

Item 8:**Adoption of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments; Subchapter F, Special Education-Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to adopt, subject to State Board of Education (SBOE) review, proposed amendments to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments, Division 12, Arts, Audio Video Technology, and Communications, Grades 9-12 Assignments, §231.333, Principles of Arts, Audio Video Technology, and Communications, Grades 9-12; Division 19, Information Technology, Grades 9-12 Assignments, §231.481, Information Technology, Grades 9-12; Subchapter F, Special Education-Related Services Personnel Assignments, §231.623, Special Education Counseling Services; Educational Diagnostician; Speech Therapy Services; and Vocational Adjustment Coordinator; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments, §231.643, Administrators and Other Instructional and Professional Support Personnel. The proposed amendments to 19 TAC §231.333 and 19 TAC §231.481 would be necessary as a result of House Bill (HB) 3573, 83rd Texas Legislature, Regular Session, 2013, which amended the Texas Education Code (TEC), §21.0486, to require that a person who holds a technology applications certification be authorized to teach principles of arts, audio video technology, and communications and principles of information technology. The proposed amendments to 19 TAC §231.623 and 19 TAC §231.643 would clarify that the no-longer-issued Vocational Counselor and Special Education certificates may be used for the assignments of Special Education Counseling Services and School Counselor. No changes are recommended since published as proposed.

In addition, this item presents proposed new 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments, §231.645, Professional Support Personnel Requiring Other Professional License. Proposed new 19 TAC §231.645 would clarify the requirements of the TEC, §21.003(b), regarding assignments that require a professional license rather than educator certification, including licensed professional counselor as a result of Senate Bill (SB) 715, 83rd Texas Legislature, Regular Session, 2013, and marriage and family therapist, with an exception, as a result of HB 1386, 82nd Texas Legislature, Regular Session, 2011. No changes are recommended since published as proposed.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 231, Subchapter E, is the TEC, §§21.031(a), 21.041(b)(1) and (2), and 21.0486. The statutory authority for 19 TAC Chapter 231, Subchapter F, is the TEC, §21.031(a) and §21.041(b)(1) and (2). The statutory authority for 19 TAC Chapter 231, Subchapter G, is the TEC, §§21.003(b), 21.031(a), and 21.041(b)(1) and (2), and the Texas Occupations Code (TOC), §401.054.

EFFECTIVE DATE: The proposed effective date of the proposed revisions to 19 TAC Chapter 231, Subchapters E-G, would be May 18, 2014 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is also based on the SBEC and SBOE meeting schedules.

PREVIOUS BOARD ACTION: Sections 231.333, 231.481, 231.623, and 231.643 were adopted effective August 15, 2013.

The SBEC approved the revisions to 19 TAC Chapter 231, Subchapters E-G, for filing as proposed at the October 2013 meeting.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: As a result of HB 3573, 83rd Texas Legislature, Regular Session, 2013, SBEC rules regarding personnel assignments in 19 TAC Chapter 231, Subchapter E, need to be amended to increase district flexibility when assigning educators to specific courses. The proposed amendments to 19 TAC §231.333, Principles of Arts, Audio Video Technology, and Communications, Grades 9-12, and 19 TAC §231.481, Information Technology, Grades 9-12, would allow the holder of a Technology Applications: Early Childhood-Grade 12, Technology Applications: Grades 7-12, or Technology Applications: Grades 8-12 certificate to teach those specific assignments in Grades 9-12. No changes are recommended since published as proposed.

The School Counselor certificate replaced three separate counseling certificates that are no longer issued by the SBEC: Counselor, Special Education Counselor, and Vocational Counselor. A person holding a Special Education Counselor or Vocational Counselor certificate had to have met all the requirements for the Counselor certificate, as well as satisfy additional training and coursework requirements for the specialized counseling covered by those certificates. The proposed amendments to 19 TAC §231.623, Special Education Counseling Services; Educational Diagnostician; Speech Therapy Services; and Vocational Adjustment Coordinator, and 19 TAC §231.643, Administrators and Other Instructional and Professional Support Personnel, would clarify that the holders of the no-longer-issued Special Education Counselor and Vocational Counselor certificates are qualified for Special Education Counseling Services and School Counselor assignments. No changes are recommended since published as proposed.

