the state auditor. In addition, the agency's decision-making process would benefit from the systematic development of better management information.

## RECOMMENDATION

The agency's statute should be amended to strengthen the structure and scope of the internal audit function by requiring that:

- the internal audit division be organized as recommended by the governor and the state auditor to insure its independence and the assessment of program results. This would include the following:
  - the internal auditor would be appointed by the commissioner with the concurrence of the board;
  - the internal auditor would report to the commissioner but would have the authority to submit reports directly to the board in situations specified by board rules; and
  - the appropriate committee of the board would meet at least quarterly with the internal auditor.
- as one of its duties, the internal audit division should coordinate the agency's efforts to evaluate and improve its management information. The state auditor would review the quality and the effectiveness of the process for developing management information as part of his responsibility to conduct expanded scope audits of state agencies.

This change would strengthen the internal auditor's independence and assure the independence would be maintained. Expanding the scope of internal audits would give the agency and the board better information on which to base management and policy decisions. The internal auditor's review of management information would provide that systematic attention be focused on this problem area.

### FISCAL IMPACT

The internal audit division is staffed by three professional full-time equivalent employees. Other agencies sometimes have larger staffs to carry out this function. For instance, the state auditor recently reported that the Department of Human Services has five, while TDMHMR has 11. The actual number of staff needed by TEA to perform the function is unknown. It is likely that any increase would be offset with savings. For example, TDMHMR reports the possibility of significant savings from implementing recent internal audit recommendations.

**ISSUE 3:** The agency should initiate a review of commercially available support activities performed in-house.

## **BACKGROUND**

The TEA, like many state agencies, performs certain support activities that are commonly available through the private sector. These services include, for example: warehousing, printing, and data processing. In the last legislative session, a process was established to help agencies determine whether in-house provision of commercially available services was advantageous, based on cost as well as quality, when compared to contracting for those services in the private sector. This process is known as "competitive review" and is modeled after a program which is used by the federal government.

The federal competitive review process requires governmental agencies to: identify the commercial activities they perform; determine the cost of performing the activity in-house; and accept competitive bids on those activities from the private sector. The activity can be retained in-house if the agency can provide the service at a cost which is less than the total cost of contracting for the service given the same level of quality. In the past nine years of operations, the federal government estimates that this requirement has reduced costs by an average of 20 percent.

This process is still in the early stages of implementation in Texas. As a result, the program has been limited to three major state agencies and has been focused on certain management and support services. In this way the program can be refined and limited to agencies that have considerable experience with contracting. Three agencies, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services and the Texas Department of Corrections were required by the legislature in 1987 to participate in the competitive review process. The process requires these agencies to determine the cost of certain commercially available activities performed in-house and compare the cost with the cost of purchasing those services. The agency is required to bring its costs in-line with those of the private sector if significant differences are found. The agencies required to participate in the review process are currently implementing procedures to perform the cost comparisons.

A review of TEA's support activities which are commercially available indicated the following:

- ▶ The agency currently contracts for a variety of commercial services such as janitorial services, vehicle maintenance, data processing, transportation and warehousing. These contracts total approximately \$198,000 per year.
- ▶ The agency performs many activities which would be appropriate for competitive review. Commercial activities currently performed in-house include data processing, mail handling, warehousing, printing and media services. These activities are located in Austin with an annual budget of approximately \$1.5 million each year.

- ▶ The agency does not have a procedure which systematically compares activities it performs with those available through the private sector to determine whether cost savings could result from purchasing the services rather than providing them in-house.
- ▶ The agency has studied and pursued opportunities to contract for some services currently provided in-house. However, there is no systematic process for this review.

## PROBLEM

The agency performs several support activities in-house which are available through the private sector. These activities include data processing, mail handling, warehousing, printing, and media services. No systematic review is conducted to determine whether what the agency spends on these activities is reasonable compared to the cost of purchasing the services from the private sector.

## RECOMMENDATION

The statute should be changed to include the agency in the competitive review program by:

- requiring the agency to initiate the competitive review process for commercially available support activities currently operated by the agency in-house; and
- limit the agency's responsibility for review to one definable activity in the first two years.

This change will require the agency to identify a commercially available support activity (or part of an activity which is definable for bidding purposes), determine the cost of performing the activity in-house, and accept competitive bids from the private sector. The agency will modify its costs for the activity to be in-line with those of the private sector if significant differences are found. After the first two years, the agency will be responsible for expanding the process to other support services. Including the agency in the competitive review process will trigger a systematic review of certain support activities by using a standard decision-making tool to decide whether there are advantages to contracting with private businesses for those services. Limiting the agency's responsibility in the first two years will allow time to adequately develop and refine procedures.

## FISCAL IMPACT

Cost savings are expected once the review process is implemented. However, some initial costs to establish a cost estimate system and a bidding process are likely.

## **Accreditation and Compliance Monitoring**

**ISSUE 4:** The frequency of on-site accreditation inspections of schools should be based on indicators of school performance.

## BACKGROUND

State law requires TEA to conduct accreditation reviews at least every three years and investigate districts more frequently if they are found to be below any accreditation standard. Statutory accreditation standards include quality and performance standards, as well as compliance standards. In practice, the TEA has adopted a standard five year cycle of on-site accreditation visits. The agency attempted to institute a three year cycle shortly after the requirement was enacted. The workload was found to be unmanageable due to fiscal constraints and the agency reverted to a five-year cycle. If a district is found to perform significantly below standards on a scheduled visit, the agency will conduct follow-up visits to ensure that improvements are made.

The focus of accreditation efforts has changed in recent years to place more emphasis on educational quality while still reviewing compliance with state requirements. The process now includes a review of whether practices are in place which have been found to foster effectiveness such as the quality of governance within the district, instructional leadership, school climate, and teacher expectations of students. The agency has 75 staff in the accreditation division with an operating budget for fiscal year 1989 of \$2.9 million.

The review of the agency's accreditation program indicated the following:

- ▶ The current statutory three year review cycle is unworkable within the current budget. The agency has maintained a five year cycle for many years.
- ▶ Indicators are currently available to identify districts where a high proportion of students are not able to pass the basic skills tests.
- ▶ The agency does not base its regular accreditation inspection schedule on district performance. Although the agency conducts follow-up visits to some districts more frequently, the number of such visits are limited and they are usually in response to serious problems identified in the regularly scheduled inspection. Not adjusting the regular schedule when problems are suspected prevents the agency from focusing its accreditation efforts on correcting certain identifiable problems. Analysis of the current accreditation review schedule indicates that this year TEA will conduct on-site reviews of schools which have a high proportion of students passing the basic skills mastery test while other districts which rank lowest in the state are not scheduled for review until 1992.
- ▶ The agency has identified indicators which can be used to measure the educational quality within a school prior to the physical inspection of the school. These include, for example: student attendance rates, dropout rates, and student promotion and retention rates. Several types of indicators are currently used to target the on-site inspection on specific problem areas or campuses and for streamlining the review process in certain instances.

## PROBLEM

The current statutory three year accreditation review cycle is not workable within existing resources. The agency has, instead, used a set five year cycle to review all districts. However, a set cycle does not focus the agency's efforts on districts where educational problems are evident through the results of basic skills testing and other indicators of educational quality.

## RECOMMENDATION

The agency's statute should be changed to establish a performance-based accreditation visit cycle by:

- requiring that all districts be reviewed every six years by either desk review or on-site review, or both;
- requiring that the board adopt, through the rule-making process, a set of indicators of educational quality for the agency to use to identify poor performing districts for the review scheduling process;
- requiring the agency to perform accreditation reviews of districts with poor performance more frequently than districts with high performance; and
- clarifying that the agency may choose not to perform an "on-site" review of a district which demonstrates exemplary performance, as defined by the board.

This change will establish the framework for a performance-based accreditation visit cycle. Better focusing of the frequency and scope of the agency's accreditation review efforts based on indicators of educational quality should intensify agency services on problem schools. This will help identify and correct problems within schools while relieving exemplary districts from on-site state inspections. The changes will not prohibit the agency from conducting a site-visit to any district. The basic accreditation cycle is changed from three years to a more workable six year cycle. This will provide the agency the flexibility to spread the number of on-site visits required over a slightly longer time frame so that existing resources may be refocused to make more frequent visits to problem districts. The changes incorporate the current flexibility provided in statute to monitor districts more frequently if their operations are below standard. The existing provisions are, however, strengthened by requiring the board to provide direction to the staff concerning the indicators to be used to focus the on-site review efforts. Adoption of standard quality indicators through the rule-making process will provide consistency and ensure that districts and the public will have an adequate opportunity to provide input into the indicators chosen. The board would also have the flexibility to define the level of performance it considers exemplary.

## FISCAL IMPACT

No changes in expenditures are anticipated from this recommendation.

**ISSUE 5:** The agency should solicit parent comments prior to completing an accreditation review.

## BACKGROUND

The purpose of state accreditation is to ensure that every school district maintains certain levels of quality in its operations and makes constant efforts toward improvement. The agency uses several sources of information in its evaluation including: standardized test scores, school planning and curriculum documents, student records, observation of classroom teaching, and interviews with administrators and teachers. State law requires the agency to obtain information during the accreditation review from parents of students in the district, as well as, school administrators and teachers. Agency rules also contain this requirement.

The review of the degree to which parent comment is incorporated into the accreditation review process indicated the following:

- ▶ Discussions with agency staff indicate that there is no formal mechanism within the accreditation process to gather information from parents. While there have been instances when the accreditation team has contacted parents in the district, this happens infrequently and usually involves either parents who are already on campus during the visit such as classroom volunteers, or parents that have filed formal complaints with TEA. In the case of complaints, the parents involved are contacted individually as time permits.

## PROBLEM

The agency is not consistently gathering information from parents as part of the accreditation process, as required by state law and agency rule. It is particularly important for the agency to use all sources of information that can assist in the evaluation of the educational quality of the school due to the short time allocated for each accreditation review.

## RECOMMENDATION

The agency's statute should be changed to reinforce existing parent comment requirements by:

- requiring the board to develop a process, in rule, for the agency to use to solicit parent comments in the accreditation process and describe how those comments will be included in the report. The agency should not be permitted to consider a formal district accreditation review to be complete unless comments have been received from parents of students in the district.

This change will strengthen the requirement for considering parent input in the accreditation process. Providing that the review may not be considered complete without parent comment will ensure that no final report is issued without such information. This emphasizes the importance of the perspective of parents in the evaluation of schools and strengthens the current statutory requirements. The board will develop a standard process to receive written or oral comment. The statute would not require a personal interview or public hearing. Adopting the process through rule-making will provide for public comment to ensure that the process is workable for parents and district staff.

### FISCAL IMPACT

No changes in expenditures are anticipated from this recommendation.

**ISSUE 6:** The agency should require districts to document resolution of problems identified in compliance monitoring visits.

## BACKGROUND

The Texas Education Agency is responsible for monitoring state and federally funded special programs for compliance with state and federal laws, rules and regulations. The compliance staff monitor school compliance in several different special programs such as special education, vocational education, bilingual education, and federal compensatory education. Currently, the agency operates on a five-year monitoring cycle for all special programs although the bilingual programs are statutorily required to be monitored on a three-year cycle. In fiscal year 1988, the compliance staff reviewed programs in approximately 230 districts.

During monitoring visits, the staff examine many different areas for compliance. For example, special education monitors look for compliance with federal "least restrictive environment" standards; admission, review and dismissal committee activities; individual education plan standards; as well as many other areas. In vocational education, monitors look at such things as student eligibility, the provision of services to special need students and program planning activities.

After completion of an on-site monitoring visit, the staff develop a written report for each program area in the district that details discrepancies with standards or laws. The report recommends corrective actions to be taken within specified time frames. The agency's monitoring procedures state that this report will be distributed to the district within 30 days of the visit. Generally, the district must submit corrective action documentation within 60 days from the date of the report. In most cases, districts are asked to submit evidence indicating that the discrepancy has been corrected or that a plan for correcting the discrepancy has been developed. If a district fails to submit corrective action within the prescribed 60 days, a series of phone calls and letters from progressively higher levels of administration is triggered. If the district fails to respond appropriately, the agency has the authority to withhold federal funds and/or withhold the district superintendent's salary. In the most troublesome cases, a follow-up visit is scheduled for the next cycle; however, the agency has limited funding for follow-up visits.

Interviews with agency staff and a review of selected compliance files indicated the following:

- ▶ If the agency's report requires the district to submit a plan for implementation of corrective actions, the plan must include a time-line for implementation. The plan must be accompanied by a signed assurance from the district superintendent that the plan will be implemented. Agency staff indicated that in many cases, the submission of a plan results in the district being considered fully compliant and the file is closed. The districts are not consistently required to submit further evidence that the plan was fully implemented and that the district has actually complied.

- ▶ Agency records showed that discrepancies are not always resolved when the district's case is closed. In fiscal year 1988, the agency conducted 27 follow-up visits. A review of these reports and the previous year's reports from these same districts indicate that in 14 of these reports, the district failed to resolve one or more discrepancies that had been cited in the previous year's compliance report, even though each of these original compliance reports had been closed.

### PROBLEM

The agency's current compliance monitoring process does not ensure that compliance is achieved before a case is closed. Districts are not always required to submit corrective action documentation that would indicate full compliance with discrepancies that were cited during monitoring visits.

### RECOMMENDATION

As a management change, the agency should consider:

- requiring districts to submit evidence of full compliance with all cited discrepancies upon completion of corrective action plans. (management-improvement)

This type of policy would lessen the possibility of districts not following through on corrective action plans and would allow the agency to track the timeliness of districts' compliance efforts. Although the agency currently receives assurances from district superintendents indicating an intent to comply, this policy would provide the agency with an assurance that compliance has been achieved. The agency should have the option of determining what constitutes full compliance.

### FISCAL IMPACT

No changes in expenditures are anticipated from this recommendation.

**ISSUE 7:** The agency should be required to monitor compliance in special education programs every three years.

## BACKGROUND

The federal government holds the TEA responsible for ensuring that local special education programs throughout the state operate in compliance with federal requirements. The federal government provides approximately \$80 million to Texas annually for special education, and approximately \$420 million is allocated from state funds. The federal requirements are extensive. They detail specific procedural safeguards which must be in place to protect each handicapped student's right to an appropriate education. Such safeguards include, for example: the development and annual revision of an individual educational plan for each student, the provision of educational services based on the student's needs, requirements concerning information to parents, and due process provisions.

