



ARE YOUR CHILDREN SAFE IN TEXAS SCHOOLS?

Evaluating Misconduct Reporting Data from the Texas Education Agency



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Glossary of Terms¹

Abuse: (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning; (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning; (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.²

Educator: A person who is required to hold a certificate issued.³

Effective date: The date the decision or action taken by the State Board for Educator Certification, or the Texas Education Agency staff becomes final under the appropriate legal authority.

Expired: No longer valid because a specific period or term of validity of a certificate has ended; an expired certificate is not subject to renewal or revalidation and a new certificate must be issued.

Improper relationship between educator and student: (a) An employee of a public or private primary or secondary school commits this offense if the employee: (1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works; (2) holds a position described by Section 21.003 (a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, license, or credential for the position, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is: (A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1); or (B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if students enrolled in a public or private primary or secondary school are the primary participants in the activity; or (3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.⁴

Inappropriate relationship with a student or minor (IRWSM): A sexual or romantic relationship with a student or minor; or solicitation of a sexual or romantic relationship with a student or minor.⁵

¹Unless otherwise noted, references are primarily reproduced from the [Texas Administrative Code, §249.3: Definitions](#), and [State Board for Educator Certification: Official Record of Educator Certificates; Glossary](#).

²As defined in Texas Family Code: Chapter 261: Investigation of Report of Child Abuse or Neglect. [Sec. 261.001.: Definitions](#).

³Texas Education Code. Chapter 21, Subchapter B: Sec. 21.065. [Notice to Teacher Regarding Suspension of Certificate or Permit](#).

⁴Texas Penal Code, Chapter 21: Sexual Offenses, [Sec. 21.12\(a\): Definitions](#).

⁵The definition provided is informed by [Texas Administrative Code: Rule Sec. 247.2](#), (F) Standard 3.6 stating “The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student or minor” and (I) Standard 3.9 (iv) stating “The educator shall refrain from inappropriate communication with a student or minor, including, but not limited to, electronic communication such

Inscribed Reprimand: A formal, published censure appearing on the face of the educator's virtual certificate.

Law: The United States and Texas Constitutions, state and federal statutes, regulations, rules, relevant case law, and decisions and orders of the State Board for Educator Certification and the commissioner of education.

Non-inscribed reprimand: A formal, unpublished censure that does not appear on the face of the educator's virtual certificate.

Pending Suspension: A suspension whose term has run, but which is still in effect because the educator has not taken the necessary steps to clear the suspension and reinstate the validity of a certificate.

Permanent revocation: Revocation without the opportunity to reapply for a new certificate.

Revocation: A sanction imposed by the State Board for Educator Certification invalidating an educator's certificate.

Sexual Misconduct (SEXMIS): Sexual misconduct includes but is not limited to (1) engaging in any sexual contact or romantic relationship with a student or minor; (2) soliciting any sexual contact or romantic relationship with a student or minor; (3) possessing or distributing child pornography.⁶

Solicitation of a romantic relationship: Deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or by patterns of exclusivity but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student: (A) behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior, include, without limitation: (i) the nature of the communications; (ii) the timing of the communications; (iii) the extent of the communications; (iv) whether the communications were made openly or secretly; (v) the extent that the educator attempts to conceal the communications; (vi) if the educator claims to be counseling a student, the State Board for Educator Certification may consider whether the educator's job duties included counseling, whether the educator reported

as cell phone, text messaging, email, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to: (iv) whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship.” As indicated in the [Problems: Accountability section](#) of this report, the TEA uses “IRWSM” as a case code to identify “inappropriate relationship with student or minor” without providing a clear definition consistent with Texas Administrative Code Sec. 247.2 and how IRWSM differs from the aforementioned “Improper relationship between educator and student” as defined in Texas Penal Code Sec. 21.12. This has also been observed in the academic research on Texas educator sexual misconduct, including the Journal of Child Sexual Abuse’s [“Educator Sexual Misconduct and Texas Educator Discipline Database Construction”](#) in which authors Catherine Robert and David Thompson write “As TEA has not operationally defined IRWSM in the same way as it has sexual misconduct, the operational definition of IRWSM has emerged from our analysis of educator discipline final disposition documents and includes improper relationships, inappropriate relationships, inappropriate conduct, inappropriate communication, inappropriate contact, sexual assault, sexual abuse, inappropriate comments, and boundary violations.”

⁶Texas Administrative Code. Chapter 249: Disciplinary Proceedings, Sanctions, and Contested Cases. [Sec. 249.17: Decision-Making Guidelines\(i\): Mandatory permanent revocation or denial.](#)

the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and (vii) any other evidence tending to show the context of the communications between educator and student; (B) making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images; (C) making sexually demeaning comments to a student; (D) making comments about a student's potential sexual performance; (E) requesting details of a student's sexual history; (F) requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator; (G) engaging in conversations regarding the sexual problems, preferences, or fantasies of either party; (H) inappropriate hugging, kissing, or excessive touching; (I) providing the student with drugs or alcohol; (J) violating written directives from school administrators regarding the educator's behavior toward a student; (K) suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage; and (L) any other acts tending to show that the educator solicited a romantic relationship with a student.

State Board for Educator Certification (SBEC): The State Board for Educator Certification acting through its voting members in a decision-making capacity.

State Board for Educator Certification member(s): One or more of the members of the State Board for Educator Certification, appointed and qualified under Texas law.⁷

Student: A person enrolled in a primary or secondary school, whether public, private, or charter, regardless of the person's age, or a person 18 years of age or younger who is eligible to be enrolled in a primary or secondary school, whether public, private, or charter.

Surrender: An educator's voluntary relinquishment of a particular certificate in lieu of disciplinary proceedings under this chapter resulting in an order of revocation of the certificate.

Suspension: A sanction imposed by the State Board for Educator Certification (SBEC) temporarily invalidating a particular certificate until reinstated by the SBEC.

Texas Education Agency staff: Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.

Unworthy to instruct or to supervise the youth of this state: Absence of those moral, mental, and psychological qualities that are required to enable an educator to render the service essential to the accomplishment of the goals and mission of the State Board for Educator Certification policy and Chapter 247 of the Texas Administrative Code (relating to Educators' Code of Ethics).⁸

⁷Texas Education Code. Chapter 21: Educators. [Sec. 21.003.: Certification Required.](#)

⁸Texas Administrative Code. [Chapter 247: Educators' Code of Ethics.](#) Also note that “unworthy to instruct” serves as a basis for sanctions under [Sec. 249.15\(b\)\(2\) of the Texas Administrative Code](#) (relating to Disciplinary Action by State Board for Educator Certification) and for administrative denial under Sec. 249.12(b) of this title (relating to Administrative Denial; Appeal). A determination that a person is unworthy to instruct does not require a criminal conviction. It is a rebuttable presumption that an educator who violates written directives from school administrators regarding the educator's behavior toward a student is unworthy to instruct or to supervise the youth of this state.

