

The State Board of Education (SBOE) adopts an amendment to §74.27, concerning innovative courses and programs. The amendment is adopted with changes to the proposed text as published in the October 13, 2023 issue of the *Texas Register* (48 TexReg 5933) and will be republished. The adopted amendment updates innovative course application and approval requirements.

REASONED JUSTIFICATION: After the SBOE adopted new rules concerning graduation requirements, the previously approved experimental courses were phased out as of August 31, 1998. Following the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process currently outlined in §74.27 provides authority for the commissioner of education to approve discipline-based courses but reserves for SBOE review and approval those courses that do not fall within any of the subject areas of the foundation or enrichment curriculum.

Each year, the Texas Education Agency (TEA) provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. The board last amended §74.27 in November 2022 to require that an applicant for an innovative course pilot the proposed course in a Texas school prior to seeking approval from the SBOE. At the April 2023 SBOE meeting, TEA staff provided an overview of the innovative course approval process, including key data related to historical implementation of innovative courses. At the June 2023 meeting, the Committee on Instruction discussed possible amendments to §74.27. The board approved for first reading and filing authorization the proposed amendment to §74.27 at its August-September 2023 meeting.

The adopted amendment shifts from the commissioner to the SBOE the authority to approve innovative courses that fall under the foundation or enrichment curriculum, specifies the number of years for initial approval and renewal of innovative courses, and exempts career and technical education courses that support an approved program of study from the pilot requirement. It also requires TEA to conduct a periodic review of all approved innovative courses and identify courses for possible sunset in accordance with specific criteria, including student enrollment at an average of fewer than 20 districts or charter schools statewide.

The following changes were made to the rule since approved for first reading and filing authorization.

Section 74.27(a)(1) was amended by replacing the phrase "any course" with the phrase "discipline-based courses in the foundation or enrichment curriculum and courses" and by replacing the word "does" with the word "do."

Section 74.27(a)(3) was amended by striking the phrase "or the commissioner."

New §74.27(a)(3)(I) was added to state, "a copy of or electronic access to any recommended instructional resources for the course."

Section 74.27(a)(4) was amended by striking the phrase "from the commissioner."

Section 74.27(a)(9)(A) was struck, and the remaining subparagraphs were re-lettered.

Section 74.27(a)(9)(A) was amended by striking the phrase "two consecutive years of" before the phrase "zero enrollment" and by adding the phrase "for the previous two years" after the phrase "zero enrollment."

Section 74.27(a)(9)(B) was amended by adding the phrase "for the previous three years" after the word "statewide."

Section 74.27(a)(9)(C) was amended by replacing the word "available" with the phrase "student enrollment" and by adding the phrase "for the previous three years" after the word "statewide."

The SBOE approved the amendment for first reading and filing authorization at its September 1, 2023 meeting and for second reading and final adoption at its November 17, 2023 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date would update the requirements for the submission of innovative course applications for the 2023-2024 application cycle. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 13, 2023, and ended at 5:00 p.m. on November 13, 2023. The SBOE also provided an opportunity for registered oral and written comments at its November 2023 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One community member expressed concern that §74.27(b)(1) allows for ethnic studies courses, but not all ethnicities are relevant to Texas and the United States as a whole. The commenter stated that all ethnic studies courses should be banned.

Response. The SBOE disagrees and has determined that ethnic studies courses are appropriately included in §74.27(b)(1).

Comment. One administrator asked whether a career and technical education (CTE) innovative course would need to be piloted if it has been assigned to a program of study.

Response. The SBOE provides the following clarification. Proposed new §74.27(a)(6) states that the requirements for submitting data and providing evidence of successful piloting do not apply to an innovative course designed to support a program of study in CTE.

Comment. One person from out of state expressed concern that the new science textbooks under consideration for Proclamation 2024 downplay the role fossil fuels play in warming the planet's atmosphere.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §28.002(f), which authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.002(f).

<rule>

§74.27. Innovative Courses and Programs.

- (a) A school district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.
 - (1) The State Board of Education (SBOE) may approve discipline-based courses in the foundation or enrichment curriculum and courses that do not fall within any of the subject areas listed in the foundation and enrichment curricula when the applying school district or organization demonstrates that the proposed course is academically rigorous and addresses documented student needs.
 - (2) Applications shall not be approved if the proposed course significantly duplicates the content of a Texas Essential Knowledge and Skills (TEKS)-based course or can reasonably be taught within an existing TEKS-based course.
 - (3) To request approval from the SBOE, the applying school district or organization must submit a request for approval at least six months before planned implementation that includes:
 - (A) a description of the course and its essential knowledge and skills;
 - (B) the rationale and justification for the request in terms of student need;
 - (C) data that demonstrates successful piloting of the course in Texas;
 - (D) a description of activities, major resources, and materials to be used;

- (E) the methods of evaluating student outcomes;
 - (F) the qualifications of the teacher;
 - (G) any training required in order to teach the course and any associated costs;
 - (H) the amount of credit requested; and
 - (I) a copy of or electronic access to any recommended instructional resources for the course.
- (4) To request approval for a career and technical education innovative course, the applying school district or organization must submit with its request for approval evidence that the course is aligned with state and/or regional labor market data.
 - (5) To request approval of a new innovative course, the applying school district or organization must submit with its request for approval evidence that the course has been successfully piloted in its entirety in at least one school in the state of Texas.
 - (6) The requirements of paragraphs (3)(C) and (5) of this subsection do not apply to the consideration of a course developed to support a program of study in career and technical education.
 - (7) Newly approved innovative courses shall be approved for a period of three years, and courses approved for renewal shall be approved for a period of five years.
 - (8) With the approval of the local board of trustees, a school district may offer, without changes or deletions to content, any state-approved innovative course.
 - (9) Texas Education Agency shall review all approved innovative courses once every two years and provide for consideration for sunset a list of innovative courses that meet the following criteria:
 - (A) zero enrollment for the previous two years;
 - (B) average enrollment of less than 100 students statewide for the previous three years;
 - (C) student enrollment at an average of fewer than 20 districts or charter schools statewide for the previous three years;
 - (D) duplicative of another innovative or TEKS-based course; or
 - (E) approved for implementation as a TEKS-based course.
- (b) An ethnic studies course that has been approved by the SBOE as an innovative course shall be considered by the SBOE at a subsequent meeting for inclusion in the TEKS.
 - (1) Only comprehensive ethnic studies courses in Native American studies, Latino studies, African American studies, and/or Asian Pacific Islander studies, inclusive of history, government, economics, civic engagement, culture, and science and technology, shall be considered by the SBOE.
 - (2) The chair of the Committee on Instruction, in accordance with SBOE Operating Rule 2.5(b), shall collaborate with the board chair to place the item on the next available Committee on Instruction agenda following SBOE approval of the innovative course.