While other federally funded programs such as vocational, compensatory, and bilingual education have specific federal and state programmatic requirements, those for special education are more involved and are frequently the subject of complaints. Due to the number of complaints and the complexity of the federal requirements concerning special education programs, the agency has a separate staff for special education complaints. All complaints concerning other programs are handled by the agency's general complaints staff. In fiscal year 1988, the agency received a total of 1,366 complaints, of which 288 concerned special education. A significant number of the complaints concerning special education programs were found by the agency to point out discrepancies with federal or state requirements. See Exhibit 2 in the Appendix.

The agency's total budget for compliance monitoring for fiscal year 1989 is \$2 million. Of that, approximately \$594,000 is allocated to special education monitoring. Approximately 17 special education staff spend about one-half of their time in compliance monitoring. In fiscal year 1988, the agency conducted special education compliance monitoring visits to 134 programs serving 290 districts. Fourteen of those visits were follow-up reviews to determine whether discrepancies noted in the previous monitoring visits had been corrected.

The review of the agency's compliance monitoring effort in special education indicated the following:

- ▶ For many handicapped students, the special education program is their complete educational program. In contrast, compensatory and vocational education are programs which often augment a student's regular instruction. This means that shortcomings in a district's special education program cannot be compensated for by the regular educational program as can occur in other types of programs. For example, the compensatory education program frequently involves providing remedial help to students with their assignments from regular class, but most of their day is spent in regular classes. Even when a student is in compensatory classes all day, lesson material is often patterned closely after the regular educational program.

Similarly, vocational education is provided through optional, work preparation courses which are often taken in addition to regular education courses.

- ▶ The monitoring schedule has changed often since special education monitoring, as is now known, began on a pilot basis in fiscal year 1979. At that time, special education monitoring was conducted in a separate visit to the district. In 1981, the agency consolidated all monitoring and accreditation visits and adopted the five-year cycle which was in place for accreditation visits. In 1984, the agency separated all program monitoring and began a three-year review cycle. However, the agency modified its approach to monitoring special education programs again in 1986. This change instituted a five-year review cycle.
- ▶ Compliance monitoring for special education is more involved than the monitoring required for other special programs. The monitoring instrument for special education contains 29 areas for review and approximately 293 monitoring questions. In contrast, the consolidated monitoring instrument for the compensatory, bilingual, and migrant education programs contains only nine areas for review tested by approximately 133 questions. The monitoring instrument for vocational education contains seven areas for review and consists of approximately 109 questions.
- ▶ The agency cites twice as many discrepancies in special education programs, statewide, as those cited in other programs. In fiscal year 1988, 1,052 discrepancies were reported by special education monitors, while 620 were reported for vocational education programs, and a total of 562 were reported in compensatory, bilingual, and migrant education programs. The top five discrepancies cited in special education programs concerned issues relating to whether students were educated in the least restrictive environment appropriate to the student's needs. **See Exhibit 3 in the Appendix.**
- ▶ Recent monitoring reports by the federal government indicate a need to improve certain aspects of special education program compliance in Texas. Those efforts are currently underway.
- ▶ Parents of students in special education programs point to the need for improved compliance monitoring. Their concerns include not only the frequency of monitoring but also the quality of the review and follow up efforts to ensure that corrective actions are taken.
- ▶ In fiscal year 1987, approximately 46 appeals were filed under federal due process provisions concerning special education programs. Of those cases, 23 were dismissed prior to hearing. Eight of the remaining 23 cases were ruled in favor of the student.
- ▶ The federal government does not specify a minimum time frame for monitoring districts. Instead, the agency is held responsible for districts operating their programs in continuous compliance with federal requirements.

## PROBLEM

For many handicapped students, the local special education program is the only form of education available to the student. Federal requirements concerning special education are complex and non-compliance with federal requirements is often the subject of complaints and due process hearings. In recent years, the agency has changed the monitoring cycle for special education from three years to five years. More frequent compliance efforts appear necessary.

## RECOMMENDATION

The agency's statute should be changed to increase the special education compliance monitoring effort by:

- requiring the agency to conduct compliance reviews of special education programs at least every three years.

Changing the monitoring cycle for special education programs to every three years will increase the agency's ability to ensure that local special education programs operate in compliance with federal requirements and will make the cycle consistent with the requirement in law that bilingual education programs be monitored every three years. Continued follow-up efforts to local districts with serious discrepancies will assist those that are having difficulty bringing their program into compliance. Increased compliance will help ensure that each handicapped student in the state has the opportunity for an appropriate education. The three year monitoring cycle will fit easily into the six year accreditation cycle being proposed in another recommendation (see Recommendation 4).

## FISCAL IMPACT

Preliminary estimates from the agency indicate that it will cost approximately \$570,000 a year to implement this recommendation.

## **Teacher Certification and Appraisal**

**ISSUE 8:** The State Board of Education should develop a plan to systematically evaluate the Texas Teacher Appraisal System.

## **BACKGROUND**

The Texas Teacher Appraisal System (TTAS) was implemented on statewide basis in the fall of 1986 as required in House Bill 72. The teacher appraisal system was specifically designed to determine whether or not teachers are meeting quality performance expectations, to identify teachers performing below expectations, as well as help teachers identify their professional strengths and weaknesses, all key issues in improving Texas public schools. The legislation required the State Board of Education to adopt an appraisal process for career ladder purposes. According to statute, teachers must be evaluated on observable, job-related behaviors in one or two appraisals each year. The actual appraisal of teachers is the responsibility of the individual school districts. Approximately 150,000 teachers were appraised in the 1987-1988 school year.

Teachers are evaluated by appraisers who are trained through appraiser training programs developed by the Texas Education Agency and delivered through the regional education service centers. Currently, there are over 15,000 certified appraisers in Texas. School principals and other school district personnel are usually trained to conduct the appraisals. Teachers are appraised on teaching performance in five major areas: instructional strategies, classroom management and organization, presentation of subject matter, learning environment, and professional growth and responsibility. For each appraisal, an overall summary performance score is calculated that places each teacher in one of five categories: unsatisfactory, below expectations, satisfactory, exceeding expectations, or clearly outstanding.

The review of the appraisal process indicated the following:

- ▶ The Texas Teacher Appraisal System is a key element in the effort to improve the quality of education in Texas. The system cost over \$2.5 million to develop and implement. The system is being used by every local school district in the state and is the primary factor used to determine placement of teachers on the career ladder. The appraisal process is the principal determinant for spending approximately \$150 million in state career ladder money each year.
- ▶ According to a study conducted by TEA, approximately 95 percent of the teachers evaluated through the TTAS have scored in the top two categories of exceeding expectations and clearly outstanding. Other data compiled by the agency support the finding of high ratings being given to teachers in the appraisal process.
- ▶ Appraisers have difficulty consistently scoring the more subjective aspects of teaching performance. The agency examined inter-rater reliability in appraiser training sessions. The study showed that although appraisers were able to reliably identify teaching behaviors that meet standard performance expectations, over 57 percent of the

appraisers sampled were unable to consistently identify exceptional teaching performance.

- ▶ The agency indicated that local districts are experiencing difficulty because many of their teachers earn the same overall performance score or the scores are very close together. Testimony provided at a public hearing held by the state board in June 1988 also indicated problems with closeness in appraisal scores as well as with too many teachers scoring in the top performance categories.
- ▶ Career ladder placement decisions made by the local school districts are made more difficult if appraisal scores are close together. Local districts review their teachers' appraisal scores and place the teachers with the highest scores on the career ladder. If appraisal scores are close together, a teacher who is placed on the career ladder may have scored very close to a teacher who is not placed on the career ladder.
- ▶ The state board has made limited modifications to the TTAS, usually in response to specific problems that arose. The majority of the changes focus on how the instrument is scored. Scoring changes include deleting or combining certain indicators, awarding points differently for exceptional quality in teaching performance, and slightly increasing the number of points required to earn the performance ratings of exceeding expectations and clearly outstanding.
- ▶ A policy or management plan for monitoring and evaluating the appraisal system has not been developed. The agency does not regularly collect statewide information on appraisal scoring and does not regularly obtain input from the local districts on the effectiveness of the system.

## PROBLEM

There is a need for concentrated planning for improvement to the Texas Teacher Appraisal System. Although the state board has made improvements to the system, a focused evaluation to identify the most beneficial changes for long-term success of the TTAS has not been put forth. Neither statute nor state board rule requires systematic monitoring of, and adjustment to, the TTAS.

## RECOMMENDATION

The statute should be changed to:

- require the State Board of Education to develop a policy for evaluating the effectiveness of the Texas Teacher Appraisal System; and
- require that the policy include provisions for the agency to monitor the system and propose modifications to the state board on a biennial basis.

Such a policy should identify an approach for collecting appraisal scores and other relevant data, evaluating system reliability, and conducting research on the impact of the TTAS. Though agency staff indicates a management plan is being developed and some improvements have been made, a plan for systematically evaluating this important process and recommending improvements has not been put in place. Establishing a policy to regularly evaluate the Texas Teacher Appraisal System will help TEA staff identify problems and ensure that the State Board of Education's attention is systematically focused on possible solutions.

### **FISCAL IMPACT**

The current budget for the Texas Teacher Appraisal System includes money for development and maintenance of the appraisal system. This recommendation would require the State Board of Education to adopt a policy that would actively focus the use of that money for future research/study efforts of the agency.

**ISSUE 9:** Teacher appraisers should be required to be recertified every three years.

## **BACKGROUND**

The Texas Teacher Appraisal System was developed by the Texas Education Agency and has been implemented by the local school districts on a statewide basis. Most teachers are appraised twice each year. Each appraisal consists of two, 45-minute observations by two different appraisers. One appraiser must be the teacher's supervisor and the other must be approved by the local board of trustees. Most often, it is the school principal and assistant principal who conduct the appraisals, though other school personnel may serve as an appraiser if needed. Teacher appraisal has thus become a significant aspect of a school administrator's job.

The Texas Education Code requires the State Board of Education to provide a uniform training program and uniform certification standards for appraisers. The agency's staff developed the appraiser training program and delivered the training through the regional education service centers to approximately 14,000 appraisers during the summer of 1986. Training included the study of the statutory requirements and State Board of Education rules on the appraisal instrument and procedures. Participants were tested on their knowledge of the system and on their proficiency in scoring videotaped segments of instruction. A score of 70 percent is required by the State Board of Education in order to become a certified appraiser. Less than one percent of those participating in the appraiser training failed to meet the proficiency requirements set by the board.

The State Board of Education rules require periodic recertification for appraisers. The agency indicated that it plans to provide recertification opportunities for appraisers sometime in the future. In lieu of recertification, the agency has developed update training for appraisers. This training program is a one-day session designed to review the appraisal process and modifications made to the system. Update training took place during the summers of 1987 and 1988.

The review of the system for appraiser training developed by the agency indicated the following:

- ▶ Although the agency has implemented update training, the proficiency testing of the appraisers was not continued.
- ▶ The appraisal system has been modified and will continue to be modified by the State Board of Education. The update training provided by the educational service centers covers these changes; however there are no assurances that changes to the system are being uniformly understood by the appraisers. Currently, appraisers are not required to demonstrate competence on changes implemented.
- ▶ The agency conducted a study of appraiser training sessions that examined reliability between appraisers. The study showed that although appraisers were able to reliably identify teaching behaviors that meet standard performance expectations, over 57 percent of the

appraisers sampled were unable to consistently identify exceptional teaching performance.

- ▶ Local districts have reported to the agency that they are experiencing difficulties in gaining the inter-rater reliability they would like within their own districts. Testimony provided by teachers and school administrators at a recent public hearing also indicated a need to improve inter-rater reliability of the appraisers.

## **PROBLEM**

The effectiveness and credibility of the Texas Teacher Appraisal System is dependent upon the qualifications of the appraisers to a large extent. Appraisers have been required to demonstrate their proficiency on only one occasion and although update training is provided, recertification has not occurred, thus an important quality control measure in the appraisal system is lacking. In addition the agency, local school districts, and teachers indicate that inter-rater reliability is often too low causing teachers performing comparably to receive different appraisal scores.

## **RECOMMENDATION**

The statute should be changed to:

- require recertification of teacher appraisers every three years.

Recertification will provide an opportunity to check the competency of appraisers and hold appraisers accountable to a level of proficiency important in maintaining consistent appraisals throughout the state. Recertification would require appraisers to regularly review and identify the current standards being used, thus improving appraiser performance in the local districts. Recertification will also help identify weaker appraisers and provide an opportunity for remediation. In general, it is expected that the overall reliability of the system would be increased through recertification and testing.

## **FISCAL IMPACT**

Recertification should be done every third year in conjunction with the annual update training provided through the education service centers. Funding for the update training is in both the current budget and the agency's budget request for the next biennium. However, additional funding of approximately \$33,000 will be needed every third year for testing materials and issuance of certificates.

**ISSUE 10:** The statute should be changed to make it clear that an alternative certification program need not be contingent upon a teacher shortage.

## **BACKGROUND**

The alternative certification program, established by the legislature as part of House Bill 72, provides the opportunity for college graduates to become certified teachers even if they did not take education courses in college. Currently, 11 alternative certification programs are in operation with 87 school districts participating. The alternative certification programs have attracted numbers of professionals from a variety of fields who want to make a career switch into the teaching profession. Interns are earning certification at the elementary and secondary levels in the areas of bilingual, english as a second language, english, biology, chemistry, science, math, and physics. Approximately 750 individuals have earned their teaching credentials through the alternative certification route since the establishment of the program in 1985.

The State Board of Education has developed a number of requirements for the implementation of the alternative certification program. General provisions set by the State Board of Education require the alternative certification program to be established by a local school district or through a cooperative agreement between a local district (including educational service centers) and an institution of higher education. In addition, the board requires the program to be precipitated by a teacher shortage and is available only to college graduates who have not been certified previously.

To obtain approval for an alternative certification program, school districts and universities wishing to participate are required to demonstrate full accreditation status, adequate funding, a plan for program administration and a training program design for the program interns. Other requirements include an internship program with a supervising teacher who is on career ladder level II or above, and a process for evaluating the interns and the program. Programs are initially approved for one year. Programs may apply for reapproval for up to three years at a time.

The review of the alternative certification program indicated the following:

- ▶ The alternative certification program has been fashioned as a teacher shortage program by State Board of Education rule. Local education agencies or educational service centers interested in starting a program are required to demonstrate a problem with the supply of teachers in a particular subject area in order to receive program approval.
- ▶ The statutory provisions creating the alternative certification program do not require the demonstration of a teacher shortage in order to implement such a program.

## PROBLEM

A teacher shortage requirement for program approval was not specified in statute and may unnecessarily restrict local districts and potential teachers from participating in alternative certification programs.