Relevant Legal Authorities⁹

Texas Administrative Code §247.2: Code of Ethics and Standard Practices for Texas Educators, Subsection(3)(B), Standard 3.2: The educator shall not intentionally, knowingly, or recklessly treat a student or minor in a manner that adversely affects or endangers the learning, physical health, mental health, or safety of the student or minor.

Texas Administrative Code §249.14: Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition(d), (2)(A-F): (d) A person who serves as the superintendent of a school district or district of innovation, the director of a charter school, regional education service center, or shared services arrangement, or the chief administrative officer of a private school may notify the SBEC of any educator misconduct that the person believes in good faith may be subject to sanctions under this chapter and/or Chapter 247 of this title (relating to Educators' Code of Ethics). However, under any of the following circumstances, a person who serves in such a position shall promptly notify the SBEC in writing by filing a report with the TEA staff within seven business days of the date the person either receives a report from a principal under subsection (e) of this section or knew of any of the following circumstances, except if the person is a superintendent or director of a public school and has completed an investigation in accordance with Texas Education Code (TEC), §21.006(c-2), resulting in a determination that the educator did not engage in misconduct: (2) that a certificate holder was terminated from employment and there is evidence that he or she committed any of the following acts: (A) sexually or physically abused a student or minor or engaged in any other illegal conduct with a student or minor; (B) possessed, transferred, sold, or distributed a controlled substance; (C) illegally transferred, appropriated, or expended school property or funds; (D) attempted by fraudulent or unauthorized means to obtain or to alter any certificate or permit that would entitle the individual to be employed in a position requiring such certificate or permit or to receive additional compensation associated with a position; (E) committed a crime, any part of such crime having occurred on school property or at a school-sponsored event; or (F) solicited or engaged in sexual conduct or a romantic relationship with a student or minor. (emphasis added).

Texas Administrative Code §249.14(e): A person who serves as a principal in a school district, a district of innovation, or a charter school must notify the superintendent or director of the school district, district of innovation, or charter school and may be subject to sanctions for failure to do so no later than seven business days after: (1) an educator's termination or resignation following an alleged incident of misconduct involving one of the acts described in subsection (d)(2) of this section; or (2) the principal knew about an educator's reported criminal history.

Texas Administrative Code §249.14: Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition(k) (Priority 1): To efficiently administer and implement the SBEC's purpose under this chapter and the TEC, the TEA staff may set priorities for the investigation of complaints based on the severity and immediacy of the allegations and the likelihood of harm posed by the subject of the investigation. All cases accepted for investigation shall be assigned one of the following priorities. Priority 1: conduct that may result in the placement of an investigative notice pursuant to the TEC, §21.007, and subsection (l) of this section because

⁹References are reproduced from sections of the Texas Administrative Code ([Title 19: Education](#)), Texas Education Code ([Title II](#)), and Texas Penal Code ([Chapter 21](#)).

it presents a risk to the health, safety, or welfare of a student or minor, parent of a student, fellow employee, or professional colleague, including, but not limited to, the following: (A) any conduct constituting a felony criminal offense; (B) indecent exposure; (C) public lewdness; (D) child abuse and/or neglect; (E) possession of a weapon on school property; (F) drug offenses occurring on school property; (G) sale to or making alcohol or other drugs available to a student or minor; (H) sale, distribution, or display of harmful material to a student or minor; (I) certificate fraud; (J) state assessment testing violations; (K) deadly conduct; and (L) conduct that involves inappropriate communication with a student as described in §247.2(3)(I) of this title (relating to Code of Ethics and Standard Practices for Texas Educators), inappropriate professional educator-student relationships and boundaries, or otherwise soliciting or engaging in sexual conduct or a romantic relationship with a student or minor.

Texas Administrative Code §249.14: Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition(k) (Priority 2): (k) To efficiently administer and implement the SBEC's purpose under this chapter and the TEC, the TEA staff may set priorities for the investigation of complaints based on the severity and immediacy of the allegations and the likelihood of harm posed by the subject of the investigation. All cases accepted for investigation shall be assigned one of the following priorities. (2) Priority 2: any sanctionable conduct that is not Priority 1 conduct under paragraph (1) of this subsection. An investigative notice will not be placed on an educator's certification records on the basis of an allegation of Priority 2 conduct. The TEA staff may change a case's priority at any time based on information received. Priority 2 conduct includes, but is not limited to, the following: (A) any conduct constituting a misdemeanor criminal offense or testing violation that is not Priority 1 conduct; (B) contract abandonment; and (C) code of ethics violations that do not constitute Priority 1 conduct.

Texas Administrative Code §249.14: Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition, (n)(1): An investigative notice is subject to the following time limits. (1) An investigative notice may remain on the certification records of a certificate holder for a period not to exceed 240 calendar days.

Texas Administrative Code, §249.17: Decision-Making Guidelines(i): Mandatory permanent revocation or denial. Notwithstanding subsection (c) of this section, the SBEC shall permanently revoke the teaching certificate of any educator or permanently deny the application of any applicant if, after a contested case hearing or a default under §249.35 of this title, it is determined that the educator or applicant: (1) engaged in any sexual contact or romantic relationship with a student or minor; (2) solicited any sexual contact or romantic relationship with a student or minor; (3) possessed or distributed child pornography; (4) was registered as a sex offender; (5) committed criminal homicide; (6) transferred, sold, distributed, or conspired to possess, transfer, sell, or distribute any controlled substance, the possession of which would be at least a Class A misdemeanor under the Texas Health and Safety Code, Chapter 481, on school property; (7) intentionally, knowingly, or recklessly causes bodily injury to a student or minor when the conduct of the educator or applicant is not immune from disciplinary proceedings by TEC, §22.0512; or (8) committed any offense described in the TEC, §21.058.

Texas Education Code §21.0061: Notice to Parent or Guardian about Educator Misconduct: (a) The board of trustees or governing body of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall adopt a policy under which

notice is provided to the parent or guardian of a student with whom an educator is alleged to have engaged in misconduct described by Section 21.006(b)(2)(A) or (A-1) informing the parent or guardian: (1) that the alleged misconduct occurred; (2) whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and (3) whether a report was submitted to the State Board for Educator Certification concerning the alleged misconduct. (b) The policy required by this section must require that information specified by Subsection (a)(1) be provided as soon as feasible after the employing entity becomes aware that alleged misconduct may have occurred. (c) In this section, "other charter entity" has the meaning assigned by Section 21.006.