The TEC, §21.003(b), provides that a person may not be employed by a school district to perform services within specified professions unless the person holds the appropriate credential or license from the appropriate state agency for that profession. Proposed new 19 TAC §231.645, Professional Support Personnel Requiring Other Professional License, would establish professional support assignments that require a professional license rather than educator certification, including the licensed professional counselor assignment, as authorized by SB 715, 83rd Texas Legislature, Regular Session, 2013, which amended the TEC, §21.003(b). As a result of HB 1386, 82nd Texas Legislature, Regular Session, 2011, which also amended the TEC, §21.003(b), the proposed new rule would include an exception for the

marriage and family therapist assignment for an individual who was employed by a school district before September 1, 2011, and is still employed by the same district as a marriage and family therapist. In accordance with the TOC, §401.054, the proposed rule also provides an exception for speech therapy services performed under certain no-longer-issued certificates. No changes are recommended since published as proposed.

FISCAL IMPACT: The TEA staff has determined that there is no fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposed rule actions. In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

PUBLIC AND STUDENT BENEFIT: The public and student benefit anticipated as a result of the proposed revisions to 19 TAC Chapter 231, Subchapters E-G, would be to allow more flexibility for educators to demonstrate they are qualified to teach specific courses and to provide clarification of the qualifications for those assignments.

PROCEDURAL AND REPORTING IMPLICATIONS: The proposed rule actions would have no procedural and reporting implications.

LOCALLY MAINTAINED PAPERWORK REQUIREMENTS: The proposed rule actions would have no locally maintained paperwork requirements.

PUBLIC COMMENTS: Following the October 2013 SBEC meeting, the proposed revisions to 19 TAC Chapter 231, Subchapters E-G, were filed with the *Texas Register* initiating the official public comment period. Following is a summary of the public comment received at the time this item was prepared and corresponding agency response. Any additional comments received will be provided to the SBEC under separate cover prior to the February 2014 meeting.

Comment: An individual commented that counselors who work with special education students must have vocational experiences either as a career and technical education teacher or vocational counselor.

Agency Response: The agency disagrees that specific content requirements should be placed on qualifications for special education counselors. Special education counselors are required to address a range of needs with students beyond vocational education; skills that can be attained through a variety of certifications beyond vocational counseling.

ALTERNATIVES: None.

OTHER COMMENTS AND RELATED ISSUES: None.

ASSOCIATE COMMISSIONER'S RECOMMENDATION: I recommend that the State Board for Educator Certification:

Approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments; Subchapter F, Special Education-Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Respectfully submitted,

Michele Moore
Associate Commissioner
Educator Leadership and Quality

Staff Members Responsible: Mark Baxter, Senior Policy Director
Educator Leadership and Quality

Marilyn Cook, Interim Director
Educator Testing and Certification

Von Byer, Deputy General Counsel
Legal Services

Attachments:

- I. Statutory Citations
- II. Text of Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments; Subchapter F, Special Education-Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments

ATTACHMENT I**Statutory Citations Relating to Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments; Subchapter F, Special Education-Related Services Personnel Assignments; and Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments****Texas Education Code, §21.003, Certification Required, as amended by Senate Bill 715, 83rd Texas Legislature, Regular Session, 2013 (excerpt):**

- (b) Except as otherwise provided by this subsection, a person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.

Texas Education Code, §21.031, Purpose (excerpt):

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

Texas Education Code, §21.041, Rules; Fees (excerpt):

- (b) The board shall propose rules that:
- (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
 - (2) specify the classes of educator certificates to be issued, including emergency certificates;

Texas Education Code, §21.0486, Technology Applications Certification, as added by House Bill 3573, 83rd Texas Legislature, Regular Session, 2013:

A person who holds a technology applications certificate issued under this subchapter may, in addition to teaching technology applications courses as authorized under the certificate, teach courses in:

- (1) principles of arts, audio/video technology, and communications; and
- (2) principles of information technology.