## RECOMMENDATION

The statute should be changed to:

- specify that the approval of an alternative certification program is not contingent upon a teacher shortage.

This change should encourage additional participation in the program by school districts and allow the districts to take further advantage of qualified, mature professionals interested in teaching.

## FISCAL IMPACT

No changes in expenditures are anticipated from the adoption of this recommendation.

## **Special Education**

**ISSUE 11:** The decision-making process requirements for the Admission, Review, and Dismissal committees should be changed.

## **BACKGROUND**

Federal law requires that all handicapped children be educated according to an Individualized Educational Plan (IEP) which is developed to meet the specific needs of the individual student. The IEP is developed and revised by the school through a committee of people familiar with the educational needs of the student. According to federal requirements, the committee includes the following members: a district representative who is qualified to provide or supervise special education services, the child's teacher, one or both parents, and others at the discretion of the parent or agency. In addition, if the student is being evaluated for the first time, a member of the committee must be experienced in evaluation. Provisions are also established in federal law to ensure that parents have an adequate opportunity to participate in the IEP process. Specific efforts are required to ensure that parents have an opportunity to attend the actual meeting, and due process hearings are required for parents who disagree with committee decisions.

Federal law leaves a degree of flexibility to the parent and the school district in terms of who will be present at the meeting. The TEA limits this flexibility through board rules for composition of an Admission, Review, and Dismissal (ARD) Committee and for voting requirements. The ARD committee is to be composed of three to nine voting members depending on the student's disability and programs considered by the committee. The specific composition and voting authority is as follows: one voting parent, the student (if appropriate), from two to three voting district personnel, and up to four voting district specialists depending on the student's disability and services proposed.

The review of the existing ARD committee process established in Texas indicated the following:

- ▶ Federal law does not specify how the committee is to reach decisions, only that the district is responsible for initiating and conducting committee meetings at least annually. Official interpretations have been issued by the federal Department of Education concerning decision-making in the committee. Those interpretations indicate that if the committee is unable to reach agreement in the meeting, the committee could agree to an interim course of action for the student's placement or services. However, if the committee cannot agree to an interim measure, the student's last agreed upon IEP would remain in effect. Examples are provided concerning how the committee can resolve disagreements, including: implement the parts of the IEP on which the committee agrees, document the disagreement and continue working to resolve the issues in the areas of disagreement; use mediation to resolve the disagreements without going to a due process hearing; and/or remind the parents that they may resolve their differences through due process hearing provisions in federal law.
- ▶ Few states have taken the approach Texas has to the decision-making process within the committee. Of 43 states surveyed by the agency in 1986, only six states, including Texas reported that the state specifies the voting membership for such committees. Many reported that the

committees in their states reach decisions through discussion and consensus and that minority opinions are registered when consensus is not reached.

- ▶ Parents and advocacy groups state that parents often feel overwhelmed by the number of district personnel that attend the ARD committee meeting. They indicate that the concept of voting, along with the high ratio of district personnel, sets an adversarial tone in some meetings. In 1987, 15 percent of the 280 complaints received concerning special education involved concerns over the IEP development process and ARD committee membership.

## PROBLEM

The State Board of Education has taken an approach, in rule, concerning the IEP process that is more limiting than federal requirements and the requirements of other states. The voting policies, especially the specific voting assignments, can lead to an adversarial climate within the ARD committee and in parents being routinely out-voted in decisions concerning the education program for their child. Federal law and regulations do not require any specific decision-making practices within the committee.

## RECOMMENDATION

The Texas Education Code should set out the following requirements concerning the decision-making process of the ARD committees:

- establish the ARD committee in state law;
- clarify that decisions concerning the IEP should be based on a mutual agreement between the school and the parent, whenever possible. If mutual agreement is not possible, a statement of the basis for disagreement may be attached to the ARD committee report; and
- direct the state board to develop procedures, in board rules, for appropriate methods to reach decisions in the ARD committee when mutual agreement is not possible, but prohibit the board from requiring voting.

This change attempts to reduce the adversarial nature of the ARD committee process by encouraging decision-making through mutual agreement instead of voting. The state board will develop procedures for appropriate methods to reach decisions in the ARD committees when mutual agreement cannot be reached. However, the state board will no longer require the use of voting in all ARD committees. The option to continue voting within the ARD committee will be available to the local districts as will other procedures set out in state guidelines. Such guidance from the state board will ensure that standardized approaches are taken to decision-making in the committees thereby providing for statewide consistency. In addition, state-level direction would ensure that federal safeguards over the IEP development process remain intact.

## FISCAL IMPACT

No cost to the state is anticipated in the implementation of this recommendation.

**ISSUE 12:** The duties of the Continuing Advisory Committee for Special Education should be modified and established in statute.

## BACKGROUND

Federal law requires each state to have a special education advisory committee. The composition must include a balance of consumers and the various categories of professionals involved in special education. The federal law sets out the duties of the panel to include: advising the state education agency on unmet needs, as well as reviewing and commenting publicly on the state plan submitted for federal funding, fund distribution procedures, and any rules proposed for adoption by the board which concern special education. In addition, the panel is required to assist the agency with studies of the effectiveness of special education programs and to provide an annual public report of the committee's activities.

In Texas, the Continuing Advisory Committee for Special Education is established by state board rule. There is no state law concerning the committee. However, board rules do not reflect the specific federal requirements concerning the committee duties. The rules are more specific than the federal law concerning the composition by requiring 17 committee members. The rules require that 10 of the members represent specific types of the special education professionals and seven positions be designated for handicapped individuals or parents of handicapped students. Members serve three-year staggered terms. Federal law requires the committee members to be appointed by the governor or another state official designated by law. In Texas, board rules establish a standard appointment procedure for all advisory committees within the agency. Under this provision, members are recommended by the commissioner and confirmed by the board. At least one committee member must be from each board member's district. The general purpose of the committee stated in board rules is to ensure public participation in the special education planning process.

The review of the structure and activities of the Continuing Advisory Committee for Special Education indicated the following:

- ▶ The committee has been marginally involved in the duties set out in federal law. Federal provisions require the committee to comment publicly on the state plan, proposed rules, and funding distribution plans. However, the committee's public comment has been limited to comments made in the committee's public meetings. No method has been established to routinely include the committee in the board's review of proposed rules or funding distribution plans. In contrast, state professional and advocacy groups are often invited to provide testimony to the board concerning proposed rules.
- ▶ Federal law specifies that the committee is to advise the "state education agency". The federal act defines state education agency to include the state board of education or agency primarily responsible for the state supervision of public schools. However, board rules specify that the committee is advisory to the TEA. The committee interprets this provision to mean that it cannot advise the state board.

- ▶ The agency's formal planning for special education as required by state and federal law was found to be in compliance with these laws. However, in comparison to other agency planning documents, special education planning was found to be limited in scope. The agency satisfies its planning responsibility by using its plan for federal special education funding. It is difficult to locate specific programmatic direction within the plan. Other agencies, such as the Texas Department of Mental Health and Mental Retardation, publish a state plan for services which clearly sets out the programmatic direction their services will take in the future.
- ▶ Committees in other agencies with responsibilities similar to that of the Continuing Advisory Committee for Special Education, such as the Citizen's Planning Advisory Committee within the Texas Department of Mental Health and Mental Retardation, serve as a focal point for public participation in planning. Such committees provide leadership and direction in an agency's planning process and are often advisory to the agency's board.
- ▶ State board rules also establish local special education advisory committees. Under those provisions, each local school district or special education cooperative is required to establish a special education advisory committee. There is currently no formal interaction between the state advisory committee and the local committees.

## PROBLEM

While the committee is active, it does not appear to be serving as a focal point for public participation in special education planning as is contemplated by federal law and state rule. Also, there is no mechanism in place for the state advisory committee to receive and pursue concerns identified by local advisory committees. A long range plan with programmatic content for special education, similar to the long range plan developed by other TEA programs, is not available.

## RECOMMENDATION

The statute should be amended to:

- establish the Continuing Advisory Committee for Special Education in state law;
- require that the composition of the advisory committee be consistent with federal law;
- require that the committee have all the duties set out in federal law and that the committee also be responsible for advising the State Board of Education on the development of the state plan required by state law;
- require that the committee solicit input from local advisory committees in relation to advising the board of unmet needs in special education; and

- clarify that the committee is advisory to the board and the commissioner and that members are appointed by the board.

This change will better focus the activities and responsibilities of the committee. Clarifying that the committee is advisory to the state board and that the committee is to solicit input from local special education advisory committees reinforces the committee's role in advising the state in planning for the special education program. The state board should review its existing rules concerning the terms, method of appointment, composition, reporting requirements, and duties of the committee to determine whether modifications are needed to effect the changes set out above. As part of that review, the board should examine whether a separate state plan for special education, like that developed for vocational education, is needed to meet the intent of the requirement in state law and better set out the focus and future direction of special education in Texas. Assisting the board in developing a similar plan for special education would provide useful direction to special education in Texas and would be consistent with the mission of this committee.

### FISCAL IMPACT

No change in expenditures is anticipated from this recommendation.

**ISSUE 13:** The statute should be amended concerning TEAMS testing for special education students.

## **BACKGROUND**

House Bill 72 reforms began a program to evaluate all students on basic academic skills through a testing program commonly referred to as TEAMS (Texas Educational Assessment of Minimum Skills). The statute requires the agency to compile overall student performance data and report it, with appropriate interpretations, publicly by campus and district to local school boards and the legislature. Under this requirement the agency reports the aggregate scores of all students who took the test. In the standard report provided to the district, the scores are reported in aggregate form as well as separately for the various categories of students, for example: ethnic groups, gender, special education, and non-special education.

The statute on TEAMS testing contains a provision which allows students to be exempted from the test if they have "a physical or mental impairment or learning disability that prevents the student from mastering the competencies which the basic skills assessment instruments are designed to measure". The decision to exempt a student from the test is made by the Admission, Review, and Dismissal (ARD) committee when the student's individual educational plan is written.

The TEAMS test results are widely used as one measure of district performance. A detailed analysis is routinely performed on TEAMS scores to evaluate school quality in the accreditation process. Also, the TEA is in the process of ranking districts throughout the state by TEAMS scores. Statewide analyses and district rankings tend to use district-wide total scores of all students, including special education students.

The review of TEAMS testing of special education students indicated the following:

- ▶ The agency is currently in the process of ranking districts based on TEAMS scores and reporting those rankings, publicly. Those rankings are based on all student scores, handicapped as well as non-handicapped.
- ▶ Statewide scores indicate that aggregate scores, which include special education and non-special education students, are lower than the aggregate scores of only non-special education students. As overall district and campus TEAMS scores are used increasingly by the TEA and the public to compare school performance, schools could attempt to influence their scores upward by exempting a higher proportion of special education students than do other districts.
- ▶ Handicapping conditions can make it more difficult to teach a child mastery of basic skills. This can result in lower TEAMS scores despite the quality of education provided. Students with handicapping conditions are not evenly distributed throughout all districts. Therefore, using overall student scores (including handicapped and

non-handicapped students) to compare districts can give an inadequate assessment of district performance.

- ▶ The proportion of special education students exempt from TEAMS testing varies widely among districts. Certain districts exempt a higher proportion of special education students than others.
- ▶ The agency has not established guidelines for ARD committees to use in determining whether a student should be exempt from TEAMS testing. Also, the agency does not consistently review TEAMS exemption practices as a part of the monitoring process.
- ▶ Advocates for the handicapped indicate that it may be good for students' self-esteem to take the test if they can. Also, for many handicapped students it can provide valuable information concerning a student's mastery of basic skills and need for remediation.

## **PROBLEM**

There is high variability between districts in the proportion of special education students which are exempted from the TEAMS testing program. Such variability may be partly due to a lack of state-level guidelines for exemption practices. Statewide scores of special education students who take the TEAMS test, are generally lower than those of non-special education students. Comparing campus and district performance based on all student TEAMS scores, when such a high degree of variability exists in exemption practices, may give an inadequate assessment of performance. However, the statute requires TEAMS scores of all students to be publicly reported in an aggregate form.

## **RECOMMENDATION**

The statutory provision on TEAMS testing should be changed to clarify certain provisions regarding special education students by:

- clarifying that the scores of handicapped students may be disaggregated from those of non-handicapped students for the purposes of public reporting and campus and district comparisons; and
- requiring that the board develop guidelines, as rules, to be used by ARD committees to determine whether a special education student should be exempt from TEAMS testing.

As a major tool for evaluating student and school performance, it is important that the scores be useful and that consistent methods are used throughout the state in administering the tests. The above changes will remove a concern that has arisen as scores are used increasingly to evaluate districts. They will also encourage more consistency in how districts use the exemption provisions currently in state law. Clarifying that district performance rankings may be based on scores which exclude the scores of handicapped students should eliminate a significant reason for exempting students that could otherwise benefit from the testing program.

### FISCAL IMPACT

Minimal state costs for testing students may be associated; however the number of additional special education students that may take the test is unknown.

**ISSUE 14:** The process for determining contact hours for special education funding should be reviewed by the board.

## BACKGROUND

Amendments to the Texas Education Code in 1984 changed the way state and local funds for special education are allocated. Approximately \$420 million in state funding is allocated each year to special education based on the types of classes students attend and the number of hours students are in those classes. Twelve types of instructional arrangements were identified in statute and individual funding weights were assigned to each. See **Exhibit 4 in the Appendix**. For each full-time equivalent student, the special education program is allocated the amount normally allocated for a non-special education student multiplied by the funding weight for the primary type of class the student attends. Under the requirements of federal law, the number of hours of instruction each special education student receives in each type of class is determined by an individual educational plan developed by a committee consisting of school personnel and the child's parents based on the student's individual needs. Any deviation from a full six hour day in regular classes must be justified in the plan.

The agency implemented the mandated funding process for the first time in 1986. Teachers were required to record the number of hours each student attended each type of class. Funding was allocated based on these actual contact hours. This method of attendance was more involved than that used for other students because many special education students attend several types of classes, for example, resource room, speech therapy, and vocational adjustment class.

In view of paperwork reduction requirements, the agency staff developed a more streamlined method to determine contact hours for funding purposes. The agency analyzed the 1985-86 attendance records and calculated the statewide average number of instructional hours received in each type of arrangement. Based on this analysis and a survey of districts, statewide average contact hours were assigned to each instructional arrangement. See **Exhibit 5 in the Appendix**. In the 1986-87 school year, TEA began funding districts based on these averages.