Texas Education Code §21.007: Notice on Certification Record of Alleged Misconduct: (a) In this section, "board" means the State Board for Educator Certification. (b) The board shall adopt a procedure for placing a notice of alleged misconduct on an educator's public certification records. The procedure adopted by the board must provide for immediate placement of a notice of alleged misconduct on an educator's public certification records if the alleged misconduct presents a risk to the health, safety, or welfare of a student or minor as determined by the board. (c) The board must notify an educator in writing when placing a notice of an alleged incident of misconduct on the public certification records of the educator. (d) The board must provide an opportunity for an educator to show cause why the notice should not be placed on the educator's public certification records. The board shall propose rules establishing the length of time that a notice may remain on the educator's public certification records before the board must: (1) initiate a proceeding to impose a sanction on the educator on the basis of the alleged misconduct; or (2) remove the notice from the educator's public certification records. (e) If it is determined that the educator has not engaged in the alleged incident of misconduct, the board shall immediately remove the notice from the educator's public certification records. (f) The board shall propose rules necessary to administer this section.

Texas Education Code §22.093: Requirement to Report Employee Misconduct, (c): In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall notify the commissioner if: (1) an employee's employment at the school district, district of innovation, charter school, other charter entity, service center, or shared services arrangement was terminated and there is evidence that the employee: (A) abused or otherwise committed an unlawful act with a student or minor; or (B) was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or (2) the employee resigned and there is evidence that the employee engaged in misconduct described by Subdivision (1).

Texas Education Code §22.093: Requirement to Report Employee Misconduct, (e): The principal of a school district, district of innovation, open-enrollment charter school, or other charter entity campus must notify the superintendent or director of the school district, district of innovation, charter school, or other charter entity not later than the seventh business day after the date of an employee's termination of employment or resignation following an alleged incident of misconduct described by Subsection (c)(1)(A) or (B).

Texas Education Code §22.093: Requirement to Report Employee Misconduct, (f): The superintendent or director must notify the commissioner by filing a report with the commissioner not later than the seventh business day after the date the superintendent or director receives a report from a principal under Subsection (e) or knew about an employee's termination of employment or resignation following an alleged incident of misconduct

described by Subsection (c)(1)(A) or (B). The report must be: (1) in writing; and (2) in a form prescribed by the commissioner. A superintendent or director required to file a report under Subsection (f) commits an offense if the superintendent or director fails to file the report by the date required by that subsection with intent to conceal an employee's criminal record or alleged incident of misconduct. A principal required to notify a superintendent or director about an employee's alleged incident of misconduct under Subsection (e) commits an offense if the principal fails to provide the notice by the date required by that subsection with intent to conceal an employee's alleged incident of misconduct. An offense under this subsection is a state jail felony.

Texas Education Code §22.0512, Immunity from Disciplinary Proceedings for Professional Employees: (a)

A professional employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code. (b) In this section, "disciplinary proceeding" means: (1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or (2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8). (c) This section does not prohibit a school district from: (1) enforcing a policy relating to corporal punishment; or (2) notwithstanding Subsection (a), bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment.

Texas Education Code §37.081: School District Peace Officers, School Resource Officers, and Security Personnel (f):

The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement.

Texas Penal Code § 21.12. Improper Relationship Between Educator and Student: (a)

An employee of a public or private primary or secondary school commits an offense if the employee: (1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works; (2) holds a position described by Section 21.003(a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, license, or credential for the position, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is: (A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1); or (B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if students enrolled in a public or private primary or secondary school are the primary participants in the activity.

ARE YOUR CHILDREN SAFE IN TEXAS SCHOOLS?

Evaluating Misconduct Reporting Data from the Texas Education Agency

★ Background and Summary

In recent years, Texas has implemented various measures to bolster student safety including, most recently, the passing of TX HB 3 which requires at least one armed security officer to maintain a presence on school campuses.¹⁰

However, it is worth noting these efforts target external threats to safety. Texas Administrative Code §247.2 stipulates that, “The educator shall not intentionally, knowingly, or recklessly treat a student or minor in a manner that adversely affects or endangers the learning, physical health, mental health, or safety of the student or minor.”¹¹ For this reason, this report seeks to raise awareness of internal safety threats, particularly those related to educator misconduct that are not being adequately addressed due to a lack of clear, direct policy.

Moreover, there are eight offenses that, if committed, **shall result in the permanent revocation of the educator’s teaching certificate.**¹² The offenses of particular relevance to this report are sexual misconduct (SEXMIS) and inappropriate relationship with a student or minor (IRWSM).¹³ According to Texas Administrative Code §249.3, permanent revocation would prohibit an educator from obtaining any teaching certificate in the future.¹⁴

Key Points

- Educators found to have engaged in misconduct that otherwise should result in the permanent revocation of their teaching certificates are instead receiving lesser sanctions, such as an inscribed reprimand or a suspension of their teaching certificate. This erodes transparency, accountability, and justice while heightening student vulnerabilities to predation and abuse. The offenses of particular relevance to this report are sexual misconduct (SEXMIS) and inappropriate relationship with a student or minor (IRWSM).
- Failure to report instances of misconduct in which an employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship/sexual contact with a student or minor, is a state-jail felony under Texas Education Code §22.093. Nevertheless, some officials have not reported such instances and thus, have not been held accountable. In the absence of this accountability, educators implicated in misconduct can move on to other districts and obtain employment in both certificate and non-certificate holding capacities which would permit access to children.
- Currently, there is no mandatory, comprehensive statewide hiring practice to govern an appropriate or thorough review of educators, including those implicated in misconduct. This increases the likelihood of data discrepancies while compounding inaccuracies in reporting.
- In response, this report provides a handful of solutions that may be implemented at the district, administrative, and legislative levels that seek to resolve concerns pertaining to hiring, investigations, accountability, transparency, and data accuracy to strengthen the misconduct reporting process.

¹⁰TX H.B. No. 3, [Sec. 37.0814: Armed Security Officer Required.](#)

¹¹Texas Administrative Code. [Rule Sec. 247.2: Code of Ethics and Standard Practices for Texas Educators.](#)

¹²Texas Administrative Code. [Rule Sec. 249.17: Decision-Making Guidelines.](#)

¹³The acronyms “SEXMIS” and “IRWSM” are used to accord with the case codes employed by the TEA to identify these particular crimes (e.g. [Master Spreadsheet: Educator Misconduct](#)). However, it should be noted that, at the time of this report’s publication, no public resource has been released by the TEA recognizing or defining these case codes. For more on this, see the [“Problems: Accountability”](#) section of this report.

¹⁴Texas Administrative Code. [Rule Sec. 249.3: Definitions.](#)

Following an investigation, educators found to have engaged in misconduct that should result in permanent revocation have instead received lesser sanctions such as an inscribed reprimand or a suspension of their teaching certificate.¹⁵ These lesser sanctions could enable educators to apply for new teaching certificates in the future, and thus, allow for the possibility of sexual predators to make their way back into the classroom.

Educator certificates can be found via the State Board for Educator Certification (SBEC): Official Record of Educator Certificates, which allows the general public and school districts to determine the certificate status of an educator (i.e. whether or not they have been sanctioned for any offense).¹⁶ Searching this database allows citizens and school districts to view the history of an educator’s certification status, offering insight into the background of an educator.

