

Item 7:

Consider and Take Appropriate Action on Adoption of Review of 19 TAC Chapter 245, Certification of Educators from Other Countries

DISCUSSION AND ACTION

SUMMARY: Texas Government Code, §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board for Educator Certification (SBEC) rules. The SBEC last adopted the review of 19 TAC Chapter 245, Certification of Educators from Other Countries, in August 2013. This item presents for SBEC approval the adoption of the review of Chapter 245. The rules being reviewed provide requirements relating to the certification of Texas educators from other countries.

STATUTORY AUTHORITY: Statutory authority for the rule review is Texas Government Code, §2001.039. The statutory authority for 19 TAC Chapter 245 is the Texas Education Code (TEC), §§21.041(b)(1), (4), and (5); 21.048(a); 21.050; 21.052(a)-(e) and (g); and 22.0831(f).

PREVIOUS BOARD ACTION: The SBEC last adopted the review of 19 TAC Chapter 245 in August 2013, finding that the reasons for initially adopting the rules continue to exist.

At the March 2017 meeting, the SBEC voted to publish the proposed rule review of 19 TAC Chapter 245, Certification of Educators from Other Countries, in the *Texas Register*.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: The SBEC rules in 19 TAC Chapter 245, Certification of Educators from Other Countries, establish requirements for issuance of Texas certification to educators from other countries.

The rules currently in effect in 19 TAC Chapter 245 are shown in Attachment II.

It is anticipated that Texas Education Agency (TEA) staff will present proposed changes to 19 TAC Chapter 245 for discussion and action at a future meeting to clarify the rules and incorporate current SBEC policy and procedures. The TEA staff will be collecting stakeholder feedback prior to presenting proposed rule changes to the SBEC.

RULE REVIEW: The notice of proposed review of 19 TAC Chapter 245, Certification of Educators from Other Countries, was filed with the *Texas Register* following the March 2017 SBEC meeting. If authorized by the SBEC, the notice of adopted review will be filed with the *Texas Register* following the June 2017 meeting. The notice of adopted review will state that the SBEC finds that the reasons for adopting 19 TAC Chapter 245 continue to exist. Any comments received during the review of 19 TAC Chapter 245 will also be addressed.

The filing of the notice of adopted review stating that the reasons for adoption continue to exist would not preclude any amendments that may be proposed at the same time or at different times through a separate rulemaking process.

PUBLIC AND STUDENT BENEFIT: The review of 19 TAC Chapter 245 will result in clearly defined rules and requirements for individuals to obtain Texas certification based on already being certified to teach in other countries.

PUBLIC COMMENTS: The public comment period on the proposed rule review began March 31, 2017 and ended May 1, 2017. The SBEC will take registered oral and written comments on this item at the June 9, 2017 meeting in accordance with the SBEC board operating policies and procedures. Following is a summary of the public comments received and corresponding Board responses for Board consideration.

Comment: Eight individuals commented on the current requirement for individuals to pass only the Speaking section of the TOEFL-iBT to demonstrate English language proficiency. Five commenters recommended lowering the required score of 26 for Speaking and taking into account the other test sections to give a better perception of the overall English ability of each individual. One commenter recommended an overall score of 96 on the TOEFL-iBT, and one commenter recommended an overall score of 100 on the TOEFL-iBT and CAE or IELTS and a bachelor's or master's degree in English philosophy or English translation and interpretation. One commenter recommended lowering Speaking from 26 to 22, averaging the scores of all sections of TOEFL-iBT, and permitting an average score of 20 for all sections to qualify for the Visiting International Teacher (VIT) certificate.

Board Response: The SBEC acknowledges the commenters' recommendations regarding the current requirements of the TOEFL-iBT to demonstrate English language proficiency. The TEA staff will review the commenters' recommendations at a later time to develop proposed rule changes for review by the SBEC. The SBEC adopts the review of 19 TAC Chapter 245.