The average contact hour system works as follows. During the two reporting periods for attendance purposes each year (four weeks in the fall and four weeks in the spring), the school identifies the primary type of class each student attends and number of days each student was in attendance. The district then multiplies the days of attendance by the statewide average contact hours assigned to each type of class. The contact hours for each type of class are then divided by 120 (six hours a day for four weeks) to determine the number of full-time equivalents for that class. Finally, the number of full-time equivalents for each instructional arrangement are used, along with the funding weight, to determine the amount of funding.

The review of the methods used to streamline the contact hour reporting for special education indicated the following:

- ▶ Using statewide average contact hours for funding purposes reduces the detailed reporting and paperwork required of special education teachers.
- ▶ However, since the contact hours used for funding purposes are statewide averages, they may not reflect the actual amount of services provided by any one district. One district may provide more hours of education for a particular student, another may provide less, but under average contact hour reporting, both receive funding for the same number of hours.
- ▶ As the study on which the statewide average contact hours are based gets older, the potential problem that funding may not reflect the actual amount of services provided increases. The current averages are based on data collected in fiscal year 1986. Since districts have not reported actual contact hours since the new reporting system went into place, no information is available as to the extent of this problem, if it exists.
- ▶ The board has adopted many rules with regard to special education such as detailed definitions of each instructional setting and the types of students appropriate for that type of instruction, and how funding will be allocated once full-time equivalents are determined. However the average contact hour system, including the actual contact hour rate, is not clearly set forth in rules.

## PROBLEM

Using statewide average contact hours as a basis for special education funding can substantially affect the funding of districts, especially those with practices that do not mirror the statewide average. Such decisions are generally adopted through the rule-making process of an agency board. The data on which the current average contact hours are based has not been updated recently to determine whether local practices have changed.

## RECOMMENDATION

As a management change, the board should consider:

- reviewing and adopting any system of using average contact hours for special education funding through the rule-making process.

Having the board set forth any average contact hour funding system in rules will ensure that all school districts and the public have an opportunity to comment on the potential impact. Guidelines provided by the board should address the methods to be used to update the average contact hours and how often they should be reviewed and updated. Also, the board should adopt the actual contact hours to be used in the funding process.

## FISCAL IMPACT

No change in expenditures is anticipated from the adoption of this recommendation.

## **Proprietary Schools**

**ISSUE 15: A broader range of sanctions for enforcement of the Texas Proprietary School Act is needed.**

## **BACKGROUND**

The Texas Proprietary School Act designates the Texas Education Agency as the state agency responsible for enforcing the provisions of the Act. The statute stipulates that in order to operate a proprietary school in the state of Texas, an annual certificate of operation must be issued by the Texas Education Agency. The statute also provides the agency with three methods for enforcing the provisions of Act. The first and most common method of enforcement used by the agency is revocation of a certificate or denial of recertification. This can occur for habitual violations of any statutory provision or board rule or violations of the tuition refund policy. Some examples of other violations would include failure to keep attendance records, failure to have all school representatives properly permitted or misrepresentation to a prospective student. Revocation or denial of certification prohibits a school from operating in Texas. During fiscal year 1988, the agency conducted 423 on-site reviews of proprietary schools, issued 57 notices-of-intent to revoke or deny and to date, have actually revoked or denied recertification on four occasions.

The agency also has the ability to seek injunctive relief through the Office of the Attorney General. Since the Act prohibits schools from operating without certification, the agency only uses this method of enforcement when a school is operating without the necessary certification. In fiscal year 1988, there were four active cases of this type being reviewed by the Office of the Attorney General.

Finally, the statute authorizes the agency to file a criminal suit against a school allegedly in violation of the Act. These criminal suits must be filed with a district or county attorney located in the school's jurisdiction. If convicted, the school can be fined up to \$500 per day.

A review of the agency's enforcement activities and statutes from other similar regulatory agencies indicated the following:

- ▶ Most state agencies that are responsible for regulating facilities have a broader range of sanctions available for enforcing statutory provisions applicable to that industry. For example, laws governing the regulation of child care facilities and nursing homes authorize the use of civil and criminal penalties for violations of these laws.
- ▶ Schools can potentially be cited for a wide range of violations. An example of a less serious discrepancy is a school not having updated forms and catalogues, which accounted for 17 percent of the total number of discrepancies cited in the last fiscal year. A mid-range discrepancy is inadequate attendance/student records, which also accounted for 17 percent of the discrepancies last year. Finally, an example of a serious discrepancy is a violation of the student tuition refund policy, which accounted for 14 percent of the discrepancies last year.
- ▶ Many violations are not serious enough to warrant revoking a school's certification. This is demonstrated by the two less serious examples, which alone account for 34 percent of total discrepancies. It is also demonstrated by the agency's determination that seeking revocation was only justified in 57 cases last year.

- ▶ The agency does not use the injunctive relief sanction unless a school is avoiding state regulation by operating without certification. This sanction is rarely necessary, as demonstrated by a total of only four active cases of this type being reviewed by the Office of the Attorney General in fiscal year 1988.
- ▶ The agency indicated that they have never pursued a criminal suit against a school, because they believe it would be difficult to interest a district or county attorney to proceed on this type of case, particularly with a limit of \$500 in potential fine.
- ▶ In November 1988, the State Board of Education will hear final reading of rules that will permit the agency to suspend student enrollment for continued willful and intentional violation of rules or statutes pertaining only to the admissions/refund policies.

## PROBLEM

The current array of sanctions available to TEA for enforcing the Proprietary School Act are either too severe to appropriately deal with most violations of the Act, or are very difficult to implement and have not been used by the agency. Most other regulatory agencies are authorized a range of sanctions that can be applied depending on the seriousness of a violation.

## RECOMMENDATION

The statute should be amended to broaden the range of sanctions available to TEA for enforcing the Texas Proprietary School Act by:

- authorizing the agency to suspend a proprietary school's enrollment of new students for violations of the Act; and
- authorizing the agency to file civil suits through the Office of the Attorney General with penalties up to \$1,000 per day for violations of the Texas Proprietary School Act. Revenues generated from the collection of civil penalties should be deposited to the General Revenue Fund.

The ability to suspend enrollments will provide the agency with an enforcement tool that is less drastic than injunctive relief or revocation of certification. For example, in those cases where there were many discrepancies but they weren't serious enough to warrant revocation, the agency could have considered imposing a suspension on enrollment if the school was reluctant to fix the discrepancies. For example, if a school was repeatedly not providing new students with information required by law, the agency could suspend enrollment of new students until the school came into compliance. This would protect prospective students, while not penalizing existing students by closing down the school. This change would also encourage schools to comply more rapidly, because each day of suspended enrollment would mean a loss of potential earnings from new student enrollment. Including civil penalty provisions provides the agency with an enforcement tool similar to other regulatory agencies. The setting of the fine at a maximum of \$1,000 per day provides a significant deterrent to violations, while not depriving students of the educational opportunity which would occur through closing a school by revoking their operating certificate.

**FISCAL IMPACT**

The attorney general's office does not anticipate any additional cost associated with this recommendation and no additional costs to the agency are expected.

**ISSUE 16:** The State Board of Education should require proprietary schools to provide additional information to prospective students.

## **BACKGROUND**

The Texas Proprietary School Act requires schools to provide copies of the course outline, the refund policy, a schedule of tuition, fees, and all other applicable charges to students prior to enrollment. The student must also be given a copy of the regulations pertaining to absences, grading policy, and the rules of operation and conduct. This policy of providing the students with information results in their being informed on both the mechanics and cost of the school's program and what is expected of them.

The review of the types of information that various entities require proprietary schools to maintain or disclose to prospective students indicated the following:

- ▶ A proprietary school that participates in the federal student financial aid program and advertises placement rates, must provide prospective students with information regarding the placement and drop-out rates of former students.
- ▶ The federal Department of Education recently proposed regulations that would require non-degree vocational training programs to provide full and accurate disclosure of program completion rates and the job placement rates of former students to prospective students. These pieces of information as well as some other information were categorized as "consumer protection features". The comment period for these regulations extends through the end of February, 1989.
- ▶ According to the agency, 57 percent of the proprietary schools in the state participate in the federal student financial aid program, thereby requiring disclosure of information to students in certain instances.
- ▶ In November 1988, the State Board of Education will hear the final reading of rules that will require proprietary schools to participate in a statewide labor market survey. The survey will require all schools to report drop-out rates and schools with placement programs will also report placement rates for the survey.

## **PROBLEM**

Proprietary school students are not always provided with information necessary to make decisions about the effectiveness of a school or the success of its past students in the job market.

## RECOMMENDATION

The statute should be amended to require that:

- proprietary schools must provide all prospective students with information on the school's drop-out rate and the placement/employment rate of former students.

This recommendation will give students information they need to make an informed decision on the quality of the program offered by a school. Information on the retention rate would provide the student with some indication of the satisfaction of former students. Information on the placement/employment rates of former students would provide an indication of potential employability. This information is either currently kept by most schools or will be compiled for the statewide labor market survey.

## FISCAL IMPACT

No changes in agency expenditures are anticipated from adoption of this recommendation.

**ISSUE 17: Student tuition refund policies for proprietary schools should be strengthened.**

## **BACKGROUND**

The Texas Proprietary School Act outlines the conditions for which a proprietary school student is eligible for a partial or full refund of their tuition. This includes a detailed description of phases of course completion and the accompanying percentage of refund that the student is eligible to receive. See **Exhibit 6 in the Appendix**. The law also requires that refunds will be made within 30 days of the effective date of the student's termination. The statute requires that each proprietary school develop policies that reflect these provisions.

During the annual review of each school, the agency staff survey the school's financial and student records to determine if the school is complying with the pro-rata refund policy and the 30-day policy.

A review of the agency's records indicated the following:

- ▶ Approximately 56 percent of the complaints received in the past fiscal year regarding proprietary schools were in reference to tuition refunds.
- ▶ Approximately 19 percent, or 84 out of 442 surveys conducted last year, cited discrepancies for late or unpaid tuition refunds.
- ▶ Unpaid refunds last year totaled approximately \$537,000. This figure includes only the dollar amount on those refunds that had not been paid at the time of the annual recertification survey and not those refunds that the agency determined were paid late.

## **PROBLEM**

A significant percentage of proprietary schools are being cited for failure to make tuition refunds in a timely manner. The agency indicated that it could be to a school's advantage to retain student tuition as long as possible, because the schools benefit from interest earned on the unpaid refund. Although the agency can revoke a school's certification for repeated violations of the refund policy, there are no statutory provisions which compensate a student who has not received their refund in a timely fashion.

## **RECOMMENDATION**

Amend the statute to:

- require proprietary schools to pay interest on late student tuition refunds in the following manner:
  - if a refund is not made within the allowable 30-day period, the student must also be paid interest by the proprietary school, in addition to the full refund that is due;

-- the level of interest should be determined by the commissioner of education on an annual basis at a level sufficient to provide a deterrent to the retention of student funds;

- require that the agency include an evaluation of compliance with this provision during all annual reviews of proprietary schools; and
- provide that if a school demonstrates a good faith effort to refund a student's tuition, but has been unable to locate the student, the school will be exempt from paying interest on the refund. Schools must provide documentation to the agency, upon request, demonstrating their efforts to locate the former student.

Requiring a school to pay interest on late refunds will give schools an incentive to refund a student's money within the statutory time requirement. Students will benefit from this recommendation because they will be receiving their refund in a more timely manner, as well as direct compensation if it is late. The agency could consider using interest rates such as the level of interest calculated quarterly by the Internal Revenue Service. This method uses the average of the adjusted prime rate charged by banks for the previous quarter.

### **FISCAL IMPACT**

No changes in expenditures are anticipated from the adoption of this recommendation.

**ISSUE 18:** The composition of the Proprietary School Advisory Commission should provide a balance between people involved in vocational-technical training and the general public.

## **BACKGROUND**

The Proprietary School Advisory Commission was established by the legislature in 1971 to assist the Texas Education Agency in the formulation of rules to support the administration of the Proprietary School Act. The statute states that the State Board of Education shall consult with the Proprietary School Advisory Commission prior to adopting policies, regulations and rules regarding the Proprietary School Act. The Commission is advisory in nature although it may call hearings on changes in rules for proprietary schools.

The Proprietary School Advisory Commission is currently composed of nine members who are appointed by the state board with advice from the commissioner. The members serve six-year staggered terms. The statute requires that four members must be owners or executive level employees of proprietary schools, three members must be public school officials, and two must be distinguished citizens of Texas with an interest in vocational-technical training.

A review of the purpose, role and current structure of the advisory commission indicated the following:

- ▶ The advisory commission is active in making suggestions to the state board on the regulation of proprietary schools and the board has been responsive to the suggestions of the advisory body.
- ▶ The current structure of the advisory commission potentially permits all members to be actively involved in vocational-technical education.
- ▶ Members of the general public, who are the recipients of the services of proprietary schools, are not required to be represented on the advisory commission.

## **PROBLEM**

The commission's responsibility is to provide advice about the regulation of proprietary schools and the current structure does not ensure a necessary balance between technical and general public perspectives in the regulation of the industry.

## RECOMMENDATION

The statute should be amended to provide a balanced composition between technical and general public perspectives for the Proprietary School Advisory Commission by:

- requiring that the Proprietary School Advisory Commission have the following composition;
  - four owners or executive level managers of proprietary schools, as is currently required;
  - four public members having no direct connection with vocational-technical training;
  - one representative of public schools; and
- providing that the current advisory commission members be allowed to serve the remainder of their current terms of office.

The recommendation will ensure that the composition of the commission provides for a balanced perspective between people with expertise in the field of vocational-technical training and members of the general public with no ties to the vocational field, while continuing to provide for input from the public school community. This recommendation will not effect other existing compositional requirements set out in the statute.

## FISCAL IMPACT

No changes in expenditures are anticipated from this recommendation.

**ISSUE 19:** The statute should be clarified as to the degrees authorized to be used by proprietary schools.

## BACKGROUND

Two degree titles offered by both public and proprietary schools have received considerable attention. These are the Associate of Applied Arts (AAA) and the Associate of Applied Science (AAS).

Both degrees are being offered by proprietary schools which are regulated by TEA, and public community colleges which are under the jurisdiction of the Texas Higher Education Coordinating Board.

The authority to approve degree titles for use in the state is statutorily placed under the Higher Education Coordinating Board. In 1981, under an interagency agreement between the two agencies, TEA was delegated the authority to approve degrees for proprietary schools. One reason the Coordinating Board delegated this authority to TEA was that TEA already had jurisdiction over the vocational programs offered by public community colleges. The legislature transferred authority over the community college vocational programs to the Coordinating Board, however, in 1985.