Although Texas Administrative Code §249.17 states that certificates must be permanently revoked if the educator or applicant (1) engaged in any sexual contact or romantic relationship with a student or minor; or (2) solicited any sexual contact or romantic relationship with a student or minor, based on our findings, educator certificates are not always permanently revoked for educators accused of crimes such as sexual misconduct, violence on campus or school property against a student or minor, drug and/or alcohol possession, or inappropriate relationship with a student or minor.¹⁷

Additionally, per Texas Education Code §22.093, failure to report instances in which an employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship/sexual contact with a student or minor, is a state-jail felony.¹⁸ Nevertheless, some officials have not reported such instances and have not been held accountable.¹⁹

Furthermore, some educators who have been sanctioned have disappeared from the SBEC database,²⁰ an example of which is featured in the “[Analysis and Findings](#)” section of this report.²¹

¹⁵Ibid.

¹⁶State Board for Educator Certification (SBEC): [Official Record of Educator Certificates](#).

¹⁷Texas Administrative Code. [Sec. 249.17: Decision-Making Guidelines](#).

¹⁸Texas Education Code. [Sec. 22.093: Requirement to Report Employee Misconduct](#).

¹⁹Quillen, A. (2022). [Parents Furious over Prosper ISD’s Handling of Sexual Assault Allegations](#). *NBCDFW*.; Anderson, E. (2022). [Texas Teacher Allowed to Resign after Sending Sexually Suggestive Messages to Student](#). *Texas Scorecard*.

²⁰Holland Information: [Holland SBEC and “Do Not Hire” Registry](#).

²¹This report is predicated on the understanding that any personal information provided is derivative of public information requested and obtained from government agencies under the Texas Public Information Act. The government-provided information included in this report is about public employees’ conduct and was found not to be protected from disclosure from the originating authority. As a result, the information contained herein is publicly available and accessible to others to draw their own conclusions and findings. Additionally, Texas Attorney General Opinions and Texas Supreme Court case law have found that the doctrine of common-law privacy does not apply to protect the specific information provided and incorporated into this report. Therefore, any claims that may be associated with incorporating publicly available personal information are not considered legally protected or sensitive sources of information. Any individual who seeks to make such information confidential should contact the holder of the publicly available information.

SBEC is one of several databases that districts can check to determine the certificate status of a potential new hire. Others include the Texas Education Agency’s (TEA) Do Not Hire Registry and the TEA’s various SBEC Disciplinary Reports, **although it is not currently required that school districts utilize these sources when hiring a new educator.**²² Similarly, the TEA does not require a school district to check the SBEC database to determine the certificate status of educators, including those who may have been previously sanctioned such as inscribed reprimand or suspension. Apart from a national criminal background check, there are no state-wide vetting requirements for hiring educators in Texas.²³

In this report, Citizens Defending Freedom aims to reveal the inconsistencies, inaccuracies, and failures associated with how accusations of misconduct are currently addressed by the TEA.²⁴ This report presents the results of our inquiry into serious and unjust inconsistencies that are not receiving the appropriate attention and consideration they merit. We hope the following pages expose the issues while offering solutions to proactively protect school children throughout Texas.

Context and Methodology

In August 2022, an incident in Prosper Independent School District (“Prosper ISD”) was reported involving two girls under the age of 10 who were repeatedly molested by their school bus driver.²⁵ Under Texas Education Code §22.093, the failure of a director or superintendent to report to the Commissioner instances in which an employee abused or otherwise committed an unlawful act with a student or minor, or was involved in a romantic relationship/sexual contact with a student or minor, is a state-jail felony.²⁶

Because of this, Citizens Defending Freedom made a Public Information Request (PIR) to the TEA for “all data reported by Prosper ISD into the TEA Division of Education Investigations’ Misconduct Reporting Portal between 2018-2022” as well as “SBEC sanctions and records of certified and noncertified employees placed on registry of individuals not eligible for employment, also known as the Do Not Hire Registry, and the reason for such placement.”²⁷ Subsequently, the TEA responded by stating, “TEA has conducted a good faith search for any and all information related to your requests and has not been able to locate information that may be responsive to

²²Texas Education Agency. [Public Registry Search](#); [Disciplinary Actions Taken against Texas Educators: SBEC Disciplinary Action Reports](#).

²³Texas Education Agency. [Becoming a Classroom Teacher in Texas](#).

²⁴This material is for educational and informational purposes only. This material is based on currently available public information for the purposes of highlighting general trends and observations. The data provided herein is not represented as complete, and it should not be relied upon due to questions on the accuracy of the data provided due to persistent discrepancies associated with the misconduct reporting process at-large. Statistical anomalies that exist may be indicative of the quality of the data as provided either to or by the TEA and therefore, any inaccuracies in the data are not our responsibility. Consistency with regulatory and legal compliance for mandatory reporting associated with misconduct reporting will strengthen the overall veracity of data and enable updates to the research presented herein as appropriate. Any reader of this information should independently verify compliance with reporting requirements with their local school district as appropriate.

²⁵Yager, P. (2022). [Parents sue Prosper ISD, alleging bus driver sexually abused their daughters](#). *Fox 4*.

²⁶Texas Education Code. [Sec. 22.093: Requirement to Report Employee Misconduct](#).

²⁷Texas Education Agency. (2023). [Prosper ISD Public Information Requests](#).

your request.” Further, they also confirmed that “a review of this information available indicates that Prosper ISD has not used the portal to submit misconduct reports.”²⁸ This response from the TEA indicates that there was a failure to use the TEA’s Misconduct Reporting Portal to report the bus driver within the seven days required under Texas Administrative Code §249.14.²⁹

Considering the seriousness of the crime committed and the failure of the superintendent to report what transpired, this raised concerns around the possibility that other comparable reports of such abuse might not be reported. This prompted Citizens Defending Freedom to submit additional PIRs to the TEA for 97 independent school districts throughout 24 counties in Texas. These findings are based on accumulated data as of August 2023. This was part of an effort to collect data on other school districts that may have had educators accused of misconduct with students.³⁰

The TEA provided the requested information via Excel Spreadsheets featuring information such as case codes (indicating category of offense), dispositions, investigation dates, etc. The data was then compiled into a master spreadsheet that is included in this report.³¹

★ Analysis and Findings

Sexual Misconduct

This investigation identified 120 sexual misconduct cases. Except for cases assigned as “pending” or “no action taken,” recall that anyone who is proven upon investigation to have committed sexual misconduct is, by law, to result in the permanent revocation of their certificate.³²

Instead, this is what the data reveals:

- **Pending:** Thirty-five (35) cases were noted as “pending.”³³
- **Reviewed “No Action Taken”:** Forty-one (41) were reviewed with “no action taken.”
- **Administrative Closure:** Twenty-six (26) cases were classified as “administrative closure.” One (1) was a noncertified employee.
- **Inscribed Reprimand:** Four (4) certificate holders received an “inscribed reprimand.”

²⁸Ibid.

