

**TSTA Testimony Submitted by John Grey, November 13, 2012**

## **The Texas State Teachers Association submits its comments to the 2012 Sunset Advisory Commission Staff Report for the Texas Education Agency.**

**TSTA notes in the summary of the report, “the sunset review found that TEA lacks sufficient tools to address schools with serious academic and financial accountability problems.” Not surprisingly, this same conclusion was made in the 2004 Sunset Advisory Commission Staff Report for TEA, noting the agency was being downsized at the time, frustrating its ability to properly monitor Texas public and charter schools.**

**However, there are several issues in the report to which TSTA objects. They are as follows:**

### **Issue 8**

**Recommendation: Abolish the State Board for Educator Certification and transfer its powers and duties to the Commissioner of Education.**

**Recommendation: Remove the State Board of Education’s authority to reject proposed educator certification and educator preparation program rules.**

**Recommendation: Require the Commissioner to establish an advisory committee to assist with the regulation of educators and educator preparation programs.**

TSTA objects to the abolishment of SBEC. TSTA supports its continuation in the oversight and certification of educators in Texas, and believes it should continue to monitor and certify educator preparation programs. Most every profession which relies on a license has a governing board of its peers setting forth standards and regulating the profession. Teachers should be treated no differently in that regard. Certainly, TEA has a role in providing support and resources to SBEC; however, the regulation of the teaching profession should be entrusted to a supervisory board, not one agency head. TSTA supports the continuation of SBEC in its prescribed role and statutory authority as granted by the Texas Legislature.

Additionally, if the commissioner assumed SBEC’s authority to establish an advisory committee to assist with the regulation of educators and preparation programs, this would essentially transfer the appointment power for a governing body from the governor to the commissioner, creating an advisory committee with no real power or oversight. This authoritative structure is in clear contradiction to our democracy and the rule of law. Teachers should regulate the profession, not an agency bureaucrat.

It should be noted that in the report, the recommendation for the abolishment is not a cost saving measure. Only \$11,000 per year in travel costs would be saved by abolishing SBEC. That is money well spent to ensure that educators regulate their own profession.

## Issue 9

### **Recommendation: Grant the Commissioner administrative subpoena power to fully investigate certified educator misconduct cases.**

Granting TEA unbridled authority to demand the production of documents and other evidence prior to filing a petition against an educator is unnecessary. Currently, TEA can obtain large amounts of information from governmental entities, such as school districts, through the Texas Public Information Act, without administrative subpoena power. While names and other confidential information may be redacted or withheld, TEA has the ability to investigate matters without this power. If TEA determines that the allegations against an educator are substantiated, TEA may file a petition to sanction the educator's certification. After filing such a petition, TEA may request a subpoena for documents from the assigned administrative law judge. This process is fairer to the accused educator in that the educator is a party to the proceeding and may make his/her objections to the subpoena at that time. Granting TEA administrative subpoena power to investigate claims against educators prior to the filing of a petition allows TEA to obtain confidential information which is normally protected by state and federal statutes without notifying the accused or filing a petition. This imbalance of power runs afoul of due process and would allow the government to go on fishing expeditions with no regulation.

### **Recommendation: Direct the Commissioner to adjust fees in rule for educator certification and educator preparation programs to ensure they adequately cover costs and are equitable across fee payers.**

TSTA objects to this recommendation. Under this recommendation, TEA would assume SBEC's authority to evaluate its fee structure and make changes to cover the cost of administering the educator certification and educator preparation programs. TEA would also consider whether to require lifetime certificate holders to renew their licenses and pay the standard renewal fee every five years, or, at least, pay a one-time fee to help cover the cost of their regulation.

Certainly requiring lifetime certificate holders to give up their certificates in exchange for the five-year certificate would negate the purpose of holding a lifetime certificate. Furthermore, to vest this authority with the Commissioner would minimize the influence of educators on this issue. Holders of lifetime certificates met the requirements for this certificate and accepted it in good faith that it was a lifetime certificate as reflected on its face. To rescind this certificate would amount to a taking by state statute.