This series of events has resulted in the offering of degree programs of the same designation by two different types of institutions.

A review of the responsibilities for regulation and control of associate degrees indicated the following:

- ▶ Since the mid-1960s, most community colleges have been offering AAA/AAS degrees. Sixty-six public community college campuses, four technical institutes and two university campuses now offer more than 1,000 AAA or AAS degree programs.
- ▶ In 1981, there were only two proprietary schools offering AAA/AAS degree programs. Currently, there are 23 proprietary schools offering a total of 54 AAA/AAS degree programs. See Exhibit 7 in the Appendix.
- ▶ Community colleges are accredited by the Southern Association of Colleges and Schools' (SACS) Commission on Colleges. This body requires 15 semester credit hours of college level academic courses. Proprietary schools are required to be accredited by an agency or association recognized by the U. S. Commissioner of Education and are required to offer the equivalent of 14 quarter credit hours or nine semester hours of academic courses for AAA/AAS degrees.
- ▶ There are significant differences between the AAA/AAS degree programs offered by community colleges and proprietary schools in terms of transferability of academic courses. The courses in the community colleges could potentially transfer to an upper level degree

program while the courses offered by proprietary schools are usually not transferrable.

- ▶ While the AAA/AAS degrees offered by proprietary schools do not meet the same requirements of AAA/AAS degrees offered by community colleges, the proprietary school degrees differ significantly from the certificate programs also offered by proprietary schools in that they are more rigorous and require an academic component.

## PROBLEM

Under current state policy there is no clear mid-point between academic degrees and certificates offered by proprietary schools. The statutory structure does not provide a mid-range of degrees which are more than a certificate, but have less requirements than a community college degree.

## RECOMMENDATION

The statute should be amended to clarify oversight of associate degrees as follows:

- clearly specifying the authority of the Coordinating Board to approve AAA/AAS degrees. The board would have no authority over degrees approved by TEA;
- “grandfathering” students currently enrolled in AAA/AAS degree programs at proprietary schools. No new students would be admitted to an AAA/AAS degree program unless it has met the degree program requirements of the Coordinating Board. Programs not subsequently approved by the Coordinating Board to offer the AAA/AAS degrees would be closed;
- authorize TEA to approve for use by proprietary schools the degree title “Associate of Applied Technology” or variations of this title which can clearly be distinguished from AAA/AAS degree titles; and
- require TEA to consult with the Coordinating Board on any new associate degree titles to ensure that titles used by TEA are distinctly different than those authorized by the Coordinating Board.

This structure would create a mid-point between certificates and community college associate degree titles. It will allow proprietary schools to continue to offer advanced programs and will provide an appropriate title for those programs. Proprietary schools who wish to offer AAA/AAS degrees in the future can do so if they meet Coordinating Board requirements.

## FISCAL IMPACT

There will be no fiscal impact to TEA or the Coordinating Board. There could be a fiscal impact to those proprietary schools that choose to continue offering AAA/AAS degree programs under the standards of the Coordinating Board. No fiscal impact would be expected for those proprietary schools that change the title of their degree programs and remain under the standards of TEA.

## **Textbooks**

**ISSUE 20: The State Textbook Committee should be continued without a separate sunset date.**

## BACKGROUND

The State Textbook Committee was originally created in 1929 to assist the State Board of Education in selecting a list of textbooks for use in schools across the state. Texas is one of 22 states that utilizes a state adoption process for the selection of textbooks. The statute directs the Textbook Committee to examine all textbooks submitted for adoption and to recommend to the state board a list of books appropriate for state adoption. The board adopts a list of up to eight books for each subject and grade level. Local school districts must select books from this list for use in their schools. These books are purchased by the state and provided free of charge to school children throughout the state. In fiscal year 1988, a total of \$112 million was appropriated for the purchase of state adopted textbooks.

According to statute, the Textbook Committee is composed of 15 members, one from each State Board of Education district in the state. A majority of the members must be classroom teachers, and all the members must be employees of the public school system. The members are appointed by the state board upon the recommendation of the the commissioner of education. The members serve one year terms and receive reimbursement for travel expenses and a compensatory per diem of \$30, up to a maximum of \$1,500 each for the year. In fiscal year 1987, \$40,500 was budgeted for operation of the committee.

The State Textbook Committee has a separate sunset date of September 1, 1989 and unless continued in existence, the committee will automatically be abolished.

A review of the need for the State Textbook Committee indicated the following:

- ▶ The current policy of statewide adoption ensures that children in almost 1,100 school districts have books that meet statewide standards for quality, consistency and durability. The state pays for the books, and therefore the policy allows the state to set the standards for the books that are available for use in local districts. The process has been modified in recent years to provide local school districts with a greater number and variety of books from which to choose. In general, the statewide adoption policy appears to be working effectively.
- ▶ In 1987, the committee reviewed 198 books in 11 subject areas. The committee recommended the adoption of 169 of these books, or 85 percent of the total number of books reviewed. The State Board of Education adopted all of the books recommended by the committee, with the exception of two books which were withdrawn by the publisher.
- ▶ The function performed by the committee is needed within the state adoption process to assist the board in determining which books are appropriate for adoption. The state board would have difficulty reviewing the large number of books considered for adoption in Texas

each year. The use of this committee appears to be an efficient and effective way for the board to obtain advise in this area.

- ▶ Under the Texas Sunset Act, an agency's advisory committees are subject to review at the same time as their parent agency. A separate sunset date for the advisory committees is therefore not needed to ensure their review.

## PROBLEM

The State Textbook Committee serves a needed function but will be terminated in 1989 unless continued by statute. If the committee is continued, it does not need to have a separate sunset date to ensure its review under the sunset process.

## RECOMMENDATION

The statute should be amended to:

- continue the State Textbook Committee; and
- remove the committee's specific sunset date from the law.

The adoption of the recommendation will provide for the continuation of a committee that performs a necessary function for the state board. Even without a specific sunset date for the committee in statute, it will continue to be reviewed every 12 years as part of the sunset review of the Texas Education Agency.

## FISCAL IMPACT

No change in expenditures would occur from the adoption of this recommendation.

**ISSUE 21:** The State Board of Education should be required to appoint subject matter textbook committees.

## **BACKGROUND**

The State Textbook Committee is statutorily composed of 15 members appointed by the State Board of Education. One member is appointed from each of the 15 state board districts. A majority of the members must be classroom teachers and all of the members must be actively employed in the Texas public school system. The members are appointed by the board based on their backgrounds of training and recognized ability in the particular subject fields under consideration. The members serve for one year. At least one of the 15 members must be knowledgeable in the field of special education. Each committee member is authorized through board rules to select a number of advisors to assist in evaluating books which are up for adoption that are outside that member's area of expertise.

The review of the structure of the State Textbook Committee indicated the following:

- ▶ Although the members serve for a one-year term, most of their review occurs during the summer months when school is not in session. This is because a majority of the members are teachers who are not available to review books until the summer recess.
- ▶ The statute states that no textbook shall be adopted until it has been carefully read and examined by at least a majority of the committee. However, members are responsible for reviewing an average of 175 to 200 books in approximately three months. With this large number of books to review, individual members are not able to carefully read and examine each book.
- ▶ On the average, nine different subject areas are up for adoption in any given year. For example, in 1988, books were submitted in the following subject areas: science, social studies, mathematics, fine arts, language arts, physical education, languages, business education, and trade and industrial education. With only 15 members, only one or two representatives on the committee are knowledgeable in each of the subject areas up for adoption.
- ▶ Each member of the committee has an equal vote on all books up for adoption. This results in members having to make decisions on a wide variety of books that are outside their area of expertise. For example, a member may be a specialist in mathematics, but that member is also responsible for making decisions on which books should be adopted in areas ranging from French to fine arts.
- ▶ Committee members currently rely on advisors to assist them in evaluating books outside their area of expertise. According to board rules, each member selects up to six advisors in each subject area. Therefore, each member may have up to 70 advisors. However,

advisors are not always available to receive and evaluate information with a member. For example, advisors generally do not attend the public hearings and are not present to consult with members when the final vote is taken on which books the committee selects to recommend to the board. Members therefore often must make decisions without the benefit of the advisors' expertise and assistance.

- ▶ Six out of the 12 states which have special textbook committees provide for separate committees for each subject area in which books are being considered. These committees review only the books in a single subject area and make recommendations on which books should be adopted in that subject area. The expert attention from committee members appears to be the reason that many of the larger adoption states, including California and Florida, have moved to the subject area committees.

## PROBLEM

The current structure of one general textbook committee to review all books up for adoption does not provide for adequate expert coverage of all subject areas under consideration. Second, the volume of books to be reviewed in all of these different subject areas cannot be carefully read and reviewed given the current structure and time constraints.

## RECOMMENDATION

The statute should be amended to:

- require that the State Textbook Committee be composed of independent subject area textbook committees;
- specify that each independent subject area textbook committee have final responsibility for recommending to the board a complete list of textbooks which it approves for adoption in its subject area;
- authorize the board to determine the number of committees needed based on the number of subject areas up for adoption; and
- authorize the board to set the number of members per committee, within a range of 7 to 15 members per committee. The size of the committee would depend on the range of books being called for in a particular subject and the anticipated number of books to be reviewed.

The board would continue to appoint the members on the recommendation of the commissioner of education, and the requirement that one member of each committee be knowledgeable in the field of special education should be maintained. Implementation of these changes would result in six to ten individual subject area committees. Each committee would focus on one subject area in which all of the members have expertise. The changes will increase the number of committee members from 15 to approximately 90. This will reduce the workload for each committee member to an average of between 20 to 40 books in one subject area, rather than 200 books in 10 different subject areas. Each committee would deal only with the publishers who have submitted books in the committee's subject area. Each committee would hold separate public hearings to obtain input on the books in its subject area only.

Members will be able to carefully read and review all of the books they are responsible for reviewing and making recommendations on. There should no longer be a need for members to appoint a number of advisors to assist them in reviewing the books. The members could continue to obtain advice, but on a less formal basis. Members will be in a better position to evaluate advice they receive because it will be on books in their area of expertise and on books which they have carefully read. Overall, these changes should result in a much more thorough, focused review of the books being considered for adoption. This, in turn, should help to ensure that only high quality books are selected for use by students in schools throughout the state.

## FISCAL IMPACT

An increase in costs will result from the adoption of this recommendation. In 1987, members of the State Textbook Committee spent an average of \$2,280 each in annual per diem and travel expenses. Expanding the committee from 15 to 90 members would result in an additional cost of \$171,000 annually. In addition, another trip to Austin may be necessary for publisher presentations to the committees at a cost of \$300 each, or \$27,000. The total additional costs would be \$198,000.

**ISSUE 22:** The composition of the State Textbook Committee should be expanded.

## **BACKGROUND**

The Texas Education Code currently specifies that all members of the State Textbook Committee be employees of the Texas public school system, with a majority of the members being classroom teachers. The members are appointed based on their training and recognized ability as teachers in the subject fields for which adoptions are to be made. The composition of the current 15-member committee consists of 13 classroom teachers, one school district assistant superintendent, and one principal.

The review of the statutory requirements for the committee's composition indicated the following:

- ▶ The current composition results in the exclusion of a number of well qualified people from serving on the textbook committee solely because they are not employed in the public school system. This exclusion includes university or college level professors who are expert in the subject area as well as people employed in the private sector who are recognized authorities or experienced practitioners in the subject matter field.
- ▶ Of the 12 states that list specific statutory requirements for the composition of their textbook committees, 11 require public member representation from outside of the public school system; four require university professor representation; and two require that the membership include parents of students for whom books are being adopted.

## **PROBLEM**

The current statutory requirements for the composition of the State Textbook Committee do not allow for any representation outside of the public school system. While the perspective of public school teachers and administrators is critical to the process, limiting the representation to this group excludes input from persons that are knowledgeable in the subject area and that would provide a different and unique perspective that is currently missing.

## **RECOMMENDATION**

The statute should be amended to:

- require that at least two members of the State Textbook Committee, or any subject matter committee that may be appointed, be persons from outside the public school system who are recognized for their expertise in the subject fields for which adoptions are being made.

This change will maintain the requirement that a majority of the members be classroom teachers and that one member be knowledgeable in the field of special education. The change will ensure that there is input from experts inside the public school system and it will also provide for the inclusion of people from outside the public school system who are recognized authorities in the subject area for which books are being considered.

### FISCAL IMPACT

No changes in expenditures are anticipated from the adoption of this recommendation.

**ISSUE 23:** The conflict-of-interest provisions for State Textbook Committee members should be modified.

## **BACKGROUND**

The Texas Education Code states that a person is not eligible for appointment to the State Textbook Committee if: 1) the person has been or is directly or indirectly connected with any textbook publishing house; 2) the person has acted as an agent for any author or textbook publishing house; 3) the person has been an author or associate author of any textbook published by any publishing house; or 4) the person owns stock in any publishing house. The statute also requires publishers to file affidavits that no member of the State Textbook Committee is interested in any way, either directly or indirectly, in the books they are bidding.

The review of the impact that these provisions have on the ability to obtain well-qualified persons to serve on the textbook committee indicated the following:

- ▶ The current provisions, in effect, exclude any person who has ever had any connection with a textbook publisher. Teachers, particularly ones that are well recognized in their subject areas, are involved in a number of activities that constitute connections to publishers. Teachers are involved in field testing new books for publishers to see if the books are effectively communicating the material to children. Many teachers are also asked by publishers to review new textbooks prior to their being published. Any of these activities currently disqualifies a teacher from serving on the committee.
- ▶ Many of the activities that disqualify a teacher from serving represent no current conflict of interest. For example, the connection between the teacher and a publisher may have no relationship to the current set of books the committee members will be evaluating. However, because the statute states that a person cannot be appointed if they have ever had any connection with a textbook publisher, either directly or indirectly, the agency indicates that a large number of teachers are automatically excluded, regardless of whether this contact constitutes a current conflict which would prejudice their decisions on the books being evaluated.
- ▶ The agency has had difficulty in finding persons to serve on the committee who meet the qualifications for experience and educational background in the subject areas under consideration; and also provide for a committee that is geographically, ethnically and racially balanced. In 1988, the commissioner of education received the names of over 200 persons recommended by school districts or professional groups as being well-qualified persons to serve on the textbook committee. Even with this number of potential candidates, the staff reported difficulty in finding 15 persons who met all the qualifications, were willing to serve and provided for a well-balanced composition on the committee.