²⁹Texas Administrative Code. [Sec. 249.14: Complaint, Required Reporting, and Investigation: Investigate Notice; Filing of Petition.](#)

³⁰Texas Education Agency. (2022-2023). [Keller, Lovejoy, and Dallas ISD Public Information Requests.](#)

³¹[Master Spreadsheet: Educator Misconduct.](#)

³²Texas Education Agency. [IRWSM and SEXMIS Spreadsheet.](#)

³³See “pending” and others terms mentioned herein as defined in the [State Board for Education Certification \(SBEC\) Glossary.](#)

- **Voluntary Surrender:** Three (3) voluntarily surrendered their certificate to avoid litigation.
 - **Suspension:** One (1) had his/her certificate suspended but was not placed on the Do Not Hire Registry.
 - **Revocation:** Seven (7) were reported as having their licenses revoked. Of this number, only four (4) were placed on the Do Not Hire Registry.
 - **Permanent Revocation:** One (1) had a permanent revocation and was placed on the Do Not Hire Registry.
- Overall, only ten (10) were placed on the Do Not Hire Registry.

Inappropriate Relationship with Student/Minor

This investigation identified 460 cases of inappropriate relationship with a student or minor. Except for cases assigned as “pending” or “no action taken,” recall that anyone who is proven upon investigation to have committed an inappropriate relationship with a student/minor is, by law, to result in permanent revocation of their certificate.³⁴

Instead, this is what the data reveals:

- **Pending:** Eighty-six (86) were noted as “pending.”
- **Noncertified/Non-employable/DNHR:** Twenty (20) were noted as “noncertified/non-employable/DNHR.”
- **Reviewed “No Action Taken”:** Twenty (20) were reviewed with “no action taken.”
- **Administrative Closure:** Ninety-three (93) were classified as “administrative closure.”
- **Non-Jurisdiction:** Ten (10) were noted as “non-jurisdiction.”
- **Voluntary Surrender:** One hundred (100) certificate holders voluntarily surrendered their certificate to avoid litigation.
- **Inscribed Reprimand:** Fifty-nine (59) received an “inscribed reprimand.”
- **Suspension:** Forty (40) had their certificate suspended, but none of these were placed on the Do Not Hire Registry.
- **Revocation:** Nine (9) were reported as having their licenses revoked and were all placed on the Do Not Hire Registry.
- **Permanent Revocation:** Twenty-three (23) had their certificate permanently revoked, but only nineteen (19) of these were placed on the Do Not Hire Registry.

³⁴Texas Education Agency. [IRWSM and SEXMIS Spreadsheet](#).

Do Not Hire Registry

Based on the government-provided data, most educators who were investigated for Sexual Misconduct or engaged in an Inappropriate Relationship with a Student or Minor could be rehired in another school district because their certificates were not permanently revoked as required under Texas Administrative Code §249.17.³⁵

Overall, of the 580 cases of SEXMIS and IRWSM, only 110 (100 IRWSM, 10 SEMIXS) were placed on the Do Not Hire Registry.

Anomalies

I. *Inconsistencies in TEA charges:*

While all data was requested from the same source (the TEA), the responses to the requests varied significantly. For example, the TEA charged one citizen for information that another citizen received free of charge despite the PIRs containing identical language.³⁶

However, following Texas Government Code §552.267, when requested information has already been collected, the fees should be minimal or none:³⁷

- (a) A governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public.

II. *Incomplete data/missing information:*

Some of the information that we received from the TEA was incomplete, as evidenced by columns that were left blank. Either the school district did not provide that information to the TEA, or the TEA failed to provide the information to us. Without case codes, investigation dates, and dispositions, it is impossible to develop a complete and thorough understanding of the severity of the problem. Case codes allow the public to identify what type of misconduct was committed. Thus, without providing case codes, there is no public transparency. Investigation dates detail when, or even if, an investigation took place. Finally, dispositions provide the public with closure on the TEA's procedural effectiveness on a given case, as they know whether a case has been adjudicated or not.

This incomplete data prevented the inclusion of data from all districts, a snapshot of which is provided below:³⁸

- Belton ISD (9 people) - No case codes, no investigation dates, and no dispositions were provided.

³⁵Texas Administrative Code. [Rule Sec. 249.17: Decision-Making Guidelines.](#)

³⁶Inconsistencies in TEA Charges: [Example: Prosper ISD.](#)

³⁷Texas Government Code. [Sec. 552.267: Waiver or Reduction of Charge for Providing Copy of Public Information.](#)

³⁸Texas Education Agency. Incomplete Data: [Belton ISD.](#) [Dallas ISD.](#) [Northwest ISD.](#) [Rockwall ISD.](#) [Arlington ISD.](#)

- Dallas ISD (411 people) - No case codes, no investigation dates, and no disposition were provided.
- Denton Northwest ISD (69 people) - No case codes were provided.
- Rockwall ISD (10 people) - No case codes or disposition were provided.
- Arlington ISD (114 people) - No case codes were provided.

III. *Failure to report:*

Furthermore, results from the TEA revealed that other districts did not have any reported allegations for the last three years, despite news stories about alleged offenses committed in those districts (e.g., Lovejoy ISD and Prosper ISD).³⁹ For example, in Lovejoy ISD, in response to a PIR, the TEA reported that the district had not utilized the Misconduct Reporting Portal, despite the publication of a news story about former educator, Ray Cooper, who was caught sending sexually suggestive text messages to a student. The story also revealed that assurances were given to parents by Lovejoy’s Superintendent, Katie Kordel, and the School Board President, Barrett Owens, that Cooper’s misconduct would be reported to all “requisite agencies.”⁴⁰

However, the public statements and media reporting are inconsistent with the reporting portal. Thus, our investigation reflects either that the statements or actual reporting to the portal is untrue.⁴¹ As previously stated, Cooper was never reported through the Misconduct Reporting Portal, his certificate was not permanently revoked as Texas Administrative Code §249.17 requires, and he was never put on the TEA’s Do Not Hire Registry.⁴²

According to Texas Education Code §22.093,⁴³ failure to report is a state jail felony. Yet, at the time of this report’s publication, Superintendent Kordel is still the sitting superintendent for Lovejoy ISD. It should also be noted that in the Prosper ISD case, Superintendent Holly Ferguson was similarly not held accountable; in fact, she received a one-year contract extension, a \$40,000 raise (from a salary of \$310,000 to \$350,000), and a “performance incentive” of \$40,000, up from her \$35,000 bonus in the year prior.⁴⁴

It is also worth noting that Prosper ISD has its own full-service, independent police agency. According to Texas Education Code §37.081, the police officers are required to report to the Chief of Police of the school district police department who then reports to the district's superintendent.⁴⁵ However, this reporting structure creates an inherent conflict of interest if the superintendent is implicated in a failure to report misconduct and is exposed to criminal liability. Under Texas Education Code §37.081 there is not an appropriate oversight

³⁹[Ray Cooper Profile: Story and Public Information Requests.](#)

⁴⁰Anderson, E. (2022). [Texas Teacher Allowed to Resign after Sending Sexually Suggestive Messages to Student.](#) *Texas Scorecard.*

⁴¹[Ray Cooper Profile: Story and Public Information Requests.](#)

⁴²Texas Administrative Code. [Sec. 249.17: Decision-Making Guidelines.](#)

⁴³Texas Education Code. [Sec. 22.093: Requirement to Report Employee Misconduct.](#)

⁴⁴Marfin, C. (2022). [Family sues Prosper ISD, says daughters were abused by bus driver more than 100 times.](#) *The Dallas Morning News*; [Original Ferguson Contract](#); [Ferguson Contract Extension.](#)

⁴⁵Texas Education Code. [Sec. 37.081: School District Peace Officers, School Resource Officers, and Security Personnel.](#)

mechanism for transparency and accountability with a singular internal school district police agency reporting to a superintendent, who often makes employment decisions on behalf of the district police agency.

