

**Item 21:****Adoption of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes****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, a proposed amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment to 19 TAC §250.20 would clarify references to the Texas Education Agency (TEA) and update the petition form to reflect the name of the office to which the form should be mailed. No changes are recommended since published as proposed.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC §250.20 is the Texas Education Code (TEC), §21.035 and §21.041(b)(1), and the Texas Government Code, §2001.021.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendment to 19 TAC §250.20 would be October 26, 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:** The SBEC adopted 19 TAC §250.20 effective August 19, 2010. The SBEC approved an amendment to 19 TAC §250.20 for filing as proposed at the May 2014 meeting.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** Section 250.20, Petition for Adoption of Rules or Rule Changes, provides the process for petitioning the SBEC for the adoption, amendment, or repeal of an SBEC rule in the Texas Administrative Code. The Texas Government Code, §2001.021, requires that a state agency by rule prescribe the form for a petition and the procedures for its submission, consideration, and disposition.

The proposed amendment to 19 TAC §250.20, shown in Attachment II, would update the rule to clarify the TEA as TEA staff. In addition, Figure: 19 TAC §250.20(a) would be updated to reflect the name of the office to which the form should be mailed. 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 amendment. 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 amendment to 19 TAC §250.20 would be a concise procedure to petition for adoption of SBEC rules or rule changes.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendment would have no additional procedural or reporting implications.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendment would have no locally maintained paperwork requirements.

**PUBLIC COMMENTS:** Following the May 2014 SBEC meeting, the proposed amendment to 19 TAC §250.20 was filed with the Texas Register, initiating the official public comment period. At the time this item was prepared, no comments had been received. Any public comments received will be provided to the SBEC under separate cover prior to the August 2014 meeting.

**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 amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Respectfully submitted,

Ryan Franklin  
Interim Associate Commissioner  
Educator Leadership and Quality

**Staff Member Responsible:** Von Byer, Deputy General Counsel  
Legal Services

**Attachments:** I. Statutory Citations  
II. Text of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes

**ATTACHMENT I****Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes****Texas Education Code, §21.035, Administration by Agency:**

The Texas Education Agency shall provide the board's administrative functions and services.

**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;

**Texas Government Code, §2001.021, Petition for Adoption of Rules:**

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
  - (1) deny the petition in writing, stating its reasons for the denial; or
  - (2) initiate a rulemaking proceeding under this subchapter.

**ATTACHMENT I**  
**Text of Proposed Amendment to 19 TAC**

**Chapter 250. Administration**

**Subchapter B. Rulemaking Procedures**

**§250.20. Petition for Adoption of Rules or Rule Changes.**

- (a) Any interested person may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §250.20(a) [~~Figure: 19 TAC §250.20(a)~~]

- (b) In accordance with the Texas Government Code, §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.
- (1) Where possible, the recommendation concerning the petition shall be placed on the SBEC agenda, and the SBEC shall act on the petition within the 60-calendar-day time limit.
- (2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.
- (c) The SBEC will review the petition and the recommendation and will either direct the TEA staff to begin the rulemaking process or deny the petition, giving reasons for the denial. The TEA staff will notify the petitioner of the SBEC's action related to the petition.
- (d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:
- (1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;
- (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;
- (3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding; or
- (4) the petitioner is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing a petition:
- (A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or
- (B) to amend a rule proposed or adopted by the SBEC that has not yet become effective.
- (e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.

Figure: 19 TAC §250.20(a)

**STATE BOARD FOR EDUCATOR CERTIFICATION**  
**Petition for Adoption of a Rule**

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

Office of Educator Leadership and Quality [~~Office of Educator Certification and Standards~~]  
Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494

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Name:

Affiliation/Organization (if applicable):

Address:

Telephone:

Date:

Proposed rule text (indicate words to be added or deleted from the current text):

Statutory authority for the proposed rule action:

Why is this rule action necessary or desirable?

(If more space is required, attach additional sheets.)

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Petitioner's Signature