- ▶ A review of other states' statutes governing textbook committee members revealed no other state with conflict-of-interest provisions that are not related to a conflict that exists while the person is serving as a member. One statute prohibits any involvement of a member with a publisher for one year from the end of his or her term, but no other laws prohibit a person from serving due to a previous connection with a publisher that does not represent a current conflict of interest.
- ▶ A review of conflict-of-interest provisions applied to other Texas boards and commissions, including the provisions applied through sunset "across-the-board" recommendations, shows that these provisions are tied to conflicts which exist while the person is serving and do not involve prior activities of a member unless they represent a current conflict.

### PROBLEM

The conflict-of-interest provisions for appointment to the State Textbook Committee are not limited in time and cover any connection with a publisher, regardless of how long ago or how indirect the involvement may have been. This prevents many experienced and well-qualified teachers in the state from serving on the committee for reasons that represent no current conflict of interest.

### RECOMMENDATION

The statute on conflict-of-interest provisions for State Textbook Committee members should be changed to:

- remove the restriction against a person being appointed as a member of the State Textbook Committee because of prior connections with a publisher; and
- establish new restrictions for conflicts of interest. The restrictions should only apply to conflicts where:
  - a person is, at the time of appointment, directly or indirectly connected with any textbook publishing house;
  - a person is currently an agent for any author or textbook publishing house;
  - a person currently owns stock in any publishing house; or
  - a person is directly or indirectly interested in a textbook being bid that year.

This change will ensure that experienced and well-qualified people are not unnecessarily excluded from consideration because of prior connections to a publisher that do not constitute a current conflict of interest. It will also broaden the pool of persons eligible for appointment to the textbook committee.

### FISCAL IMPACT

None.

**ISSUE 24:** TEA should be given additional means to control price increases in the area of textbook purchases.

## **BACKGROUND**

The State Board of Education is directed in law to adopt books which, in the opinion of the board, are the most acceptable for use in the schools. The statute states that quality, mechanical construction, paper, print, price, authorship, literary merit, and other relevant matters are to be considered and given such weight as the board deems advisable. Traditionally, the process has been focused almost exclusively on issues of quality, with minimal consideration being given to cost factors.

The review of books by the State Textbook Committee focuses on quality, authorship, literary merit and whether the books cover the essential elements of instruction in a subject. The committee examines the books for construction, paper, and print quality. The committee does not formally consider the price of a book in its evaluations or recommendations to the board.

After the committee selects a list of books to recommend to the state board, the board has the option of eliminating books at this point if they determine the price is not appropriate. However, price is generally not a consideration in the board's selection of books. In most cases, the publisher submits a price for a book and that is the price that is paid if the book is adopted by the State Board of Education because there is no competitive bid process for textbooks. In recent years, while it is possible for the board to adopt up to eight books, on the average only four to five books have been submitted in each subject area and grade level.

Once books are adopted, there is little incentive for local school districts to consider price in their selection. All of the books adopted by the State Board of Education are made available for selection by a local district. A district can order any book on the list and the state purchases the book for the price which was submitted by the publisher. Local school districts therefore do not generally consider price in deciding which books to order.

This differs from other states in which price is more of a consideration at the local level. In the 28 "open-territory" states, there is no state list of books and local markets are very price competitive. In the other 21 "state-adoption" states besides Texas, local districts are given an allocation of funds or credits for the textbooks either directly or as part of an overall allocation for educational purposes. Even though these states may require local districts to select books from a list, price is a factor in the selection because the districts have a budget or credit limit that they have to stay within. The fact that the Texas system has no competitive bid process at the state level and no price competition at the local level, results in there being no systematic means for keeping the price of textbooks from rising well in excess of the rate of inflation. The textbook selection process has been structured on the theory that exclusion of cost from consideration enhances the selection of the highest quality of textbooks.

The statute does include one provision aimed at controlling the price of textbooks that is generally referred to as the "most-favored nations" clause. This clause

requires a publisher to offer a book in Texas at the lowest price that the publisher offers the same book for sale anywhere in the nation. The purpose of this clause is to ensure that Texas is not paying a higher price than another state for the same book. This type of provision is included in the statutes of many other states and results in the price of a book being decided across the nation once the book is initially offered in any single state. It also means that a state cannot get discounts based on the volume of books sold because the discount price would become the lowest price in the other states.

The impact of this clause in Texas is reduced because Texas is frequently the first state in which a book is offered. This means that generally Texas does not get the benefit of a lower price from another state because the publisher is setting his price for the first time in Texas. The primary impact the clause has in Texas is that a publisher will keep the price bid in Texas competitive because he plans to sell the book later in another state. However, if a publisher re-copyrights the book, the clause does not apply. Most publishers re-copyright their books on the average of every two years, so the most-favored nation clause only governs prices offered during that two year period.

In 1988, 90 percent of all the books recommended for adoption in Texas had either 1988 or 1989 copyright dates. Therefore, the prices bid on these books will be new prices and not directly impacted by the most-favored nations clause. In addition, some books are only sold in Texas -- for example, Texas history -- and the prices of these books are not affected at all by the clause. All of these factors result in the most-favored nations clause not having as significant an influence on prices in Texas as it may in other states.

Recent changes in Texas law have had an impact on the price of textbooks. House Bill 246, which passed in 1981, required TEA to develop essential elements of instruction for subjects at each grade level. Since 1985, new textbooks have had to take into account these essential elements, resulting in additional developmental and editing costs for publishers. Another major change occurred in 1984 as part of House Bill 72. This bill required TEA to change from an eight-year to a six-year adoption cycle for textbooks. While this change might be expected to result in additional costs, according to the agency, this is not the case. In a report TEA prepared in May 1988 in response to House Concurrent Resolution 84, the six-year cycle saves the state \$6 million a year in comparison to an eight-year cycle, largely because the six-year cycle coincides with the maximum physical life expectancy of a textbook.

The review of the costs related to textbooks focused on the period beginning in fiscal year 1982 to the present. In 1982, TEA implemented a balanced adoption cycle in which textbooks expenditures are spread evenly among each year of the cycle. In the years prior to 1982, textbook expenditures had fluctuated dramatically, making any analysis of trends difficult to interpret. The review indicated the following:

- ▶ The annual expenditures for textbooks increased from \$44 million in fiscal year 1982 to \$112 million in fiscal year 1988. This represents an increase of 153 percent in seven years. If these figures are adjusted for inflation according to the consumer price index, the growth still reflects a 108 percent increase. See Exhibit 8 in the Appendix.

- ▶ An additional analysis was done to determine if the increasing expenditures resulted only from greater numbers of students or from students getting more books. The data showed that expenditures are rising much faster than either increases in students or numbers of books being purchased.
- ▶ The average amount of money spent per student on textbooks increased from \$14.32 in fiscal year 1982 to \$33.29 in fiscal year 1988. This represents an increase of 132 percent. If these figures are adjusted for inflation as reflected by the consumer price index, the increase is 91 percent. **See Exhibit 9 in the Appendix.**
- ▶ While the amount of money spent per student on textbooks has increased significantly, the number of textbooks purchased per student has not grown in proportion to the increased costs. The average number of textbooks being purchased per student only increased from 2.26 to 2.80 books per student, or 24 percent.
- ▶ Increases in numbers of students or books were not the only factors involved in increased expenditures. A key factor in the increased expenditures has been the increasing cost of the books. The average cost per book increased from \$6.33 in fiscal year 1982 to \$11.91 in fiscal year 1988, or 88 percent. If these figures are adjusted for inflation as reflected by the consumer price index, the price the state paid for textbooks still increased by 55 percent. **See Exhibit 10 in the Appendix.**
- ▶ Increases in book costs have exceeded the economy's inflation rate as measured by the consumer price index. The higher than normal rate could result from a number of factors. The possibilities include higher costs of materials; additional costs from including the newly established essential elements into the books; higher quality books in general; and profit. TEA does not collect data that would indicate how much any of these or other factors may influence cost.
- ▶ In recent years, TEA's appropriation for textbooks has not been sufficient to purchase the number of textbooks scheduled for adoption that year, even though the level of appropriations increased significantly. In response, the agency developed a procedure for negotiating with publishers to reduce the prices they have submitted. Any publisher whose price is identified as being 25 percent or more above the lowest price bid for a book adopted in the same subject area is asked to lower their price to within this level, or potentially be eliminated from the process. This negotiation takes place after the books have been selected by the State Textbook Committee, but prior to consideration by the State Board of Education. This procedure has been utilized over the last three years. In 1987, ten of the 167 books recommended for adoption by the textbook committee were over the 25 percent limit. These publishers agreed to reduce their prices to the limit, for an estimated cost savings of \$380,000. However, some publishers have complained that it is unfair for TEA to require them to reduce the price of a book after it has already been recommended for adoption.

- ▶ Another option the state has implemented to help control prices is to state a price limitation up-front in the proclamation. The one area in which the agency has stated a price limit in the proclamation is on "learning systems." These systems were developed for use primarily in Texas. They are used in the lower grade levels in place of an individual textbook for each child and include a variety of materials that the teacher can use in instructing younger children. When these systems were first requested by the agency, a wide variation of prices and items were submitted, so the agency decided to set a price limit. This limit tells prospective bidders what the agency will pay for a system that meets the requirements set forth in the proclamation. The limit was set in the proclamation, and publishers generally used this limit as their bid price with little variation. While price limits have been placed on systems, price limits have not been placed on any textbooks by the agency.
- ▶ While both of the above measures have been in place for several years, the price of textbooks continues to grow well in excess of the rate of inflation. In developing the appropriations request for fiscal year 1990, the agency staff initially estimated that \$69.7 million would be needed to purchase newly adopted books, based on an annual rate of inflation of five percent. These figures do not include the projected costs for purchasing books that are under continuing contract, which are calculated separately. When the publishers actually submitted the prices for the new books to be adopted for use in fiscal year 1990, the prices bid indicated a 12 percent inflation rate. The agency is in the process of negotiating with certain publishers, and hopes to save approximately \$7 million. However, the agency has increased its appropriations request to reflect the higher than anticipated prices of the books. The new estimate for newly adopted books totaled \$88.1 million, an increase of \$18.4 million over the original estimate based on an annual five percent inflation rate. The total amount being requested for newly adopted books and for the purchase of books under continuing contracts in fiscal year 1990 for textbooks is \$125 million.
- ▶ An analysis of the increases in the prices bid by subject and course area indicated that the growth is much more significant in some areas than in others. The agency calculated anticipated average bid prices based on an annual rate of inflation of five percent. Out of 51 areas, the average bid price in 40 areas exceeded the projected average. In 11 areas the average price bid exceeded the projected average by more than 20 percent. For example, high school choral music books were anticipated to cost on the average of \$18.14. The actual bid prices averaged \$27.27, or 50 percent more than expected.

## PROBLEM

Prices on textbooks have been rising rapidly, but Texas is currently exerting minimal control over the prices it is paying for textbooks. Prior to making an appropriation, the state appropriately asks for a high quality product designed to meet the specific needs of children in the Texas school system. The system, however, is generally set up to pay whatever price is listed by the publisher. While TEA has implemented a number of measures to help deal with the problem, there are no systematic or ongoing procedures in place to evaluate and,

if necessary, counter the rapidly increasing price of textbooks. The state has made a commitment to ensuring quality books are available in Texas schools, but with minimal controls on the price, there is no means to ensure that Texas is not paying more than it should for that quality.

## RECOMMENDATION

The statute should be changed to:

- require TEA to develop a system for the implementation of price limitations;
- indicate that price limitations could be placed in areas that show significant increases in price;
- require TEA to obtain cost information from publishers in order to evaluate the need for and level of a price limitation; and
- require that any price limitation be set after TEA receives bids from publishers, but before books are considered by the textbook committee.

The Texas system of selecting textbooks appropriately addresses quality, but gives minimal consideration to cost factors. A system of price limitations would help TEA control areas where prices have grown rapidly. Requiring TEA to get cost information from publishers will help ensure a reasonable basis for setting the limitation. No price limitation would be published in the proclamation. This overcomes any tendency for all bids to be submitted at the price limit when it is published prior to the bid process. The TEA would examine bids submitted in response to the proclamation and decide whether a limitation might be needed in an area. The agency would obtain any information it needed from publishers to help determine whether to set a limit and, if so, what a reasonable maximum price would be without sacrificing quality. If determined necessary, the state board would set a price limitation before books were considered by the textbook committee, and publishers over the limit would have an opportunity to adjust their bid prices downward. By setting a price limit at this point, publishers who could not meet the requirement would be spared the expense of going through the remainder of the process for textbook consideration, and then having to adjust their prices at the end of the selection process.

## FISCAL IMPACT

This recommendation could result in cost savings to the state. As an example of what a price limitation might accomplish, the appropriations request made by TEA for fiscal year 1990 was examined. The agency calculated a five percent inflation increase in the price of books as a basis for its appropriation request. The actual prices submitted by publishers for books being considered for use in 1990 and the resulting revisions in the appropriations request reflected an overall increase of 12 percent - an increase of \$18.4 million over the five percent level. The legislature has not acted on the appropriations request yet, so the final dollar increase is unknown. However, a fixed cap of five percent on some portion of the books would have lowered prices and would have resulted in a reduced appropriations request.

**ISSUE 25:** Local school districts should be allowed to obtain waivers from having to use state-adopted books on a limited basis.

## **BACKGROUND**

States have developed two main approaches for deciding what books are going to be used by local school districts. The number of states using each approach are close to evenly split. Twenty-two states, including Texas, use a "state adoption" process. These states adopt a list of books either recommended or mandated for use by local school districts. The other 28 states have no state adoption process and all decisions are made at the local level. These states are referred to as "open territory" states because they do not close off the sale of any publisher's books to local school districts.

Texas' state adoption procedure has been carefully structured over a long period of time. The State Board of Education adopts a list of up to eight books in a subject area, on the recommendation of the State Textbook Committee and the review of the TEA staff. With some exceptions, school districts must choose from the list of adopted books. In return for this restriction on choice of books, the state pays for the books ordered by the local districts.

State law does permit school districts to order books that are not on the adopted list in certain limited circumstances. However, this process is not structured for the purpose of letting a school district replace a state adopted book with one it might determine better suited for instructional needs. According to board rules, purchase of a non-adopted book is allowed only when: 1) there is no state adopted book in the subject area; 2) the adopted books are not appropriate to be used by pupils with special needs; 3) the method of instruction requires additional supplementary material; 4) the method of instruction does not involve the use of a textbook; or 5) the book is being field tested. Local school districts must expend local funds for the purchase of books that are not on the state list.