IV: *Likelihood of underreporting:*

Additionally, there are instances in which comparably sized school districts feature disparities in the number of educators reported for misconduct. For example, Dallas ISD has 153,800 students, with 22,000 employees and just over 400 reports. Conversely, Houston ISD, with 194,600 students and 23,259 employees, only had 15 reported allegations. It is unlikely that these two districts, comparably sized, would feature such dramatic discrepancies in the number of instances reported.⁴⁶

V: *Potential Duplicate Misconduct Entries:*

In Dallas ISD, forty-two names are listed twice, with one named three times.⁴⁷ The date an incident is reported (represented as the “intake date” on the Spreadsheet) and/or the dates of investigation are, in some cases, are different by just days, weeks, or a few months. This makes it difficult to ascertain whether the accused was reported for the same misconduct multiple times or had separate accusations reported against them. Because of this, it is uncertain if this is a reporting error or if these individuals had more than one date of offense.

As noted above, the Dallas ISD results were not considered in this investigation since their data lacked case code, investigation dates, and disposition code.

★ Problems

Hiring

- Currently, there is no mandatory, comprehensive statewide hiring practice. Without checking the Do Not Hire Registry, clearinghouse, national background, and DPS, districts are not getting a clear picture of who they are hiring.
- The Do Not Hire Registry, the clearinghouse, DPS background check, state and national sex offender registry, and SBEC certification records are not linked. Texas Education Code §22.083 states that only the clearinghouse must be utilized before hire.⁴⁸
- National background check is only required when the certificate holder applies for a certificate. This means that certificate holders could potentially only get one national background check over their lifetime. Put alternatively, if a certificate holder commits a crime after being certified, it may never be discovered.

⁴⁶[Dallas ISD Reported Misconduct Spreadsheet](#); [Houston ISD Reported Misconduct Spreadsheet](#).

⁴⁷[Dallas ISD Reported Misconduct Spreadsheet](#).

⁴⁸Texas Education Code. [Sec: 22.083: Access to Criminal History Records of Employees by Local and Regional Education Authorities](#).

Investigations

- While Texas Education Code §21.0061 specifies the rights of the accused regarding notification of an investigation, parents' rights regarding notification are vague and largely left to the discretion of the district, as evidenced by the law's language stating that notification "will be provided as soon as feasible as soon as employing agency finds out misconduct has occurred."⁴⁹
- Once an incident is reported, there is no time requirement for the TEA to begin an investigation. After exhaustive review, no information could be located that requires the TEA to begin an investigation within a specified amount of time.
- When reviewing the SEXMIS or IRWSM cases in each school district whose disposition is "Pending," some cases still remain "pending" after two years. Texas Administrative Code §249.14 states that investigations can only be considered pending for no more than 240 calendar days. Some of the accused who may be innocent remain in limbo awaiting the investigation to be closed.⁵⁰
- Per Texas Education Code §37.081, the Chief of Police of the school district police department reports to the superintendent.⁵¹ Conflicts of interest, as well as potential nepotism, could arise in cases in which a superintendent, or a party deemed to be of interest to the superintendent, is implicated either in the alleged misconduct and/or in the failure to report the misconduct.

Accountability

- The document received when an educator voluntarily surrenders their certificate states, "To avoid the uncertainty and expense of litigation in this matter, Respondent agrees to the entry of this Permanent Voluntary Surrender surrendering [his/her] Texas Educator Certificate." It is unclear if "litigation" is of a criminal or civil nature. **Being absolved from criminal litigation allows for the possibility of educators to avoid criminal charges for child abuse.** Without criminal charges, a certificate holder can enter back into the classroom in other capacities, such as substitute teacher or paraprofessional positions, neither of which require a teaching certificate.⁵² Therefore, a person who had their certificate suspended or voluntarily suspended, including for sexual misconduct, is free to become a substitute/long-term substitute in any other district simply by saying they never had a certificate.
- The TEA's Commissioner's Rules on Reporting Requirements §61.1026(a) requires school districts to report to the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the number of school counselors, bus accidents, and educationally disadvantaged students, but

⁴⁹Texas Education Code. [Sec. 21.0061: Notice to Parent or Guardian About Educator Misconduct.](#)

⁵⁰Texas Administrative Code. [Sec. 249.14: Complaint, Required Reporting, and Investigation: Investigate Notice; Filing of Petition.](#)

⁵¹Texas Education Code. [Sec. 37.081: School District Peace Officers, School Resource Officers, and Security Personnel.](#)

⁵²Barton, J. (2022). [Hiring Great Substitute Teachers.](#) *Texas Association of School Boards.*

does not require the number of teachers or certificate holders accused of sexual misconduct (SEXMIS) or inappropriate relationships with students or minors (IRWSM) to be reported.⁵³

- Currently, Texas Education Code §22.0511 and §43.056 provide sovereign immunity to employees and independent school districts (ISDs), thereby making it difficult to hold them accountable for ultra vires acts such as failure to report perpetuated misconduct.⁵⁴
- Upon conclusion of an investigation, there is no oversight ensuring the accuracy of the “pending” status in SBEC. This could adversely impact the employability of certificate holders who have been exonerated. Innocent certificate holders could be prohibited from pursuing future employment opportunities until the 240-day maximum time period currently afforded to investigations expires.⁵⁵
- At the time of this report’s publication, no public resource has been released by the TEA recognizing or defining its case codes, such as SEXMIS and IRWSM. Without this resource, there is no way to establish which authority is consulted by the TEA in determining which crimes fall under “IRWSM” in their data presentation or which definition currently governs their classification. The closest legal parallel to “IRWSM” may be found in Texas Administrative Code Rule §247.2: Code of Ethics and Standard Practices for Texas Educators, in which Standard 3.6 (F) recognizes the engagement or solicitation in sexual conduct or a romantic relationship with a student or minor constitutes a breach in appropriate ethical conduct towards students.⁵⁶ Similarly, Standard 3.9 (I) of §247.2 states that, in the context of “inappropriate communication with a student or minor,” the inappropriateness of the communication may be assessed on the basis of “whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship.” This is separate from Texas Penal Code’s definition of “Improper Relationship between Educator and Student” in §21.12 that encompasses any engagement “in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works.”⁵⁷

Transparency

- According to Texas Administrative Code §249.14(n)(1), an investigative notice may remain on the certification records of a certificate holder for a period not to exceed 240 calendar days.⁵⁸ As a result, parents are not provided a reason why their child’s educator is under investigation.