Texas Occupations Code, §401.054, Persons Certified by Texas Education Agency:

- (a) This chapter does not prevent or restrict the activities and services or the use of an official title by a person who is certified in speech-language pathology by the Texas Education Agency if the person only performs speech-language pathology or audiology

-
- services as part of the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency.
- (b) The Texas Education Agency certificate in speech-language pathology must require an applicant to:
- (1) hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association; and
 - (2) pass a national examination in speech-language pathology or audiology approved by the board.
- (c) A person affected by this section who performs work as a speech-language pathologist or audiologist in addition to performing the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency is required to hold a license issued by the board unless that work is limited to speech and hearing screening procedures performed without compensation.
- (d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in communicative disorders if the credentials:
- (1) consist of graduate-level course work and practicum from a program accredited by the American Speech-Language-Hearing Association; and
 - (2) meet requirements that are the same as those established by the board for a license in speech-language pathology or audiology.
- (e) The clinical fellowship year experience or internship may not be a requirement for the Texas Education Agency certificate in speech-language pathology.

ATTACHMENT II
Text of Proposed Revisions to 19 TAC**Chapter 231. Requirements for Public School Personnel Assignments****Subchapter E. Grades 9-12 Assignments****Division 12. Arts, Audio Video Technology, and Communications, Grades 9-12 Assignments****§231.333. Principles of Arts, Audio Video Technology, and Communications, Grades 9-12.**

An assignment for Principles of Arts, Audio Video Technology, and Communications, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 7-12.
- (8) Technology Applications: Grades 8-12.
- (9) ~~(6)~~ Technology Education: Grades 6-12.
- (10) ~~(7)~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (11) ~~(8)~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (12) ~~(9)~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

Division 19. Information Technology, Grades 9-12 Assignments**§231.481. Information Technology, Grades 9-12.**

An assignment for Principles of Information Technology, Research in Information Technology Solutions, or Telecommunications and Networking, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 7-12.
- (8) Technology Applications: Grades 8-12.
- (9) ~~(6)~~ Technology Education: Grades 6-12.

- (10) ~~(7)~~ Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (11) ~~(8)~~ Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (12) ~~(9)~~ Vocational Trades and Industry. This assignment requires appropriate work approval.

Subchapter F. Special Education-Related Services Personnel Assignments

§231.623. Special Education Counseling Services; Educational Diagnostician; Speech Therapy Services; and Vocational Adjustment Coordinator.

- (a) Special Education Counseling Services.
- (1) An assignment for Special Education Counseling Services is allowed with one of the following certificates.
- (A) Counselor.
- (B) School Counselor (Early Childhood-Grade 12).
- (C) Special Education Counselor.
- (D) Special Education Visiting Teacher.
- (E) Vocational Counselor.
- (2) Individuals certified or licensed to practice in other professions may be eligible to provide counseling services for students with disabilities under the scope of practice of the specific license held.
- (b)-(d) (No change.)

Subchapter G. Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments

§231.643. Administrators and Other Instructional and Professional Support Personnel.

- (a) (No change.)
- (b) School Counselor. An assignment for School Counselor is allowed with one of the following certificates.
- (1) Counselor.
- (2) School Counselor (Early Childhood-Grade 12).
- (3) Special Education Counselor.
- (4) Vocational Counselor.
- (c)-(d) (No change.)

§231.645. Professional Support Personnel Requiring Other Professional License.

A person may not be employed by a school district to perform services within the following professions unless the person holds the appropriate credential or license from the appropriate state agency for that profession. Educator certification is not required for a school district assignment to provide services that are within the scope of that profession.

- (1) Associate School Psychologist.
- (2) Audiologist.
- (3) Licensed Professional Counselor.

- (4) Marriage and Family Therapist. As long as a person was employed by a school district before September 1, 2011, to perform marriage and family therapy, as defined by the Texas Occupations Code (TOC), §502.002, and remains employed by the same school district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that school district.
- (5) Nurse.
- (6) Occupational Therapist.
- (7) Physical Therapist.
- (8) Physician.
- (9) School Psychologist.
- (10) Social Worker.
- (11) Speech Language Pathologist. An assignment to provide Speech Therapy Services is allowed with a certificate authorized by the TOC, §401.054.