The review of Texas' approach to the adoption of books on a statewide basis indicated the following:

- ▶ The use of a state adoption process is commonly accepted in almost half the states. However, several other states with a state adoption process do allow local districts a greater amount of flexibility with state textbook dollars than Texas to obtain books that they want and which may not be on the approved state list.
- ▶ For example, California, Florida and Oklahoma allow a percentage of the state funds appropriated for textbooks to be used to purchase locally selected books not on the state list. California and Oklahoma allow up to 20 percent of the state textbook allocation to be spent on non-adopted material if certain board requirements are met. Florida allows up to 50 percent to be spent on locally selected books. This approach, however, is dependent on the school districts being given a textbook budget allocation by the state, which is not utilized in Texas.

- ▶ California, Indiana, Oregon, and Virginia allow local districts to obtain a waiver or exemption from the state adoption process under certain circumstances that must be approved by the state. After obtaining the waiver, state funds can be used to buy the books. Generally, the waiver process is provided as a means to allow local districts to meet special needs that are not addressed by books adopted on the state level.
- ▶ Texas does not allow school districts to use state textbook funds to obtain books not on the state adoption list. School districts in Texas must use local funds if they wish to purchase textbooks not on the state list. These textbooks must meet the state's five criteria set out previously.
- ▶ TEA reports that, in the last two years, accreditation reports indicate that very few school districts use anything other than state adopted textbooks. However, the volume and type of books that are purchased locally cannot be clearly determined.
- ▶ If a textbook is purchased locally as supplementary material, a state adopted book must also be used in that area. This can result in the purchase of a non-adopted book and the purchase of a state adopted book both intended for the same purpose. This kind of double purchase has occurred in at least two cases. These cases involved Dallas Independent School District and Corpus Christi Independent School District.
- ▶ Since the volume and type of book purchased locally cannot be clearly determined at this time, it cannot be determined whether there are many double purchases.
- ▶ The school system of Texas is generally structured to allow a large amount of local autonomy within a state framework. The selection of textbooks is one area where local decision-making authority is greatly restricted and departs from the typical approach.

## PROBLEM

The current state policy for textbook adoption presupposes that as long as the state is paying for textbooks, the state should determine whether a book is of sufficient quality to meet overall state needs. The current system also presupposes that only the state, through the state adoption process, can make this determination. Although this system does ensure a statewide level of quality, it is totally inflexible to special needs of school districts. This lack of flexibility has resulted in at least two cases where there were expenditures of state dollars for textbooks which duplicated local expenditures. In addition, there is absolutely no incentive for local district to approach the State Board of Education with alternative strategies to approved textbooks, even if they have the potential of creating a higher quality educational program in their particular situation. Several other states have not placed such complete reliance on the state selection process to produce an acceptable array of books. They recognize, through limited flexibility, the possibility that local districts can use their experience to develop and propose alternatives.

## RECOMMENDATION

The statute should be amended to:

- require the State Board of Education to develop a process for local school districts to apply to the board for a waiver from the state adoption list;
- provide that school districts only be allowed to request a waiver in a course area being considered for state adoption that year and the school districts would have to use the books for the same time period that the state-adopted books are in use;
- require that the request for a waiver be limited to one course area per school district per year;
- provide that the state would agree to purchase these books; however, the state would only pay the equivalent of the average price of books offered in that course area and the local district would pay any difference. These books could only be ordered in place of the state adoption books, not as supplementary material;
- authorize the board to approve the waiver if all standards for state adopted books were met. These include requirements regarding the durability of the books, bonding of publishers, and compliance with state laws prohibiting anything of a partisan or sectarian character;
- allow the board to approve a book that does not meet all of the essential elements, provided that the local school district shows that all of the essential elements would be covered in the classroom by the teacher. This could be monitored by the agency's accreditation team; and
- authorize the state board to limit the total number of waivers that the agency could reasonably evaluate in a year.

The implementation of these changes would provide local school districts with a greater amount of flexibility in purchasing books that they feel meet their needs. At the same time, the overall state adoption process would be maintained. The recommendation would also help eliminate the occurrence of the state and the local district each buying a textbook for the same course. This is because school districts would be able to apply for a waiver from the state to purchase a non-adopted book with state dollars.

## FISCAL IMPACT

The implementation of a waiver process should not have any significant fiscal impact. There may be some additional costs to TEA for evaluating the waiver applications; however, these costs cannot be estimated without knowing how many waivers will be requested. The costs of purchasing books under the waiver process should not change because the state will be paying approximately the same amount of money for the non-adopted book as it would have paid for the state-adopted book.

**Commission on Standards for the Teaching Profession**

**ISSUE 26:** The Commission on Standards for the Teaching Profession should be continued without a separate sunset date.

## **BACKGROUND**

The Commission on Standards for the Teaching Profession was created in 1979 as a replacement for the State Board of Examiners for Teacher Education. The purpose of the Commission on Standards for the Teaching Profession is to recommend a set of standards for teacher education programs in public and private institutions for approval by the State Board of Education. The standards identify the program administration, faculty, and curriculum requirements necessary to become an approved teacher education program. In addition to recommending the standards for teacher preparation, the commission reviews and approves the college and university academic programs leading to teacher certification based on the quality standards for teacher education. The authority to approve or disapprove the teacher education programs has been delegated by the State Board of Education to the Commission on Standards for the Teaching Profession.

The Commission on Standards for the Teaching Profession consists of 19 members who serve three-year terms. The membership includes professionals in early childhood education, elementary and secondary education, school administration, instructional support, and higher education including a member of the Higher Education Coordinating Board. The members are appointed by the state board and are required to have five years of teaching experience and be employed full-time. Administrative support for the commission is provided through the agency with an executive director in a half-time position. The division of teacher education and the division of management assistance/personnel development contribute approximately 20 percent of the staff time of some 11 persons to the functioning of the commission.

The commission has a separate sunset termination date of September 1, 1989, and unless continued in existence the commission will automatically be abolished.

A review of the need for the Commission on Standards for the Teaching Profession indicated the following:

- ▶ The commission has been active and has served a useful function.
- ▶ The commission provides professional review of teacher education programs based on standards established by the State Board of Education. Each time a new set of teacher education standards are adopted, all of the teacher education programs must be reviewed to verify compliance with the new standards. Such a review of teacher education programs requires considerable time and effort. After the 1984 standards for teacher education were adopted by the state board, the commission reviewed and provided initial approval to 3,553 teacher certification programs at 68 teacher education institutions.
- ▶ New standards for the teaching profession were adopted in 1987 due to the newly appointed State Board of Education and legislative mandates

from the 70th session. Consequently, another extensive review of all teacher education programs is underway.

- ▶ When the commission completes the initial approval of all teacher education institutions in the state under the 1987 standards, evaluation team visits to the colleges and universities will resume to ensure ongoing compliance to the educational policies set by the state board. The evaluation team visits have proved valuable in the past and allow direct observation of the teacher education programs.
- ▶ As an advisory commission to the state board, the commission has held public hearings on teacher education and certification issues to get the input of professional educators across the state. Since 1980, the commission has held a number of hearings on various subjects including: standards for teacher education institutions and programs; classes and duration of teaching certificates; competency testing for teachers; and teaching certification requirements. The input provided at the public hearings was used to formulate policy proposals on teacher education and certification to the state board and the legislature.
- ▶ As an advisory body to the state board, the commission will be automatically reviewed each time the Texas Education Agency is under sunset review. Thus, a separate sunset date in the statute is unnecessary.
- ▶ Only three states in the nation do not have a designated standards board, Connecticut, Maine, and South Dakota.

## PROBLEM

The Commission on Standards for the Teaching Profession serves a needed function but will be terminated in 1989 unless continued by statute. If the commission is continued, it does not need to have a separate sunset date to ensure its review under the Texas Sunset Act.

## RECOMMENDATION

The statute should be amended to:

- continue the commission; and
- remove the specific sunset review date that applies to the commission.

This approach will provide for the continuation of a needed component of the teacher education system in the state. Since the commission operates as an advisory body to TEA, future sunset reviews of its operations will automatically coincide with review of the agency.

## FISCAL IMPACT

No change in expenditure would occur from the adoption of this recommendation.

**Teachers' Professional Practices Commission**

**ISSUE 27:** The Teachers' Professional Practices Commission should be abolished and the Code of Ethics and Standard Practices for Texas Educators should be enforced by the commissioner of education.

## BACKGROUND

The Teachers' Professional Practices Commission (TPPC) was created in 1969 to establish standards of ethical practice for the teaching profession and to provide for a system of professional self-discipline. The TPPC consists of 15 members appointed for three-year terms by the governor from the membership of various professional groups of educators. The commission is responsible for hearing complaints from any certified teacher of alleged violations of the "Code of Ethics and Standard Practices for Texas Educators," which was adopted in 1971. The TPPC is authorized to hold hearings and make recommendations to the commissioner of education on the disposition of the complaint, but can take no independent action to sanction an individual. The actual decision as to the disposition of a complaint is the sole responsibility of the commissioner. Actions by the commissioner against a certified teacher may include warning, reprimand, certificate suspension, or revocation.

When jurisdiction over a complaint is accepted by the TPPC, the Office of Hearings and Appeals of TEA is contacted. This office opens a record for the case, assigns a hearing examiner, and follows the regular process for conducting a hearing. The hearings are conducted jointly between a TPPC panel and a TEA hearing examiner. An attorney from the agency's Office of Legal Services is also present to act as legal counsel for the TPPC. After the hearing, the TPPC panel, based on the grounds of a violation of the ethics code, can recommend that the commissioner take action against the teacher. The hearing officer, based on the general statutory provisions for sanctions against a teacher, generates a proposal for such a decision for the commissioner. The final decision is the responsibility of the commissioner.

The review of the TPPC's role in the regulation of the teaching profession indicated the following:

- ▶ The Texas Education Agency has the primary responsibility for oversight of the teaching profession in the state including the certification of teachers. The TPPC has a limited role in one part of the regulatory structure.
- ▶ In a comparative sense, the TPPC represents only a segment of the standard structure used by the state for occupational and professional groups. The standard structure provides for a board which has authority to set standards, determine qualifications, set fees for and issue licenses, take complaints against licensees, hold hearings, and apply sanctions such as warnings, reprimands, suspensions and revocations.
- ▶ The ethics code has been in place for 17 years and the first revision of the code was adopted in September 1988. The ethics code provides

teachers with an important set of standards to use for a system of professional self-discipline.

- ▶ In 1986, 1987, and as of September 1, 1988, there were 10 hearings held by the TPPC stemming from violations of the ethics code. In contrast, TEA held 30 hearings in fiscal years 1986 to 1988 as part of their standard licensing authority over teacher certificates.
- ▶ After a TPPC hearing, the panel of the commission that participated recommends to the commissioner the action they feel should be taken on that case. If the teacher does not agree with the recommendation of the TPPC, he can appeal the recommendation. This would result in another hearing being held. However, in order to avoid two hearings, all TPPC hearings now are conducted jointly between the commission panel and an agency hearings examiner. Both generate recommendations to the commissioner. This results in a duplication of effort.

## PROBLEM

The Texas Education Agency has many of the elements of a standard licensing structure in place in the area of teacher certification. The duties of the TPPC duplicate those of the agency. The code of ethics which is an important element in the profession of teaching, can be retained and enforced through the commissioner.

## RECOMMENDATION

The statute should be amended to:

- abolish the Teachers' Professional Practices Commission; and
- provide for the continuation of the Code of Ethics and Standard Practices for Texas Educators. The board should establish procedures for revisions of the code. The procedures should include the participation of members of the teaching profession.

This approach will eliminate duplication in the structure for complaints concerning teachers. The change will not prevent any teacher from filing a complaint when violations of the ethics code are observed. Retaining the ethics code under the auspices of the agency will provide for the continuation of a teachers' self-discipline mechanism and will allow for the modifications to be made to the ethics code when needed.

## FISCAL IMPACT

The agency should save approximately \$48,000 from expenses related to the operation of the TPPC.

## **Across-the-Board Recommendations**

## Texas Education Agency

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>GENERAL</b>
		X	1. Require public membership on boards and commissions.
		X	2. Require specific provisions relating to conflicts of interest.
		*	3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
		X	4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
		X	5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
		*	9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
		*	11. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.
	X		12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		*	14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.
X			19. Require development of accessibility plan.

\*Already in law.

**Texas Education Agency**  
**TEACHER CERTIFICATION**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
X			2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
X			3. Provide an analysis, on request, to individuals failing the examination.
		*	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		*	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		*	7. Authorize agencies to use a full range of penalties.
		*	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

\*Already in law.

**Texas Education Agency**  
**PROPRIETARY SCHOOLS**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		*	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
	**		7. Authorize agencies to use a full range of penalties.
		*	8. Specify board hearing requirements.
X			9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

\* Already in law.

\*\* Addressed by issue #15.

## Appendix

Exhibit 1  
TEA Hearings and Appeals  
Fiscal Year 1987

	Cases Filed	Cases Dismissed	Cases Won By		Revocation/ Suspension	Certification Denial	Cases Appealed to District Court
			Teacher/ Student	School			
Term Contract Non-renewal	26	5		7			3
Teacher Contract Termination	26	5		10			2
Demotion/Reassignment/Other	19	4		3			
*Appeals of Local Board Policy							
*Student Cases	3			3			
*Miscellaneous	21	1		12			
Career Ladder	45	11	2	10			5
*Appeals from Local Grievances	20	8		2			
Detachment and Annexation	6						
TEA Employee Grievances							
Proprietary Schools	17	13				4	
Texas Teacher Certificates	37	3			26		
Professional Practices Commission	4	4					
Special Education	46	23	8	12			**

\*Cases that primarily are interpretation of local district policy

\*\*Appealed to Federal Court

Exhibit 2

Special Education Complaint Activity for Fiscal Year 1988

- Total contacts concerning special education programs 288
- Number of alleged violations of rules or regulations 280

<u>Subject</u>	<u>Number of Alleged Violations</u>	<u>Number Found to be Violations</u>	<u>Percent</u>
IEP* Development	73	24	33%
Learning Environment**	41	11	27%
Assessment	40	13	33%
Placement	35	13	37%
Implementation of IEP*	23	7	30%
Related Services	23	7	30%
Discipline Management	12	3	25%
Teacher Qualifications	10	4	40%
Confidentiality	4	2	50%
Miscellaneous	<u>19</u>	<u>4</u>	21%
<b>GRAND TOTAL</b>	<b>280</b>	<b>88</b>	<b>31 %</b>

\*Individual Educational Plan

\*\*Includes Extended Year Service

Exhibit 3

**Five Most Frequently Cited Discrepancies in Special Education:  
Results of Monitoring in FY 1988\***

<u>Type of Discrepancy</u>	<u>Number of Programs with Discrepancies</u>	<u>Number of Districts Served by Those Programs</u>
Selection of the Least Restrictive Environment	31	121
Documentation of Placement Based on Individual Needs	29	116
Opportunity to Participate with Non-handicapped Students in Nonacademic Activities	29	105
Justification for Placement Other than Student's Home Campus	26	82
Justification for Removing Student from Regular Education	23	68

\*In 1988, the agency monitored 134 programs serving 290 school districts.