⁵³Texas Education Agency Commissioner’s Rules on Reporting Requirements. [Sec. 61.1026. Statutorily Required Reporting through the Public Education Information Management System.](#)

⁵⁴Texas Education Code. [Sec. 22.0511: Immunity from Liability](#); Texas Education Code. [Sec. 43.056: Sovereign Immunity.](#)

⁵⁵Texas Administrative Code. [Sec. 249.14: Complaint, Required Reporting, and Investigation: Investigate Notice; Filing of Petition.](#)

⁵⁶[Rule Sec. 247.2: Code of Ethics and Standard Practices for Texas Educators.](#)

⁵⁷Texas Penal Code, Chapter 21: Sexual Offenses, [Sec. 21.12\(a\): Definitions.](#)

⁵⁸Texas Administrative Code. [Sec. 249.14: Complaint, Required Reporting, and Investigation: Investigate Notice; Filing of Petition](#)

- At this time, there is no published information regarding when and why the TEA has to start an investigation. The circumstance(s) warranting an investigation are not publicly disclosed.
- Similarly, neither is there a time frame for when an investigation must begin nor is anyone currently required to notify parents of a pending investigation of their child’s educator.
- At the current time, there is no insight provided into what an investigation entails, nor any understanding as to the criteria used to justify not taking any action.
- SBEC certificates do not include enough information for a district to develop a comprehensive view when looking at a certificate.
- Currently, the PEIMS report does not require information regarding SEXMIS and IRWSM.⁵⁹ While there is a list of requirements that the TEA Commissioner must monitor for each district, there is currently no mandate requiring a regular review regarding SEXMIS and IRWSM.
- There is no comprehensive “Do Not Hire” Registry list. The current registry requires that a name be entered to search the Do Not Hire Registry. Currently, there is a Do Not Hire list, but only the SBOE, TEA, school superintendent, and district human resources department have access to the list.

Data Accuracy

- Currently, there is no oversight to ensure that persons with a permanent revocation are placed on the Do Not Hire Registry.⁶⁰
- An educator’s disciplinary status is not always listed on the SBEC site. The disposition is issued upon an investigation’s closure, but the educator is not listed on SBEC’s site as ever having a certificate.⁶¹
- Reports from the TEA state that certificate holders are on the “Do Not Hire” registry when, in fact, they are not.⁶²
- The date of certificate revocation and the date when the certificate holder is placed on the “Do Not Hire” Registry do not match.⁶³

⁵⁹Texas Education Agency. [Public Education Information Management System \(PEIMS\)](#).

⁶⁰Brown files: [SBEC and Do Not Hire Registry Information](#).

⁶¹Holland Information: [Holland SBEC and Public Registry Search](#).

⁶²Huley Information: [Huley Public Registry Search](#).

⁶³Roldan Information: [Roldan Public Registry Search](#).

- Educators are allowed to voluntarily surrender their teaching certificates despite the law requiring that it must be permanently revoked in SEXMIS/IRWSM cases.⁶⁴
- Despite being on the “Do Not Hire” Registry, some educators still have valid certificates according to SBEC.⁶⁵
- An educator’s certificate can be pending on the “Do Not Hire” Registry while their certificate is valid according to SBEC. Information on SBEC and the “Do Not Hire” Registry do not always match regarding pending investigations.⁶⁶
- The “Do Not Hire” Registry does not allow or ask for a “middle name” to clarify the search, making it impossible to ensure identification accuracy (e.g., “John Smith”).
- The investigation end date (only obtainable per PIR), the “Do Not Hire” Registry, and SBEC Official Records of Educator Certificate are updated on different days. There is no mandatory timeframe between a final disposition and updating the “Do Not Hire” Registry.

★ Solutions

Districts

- Districts must perform a national background check on every applicant. A comprehensive, national background check for every new hire will capture any arrests or convictions committed after an educator has been certified. (See “[Problems: Hiring](#)”).
- School district police departments must be required to also report to city or county law enforcement officials rather than only the superintendent. (See “[Problems: Investigations](#)”).
- Because SEXMIS and IRWSM are considered “abuse” and employees of school districts are mandatory reporters, law enforcement beyond the school district police should be contacted for every case. (See: “[Problems: Investigations](#)”).

TEA

- The PEIMS report should include school district information regarding SEXMIS and IRWSM. This would offer insight into trends, patterns, and other salient data pertaining to gaining a deeper understanding into the subject of educator misconduct. (See “[Problems: Transparency](#)”).

⁶⁴Texas Administrative Code. [Sec. 249.17: Decision-Making Guidelines](#); Quezada Information: [Quezada SBEC Certification](#).

⁶⁵[Armstrong Final Decision and Order and SBEC Certification](#).

⁶⁶[Lewis SBEC and Public Registry Search](#).

- Parents deserve the same specificity regarding notice of investigation as the accused. For this reason, there should be a specific timeline noted in which parents must be notified and updated regarding investigation status. (See “[Problems: Investigations](#)”).
- Parents should be provided with a status update of all investigations into certificate holders who have access to their child. Therefore, the TEA should have no more than two weeks to begin an investigation and no more than 10 days to notify the parents. According to Texas Administrative Code §249.14 (l)-(m), a letter must be sent to a certificate holder that an investigative notice has been placed on their certificate within 10 days of that hold being placed. Parents should be afforded the same courtesy. (See “[Problems: Transparency](#)”).
- According to Texas Administrative Code §249.14(n)(1), an investigative notice may remain on the certification records of a certificate holder for a period not to exceed 240 calendar days. Parents should not have to wait up to 240 days without receiving an investigation status.⁶⁷ Instead, parents should receive regular updates (at least every two weeks) regarding the investigation of their child’s educator. (See “[Problems: Transparency](#)”).
- The TEA must provide specific insights on how an investigation is started and the circumstances precipitating the pursuit of the investigation altogether. This would entail sharing with the parents the detailed report sent by the district initiating the investigation. (See “[Problems: Transparency](#)”).
- Upon the conclusion of the investigation, some oversight over the “pending” status should exist to minimize the possibility of implicating educators who are found to be innocent. To avoid this, there should be a mandatory deadline between the closing of the investigation and the removal of the “pending” status for certificate holders. (See “[Problems: Accountability](#)”).
- While Texas Administrative Code §249.38 states that the State Office of Administrative Hearings (who maintains enforcement authority) may add time to the existing 240 days if there is a pending criminal or administrative investigation,⁶⁸ or if the matter is referred for a contested case, there is no published time requirements regarding how long the TEA has to begin an investigation. The only information related to time constraints that could be located was the 240 days provided from start to finish per Texas Administrative Code §249.14. Considering this, a mandated timeframe must be outlined in which an investigation must begin and when it must end. (See “[Problems: Investigations](#)”).
- School districts and educators who have voluntarily surrendered their certificate should not be able to avoid possible civil or criminal litigation. School districts and perpetrators are otherwise not held accountable for allowing perpetrators to leave without going through a full administrative process or

⁶⁷Texas Administrative Code. [Sec. 249.14: Complaint, Required Reporting, and Investigation: Investigate Notice; Filing of Petition.](#)

⁶⁸Texas Administrative Code. [Rule Sec. 249.38: Review and Presentation of Proposal to Board.](#)

referral to a law enforcement agency, where appropriate. This will allow educators implicated in sexual misconduct to potentially teach somewhere else and not be caught. (See “[Problems: Accountability](#)”).

- SBEC educator sanction history should include all sanctions, allegations leading to sanction, and dates from all school districts. Currently, all that is viewable on the certificate is their certificate status and vague sanction history, making it difficult for a hiring district to gain a full picture of the applicant. (See “[Problems: Transparency](#)”).
- The investigation end date (only obtainable per a PIR), the “Do Not Hire” Registry, and SBEC Official Records of Educator Certificate should be updated on the same day. There should be no time lag between sanction, disposition, and placement on the “Do Not Hire” Registry. Any time lag could result in a predator securing employment before being added to the registry. (See “[Problems: Data Accuracy](#)”).
- A pending investigation under the “Do Not Hire” Registry should also be reflected on a person’s SBEC certificate (if they have one).⁶⁹ A comprehensive database would solve this problem. (See: “[Problems: Data Accuracy](#)”).
- The “Do Not Hire” Registry must include the option for searching by middle name to ensure identification accuracy. (See “[Problem: Data Accuracy](#)”).
- A comprehensive “Do Not Hire” Registry list needs to be made available so the public can scan the list for a name, rather than having to know the name first. At a minimum, parents should be able to access the list via a PIR. (See “[Problems: Transparency](#)”).

Legislation

- Create a standard hiring process statewide for anyone working within a school district. This would apply to certificate holders, non-certificate holders, and volunteers.
- Create a comprehensive, statewide, centralized database to assist in the employee screening process for prospective educators. Providing access to this database would also be beneficial to anyone recruiting volunteers who work with children (camps, schools, hospitals, NGOs, etc.).

This comprehensive, statewide database should include the following:

- Prior arrests and dispositions;
- Sex Offender Registry;
- “Do Not Hire” Registry List;
- All prior allegations and dispositions with corresponding districts;
- Reason for prior sanctions; and

⁶⁹[Lewis SBEC and Public Registry Search.](#)

- Every known district of employment by date.
- Codify the definition of “inappropriate relationship with student or minor” and clarify whether it is distinct and/or tangential to “improper relationship between educator and student” as defined by Texas Penal Code 21.12.⁷⁰

★ Actions Taken During the 2023 Regular Session

Bills were filed in favor of parental rights that addressed these concerns.⁷¹ None of these bills made it to the floor.⁷²

- Ombudsman Bill – S.B. 2114
- Ombudsman Bill – H.B. 1924
- Justice for Janie’s – H.B. 4978
- Sex Offender Registration Requirements for Improper Relationship between Educator and Student – H.B. 964

★ Conclusion

Failure to report instances in which an employee abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship/sexual contact with a student or minor is a state-jail felony in Texas. Moreover, following an investigation, educators found to have engaged in misconduct that should result in permanent revocation have instead received lesser sanctions such as an inscribed reprimand or a suspension of their teaching certificate. These lesser sanctions could enable educators to apply for new teaching certificates in the future, and thus, allow for the possibility of sexual predators to make their way back into the classroom.

Under Texas law, permanent revocation would prohibit an educator from obtaining any teaching certificate in the future. Both SEXMIS and IRWSM are offenses that warrant permanent revocation; yet, as demonstrated in this report, failures to report this misconduct as well as existing weaknesses in the current reporting structure are precluding this from happening. Such weaknesses include deficiencies in the accuracy of data collection in addition to issues around the consistency in the compilation and reconciliation of the information from data reporting mechanisms. Inadequacies in requirements for school districts include the failure to mandate the

⁷⁰Texas Penal Code, Chapter 21: Sexual Offenses, [Sec. 21.12\(a\): Definitions](#).

⁷¹On June 12, 2023, Texas Ed 911 delivered packets to every senator at the capital, each containing a child's personal story carefully selected from the senator's district. These stories were personal testimony's that came from interviews conducted with 32 students and families who were directly affected by the issues highlighted in the report. Citizens Defending Freedom is calling on our elected officials to utilize this data to hold school officials accountable and ensure the protection of children in Texas schools.

⁷²Texas Legislature. [S.B. 2114](#). (2023). [H.B. 1924](#). (2023). [H.B. 4978](#). (2023). [H.B. 964](#). (2023).

centralization of relevant misconduct information for schools to utilize when hiring a new educator and the lack of state-wide vetting requirements for hiring educators.

In the absence of a mandatory, comprehensive statewide hiring practice, this report [has provided a myriad of solutions](#) with the goal of providing schools with a clearer picture of who they are hiring. Central to each solution proposed is the protection and well-being of Texas schoolchildren and the bolstering of parental rights in matters relating to notification of investigation into purported misconduct. At the time of this report's publication, there is no published information regarding when and why the TEA has to start an investigation. In other words, the circumstance(s) warranting an investigation are not publicly disclosed, thereby obfuscating access to information both vital and germane to Texas's interest in ensuring the safety of schoolchildren while promoting parental involvement in delivering on this imperative.

The proposition of the solutions herein has been undertaken with the aim of ensuring that educators implicated in misconduct are properly held accountable for their actions in order to adequately remediate existing abuses while mitigating any possibilities for the retention of prospective employment by these educators in other school districts so that similar miscarriages of injustices can ideally be avoided in the future.

Additional resources created with the intention of equipping and empowering parents, educators, and institutions alike can be found on the [Citizens Defending Freedom website](#). We also encourage any readers of this report to [contact your local CDF chapter](#) or complete an [online support request](#) should any matters related to educator misconduct arise.

About Citizens Defending Freedom

Citizens Defending Freedom USA Foundation, Inc. (CDF) is a nonprofit educational organization that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Its principal purpose is public advocacy.

Although Citizens Defending Freedom may occasionally receive designated contributions to support specific projects, it does not solicit or accept contributions designated to support or oppose candidates for public office.

CDF is an organization that provides the tools and support needed to empower citizens to defend their freedom and liberty, and place local government back into the hands of the people. We work to educate and engage citizens at the local level in order to ensure laws are followed and to uncover possible education-related misconduct with the goal of strengthening parental rights and student safety for future generations.