Exhibit 4

**Funding Weights Assigned by Instructional Arrangement\***

Homebound	5.0
Hospital Class	5.0
Speech Therapy	10.0
Resource Room	2.7
Self-contained, Mild and Moderate, Regular Campus	2.3
Self-contained, Severe, Regular Campus	3.5
Self-contained, Separate Campus	2.7
Multidistrict Class	3.5
Nonpublic Day School	3.5
Vocational Adjustment Class	2.3
Community Class	3.5
Self-contained, Pregnant	2.0
State School Resident**	5.0

\* Established in Section 16.151, Texas Education Code

\*\* A rider in the General Appropriation Act established this funding weight.

## Exhibit 5

### Average Contact Hours Used for Funding Purposes

Homebound	1.00 Hrs.
Hospital Class	4.50 Hrs.
Speech Therapy	0.25 Hrs.
Resource Room	2.00 Hrs.
Self-contained, Mild and Moderate, Regular Campus	3.25 Hrs.
Self-contained, Severe, Regular Campus	5.50 Hrs.
Self-contained, Separate Campus	5.50 Hrs.
Multidistrict Class	4.25 Hrs.
Nonpublic Day School	6.00 Hrs.
Vocational Adjustment Class	5.50 Hrs.
Community Class	4.25 Hrs.
Self-contained, Pregnant	4.00 Hrs.
State School Resident	5.50 Hrs.

Exhibit 6

Proprietary Schools Tuition Refund Policy

<u>Amount of Course Completed</u>	<u>Percentage of Tuition Refunded</u>
First week or one-tenth, whichever is less	90%
After the first week or one-tenth, but within the first three weeks	80%
After the first three weeks, but within the first quarter	75%
During the second quarter	50%
During the third quarter	10%
After the third quarter	0%

## Exhibit 7

### Information on Proprietary School Degree Programs

<u>Typical Proprietary School Degree Programs</u>	<u>Typical Number of General Academic Quarter Credit Hours Required *</u>
<b><u>Associate of Applied Arts</u></b>	
Fashion Merchandising	14 - 21 quarter hours
Interior Design	14 - 21 quarter hours
Visual Communications	14 quarter hours
<b><u>Associate of Applied Science</u></b>	
Business Management	20 - 24 quarter hours
Court Reporting	15 - 20 quarter hours
Electronics Technology	14 - 18 quarter hours
Business Technology	14 - 15 quarter hours
Electronic Engineering Technology	14 - 17 quarter hours

\* One quarter hour is equal to 2/3 of a semester hour.

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### Texas Proprietary Schools Offering AAA/AAS Degrees

#### Houston

Art Institute of Houston  
ITT Technical Institute (two campuses)  
National Educational Center  
(two campuses)  
Video Technical Institute

#### Dallas

Art Institute of Dallas  
Court Reporting Institute of Dallas  
Dallas Institute of Funeral Service  
KD Studio, Inc.  
National Education Center  
Video Technical Institute

#### Arlington

Bauder Fashion College  
ITT Technical Institute

#### San Antonio

CBM Education Center at San Antonio,  
Texas  
Hallmark Institute of Technology  
(two campuses)  
ITT Technical Institute  
National Education Center

#### Austin

ITT Technical Institute

#### Fort Worth

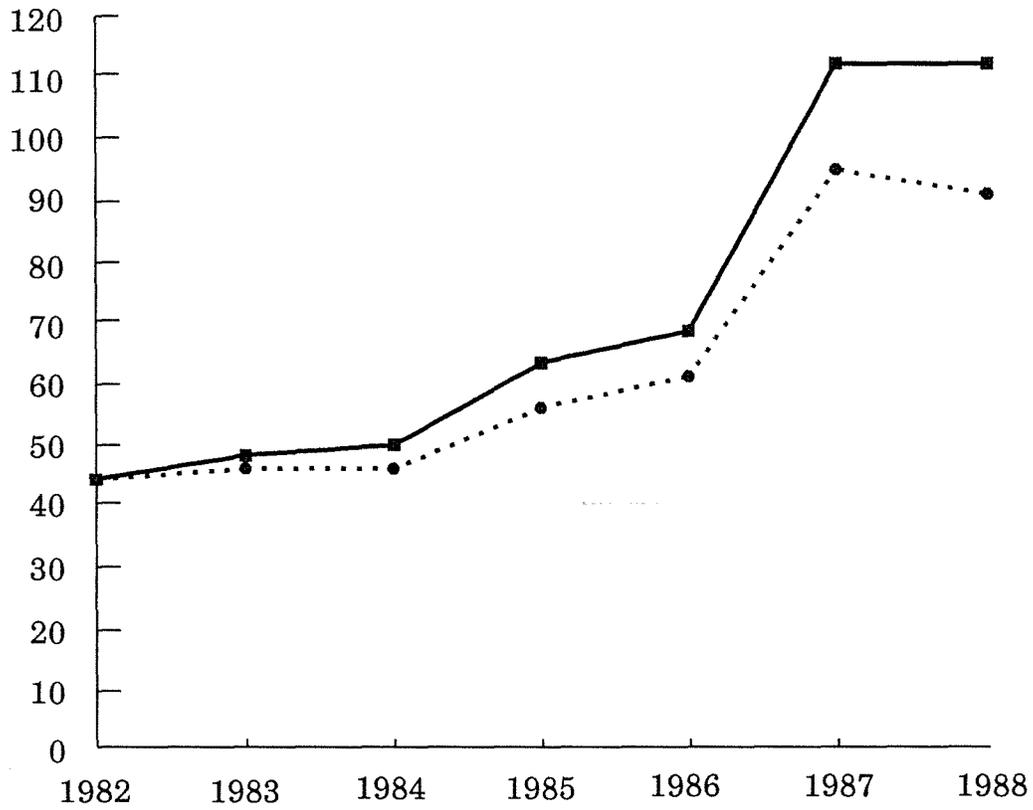
National Education Center  
Texas Court Reporting College, Inc.

#### El Paso

Southwest Institute of Merchandising  
and Design

Exhibit 8  
State Expenditures for Textbooks: FY 1982-1988

Millions of Dollars

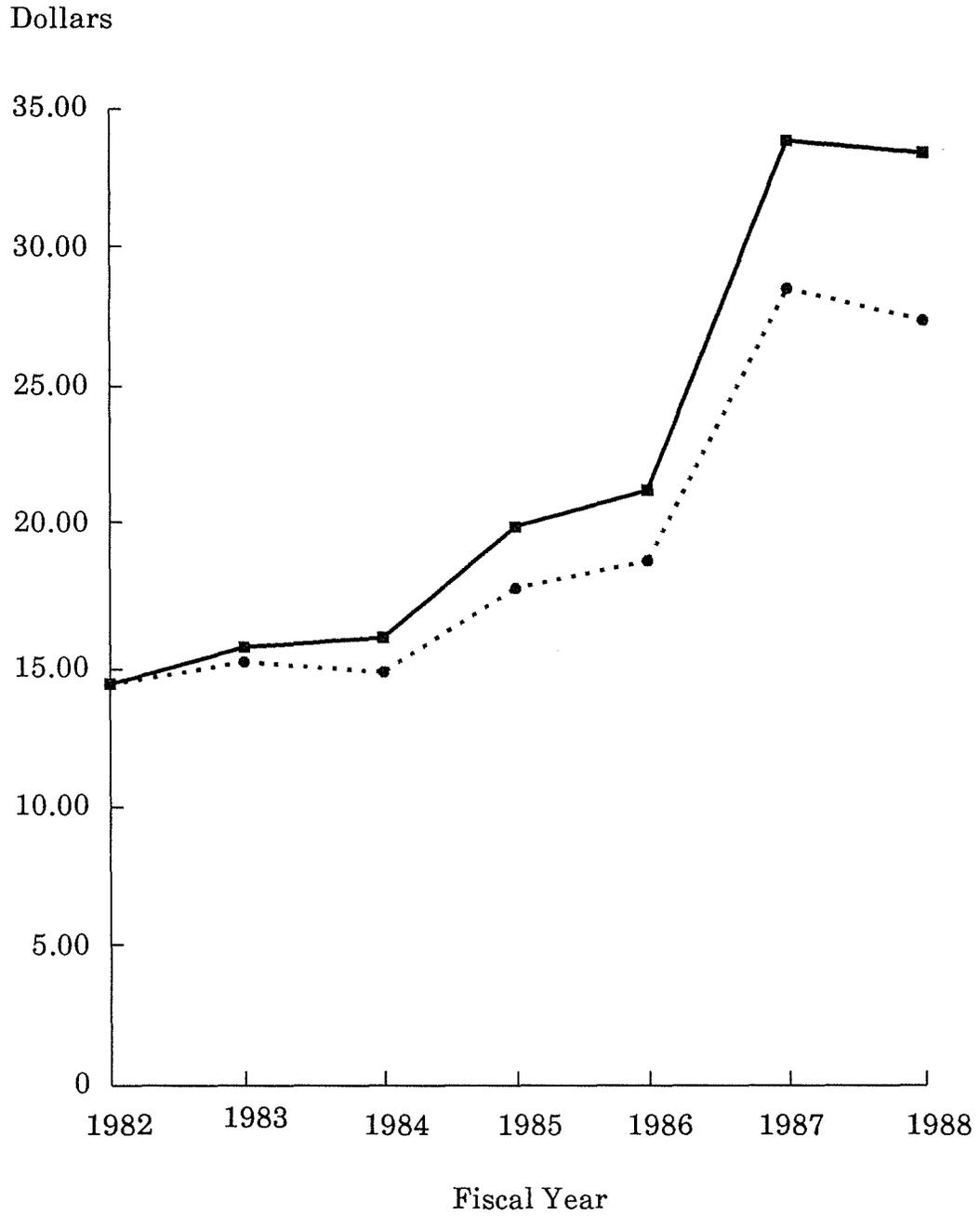


Fiscal Year

■ Actual Expenditures for Textbooks      ● Expenditures Adjusted for Inflation

Exhibit 9

Expenditures Per Student for Textbooks: FY 1982-1988



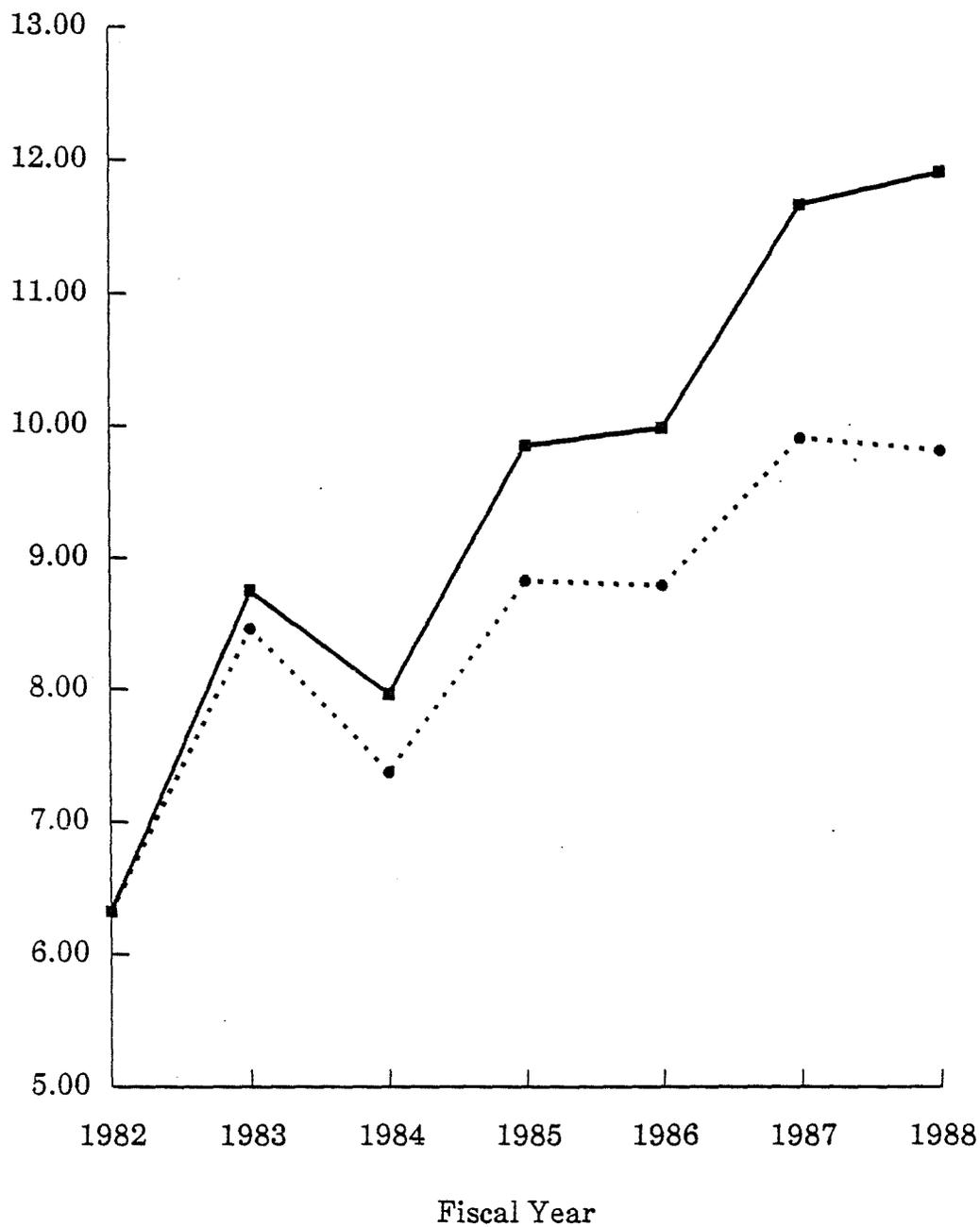
■ Actual Expenditures Per Student

● Expenditures Adjusted for Inflation

Exhibit 10

Average Expenditures Per Textbook: FY 1982-1988

Dollars



■ Actual Expenditures Per Textbook

● Expenditures Adjusted for Inflation