Comment: Forty-five individuals utilized a template letter to provide comments on the VIT certificate program with three specific requests to 1) extend VISAs of participating candidates; 2) extend the current three-year VIT certification by two additional years to become a five-year VIT certificate; and 3) allow VIT candidates to meet certification requirements for out-of-country candidates (including passing the TOEFL-iBT) at the end of the VIT certificate validity period to avoid a drastic shortage of teachers.

Board Response: Currently the rules for the VIT certificate are addressed in 19 TAC Chapter 230, Professional Educator Certification and Preparation, thus rendering the comments on the VIT certificate outside the scope of the purposes of the four-year rule review of Chapter 245. However, the Board recognizes that many VIT candidates transfer into the out-of-country certification process to become eligible for issuance of the standard certificate. The TEA staff will review the commenters' recommendations at a later time to develop proposed rule changes for review by the SBEC.

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

Adopt the review of 19 TAC Chapter 245, Certification of Educators from Other Countries.

Staff Member Responsible: Marilyn Cook, Director
Educator Certification and Testing

Attachments: I. Statutory Citations
II. Text of 19 TAC Chapter 245, Certification of Educators from Other Countries

ATTACHMENT I**Statutory Citations Relating to Review of 19 TAC Chapter 245,
Certification of Educators from Other Countries****Rule Review****Texas Government Code, §2001.039, Agency Review of Existing Rules:**

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

19 TAC Chapter 245, Certification of Educators from Other Countries**Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (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;
 - (4) specify the requirements for the issuance and renewal of an educator certificate;
 - (5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

Texas Education Code, §21.048, Certification Examinations (excerpt):

- (a) The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination.

Texas Education Code, §21.050, Academic Degree Required for Teaching Certificate; Internship:

- (a) A person who applies for a teaching certificate for which board rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28.
- (b) The board may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The board shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The board may propose rules requiring additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education.
- (c) A person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under Section 54.363 may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate.

Texas Education Code, §21.052, Certification of Educators From Outside the State (excerpts):

- (a) The board may issue a certificate to an educator who applies for a certificate and:
 - (1) holds:
 - (A) a degree issued by an institution accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; or
 - (B) a degree issued by an institution located in a foreign country, if the degree is equivalent to a degree described by Paragraph (A);
 - (2) holds an appropriate certificate or other credential issued by another state or country; and
 - (3) performs satisfactorily on:
 - (A) the examination prescribed under Section 21.048; or
 - (B) if the educator holds a certificate or other credential issued by another state or country, an examination similar to and at least as rigorous as that described by Paragraph (A) administered to the educator under the authority of that state.
- (b) For purposes of Subsection (a)(2), a person is considered to hold a certificate or other credential if the credential is not valid solely because it has expired.
- (c) The board may issue a temporary certificate under this section to an educator who holds a degree required by Subsection (a)(1) and a certificate or other credential required by Subsection (a)(2) but who has not satisfied the requirements prescribed by Subsection (a)(3). Subject to Subsection (d), the board may specify the term of a temporary certificate issued under this subsection.
- (d) A temporary certificate issued under Subsection (c) to an educator employed by a school district that has constructed or expanded at least one instructional facility as a result of increased student enrollment due to actions taken under the Defense Base

Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) may not expire before the first anniversary of the date on which the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform successfully to receive a standard certificate.

- (e) An educator who has submitted all documents required by the board for certification and who receives a certificate as provided by Subsection (a) must perform satisfactorily on the examination prescribed under Section 21.048 not later than the first anniversary of the date the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform successfully to receive a standard certificate.
- (g) The commissioner shall provide guidance to school districts that employ an educator certified as provided by Subsection (a) on procedures to classify the educator as a highly qualified teacher in a manner consistent with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).

Texas Education Code, §22.0831, National Criminal History Record Information Review of Certified Educators (excerpt):

- (f) The board may propose rules to implement this section, including rules establishing:
 - (1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and
 - (2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.

ATTACHMENT II
Text of 19 TAC

Chapter 245. Certification of Educators from Other Countries

Statutory Authority: The provisions of this Chapter 245 issued under the Texas Education Code, §§21.041(b)(1), (4), and (5); 21.048(a); 21.050; 21.052(a)-(e) and (g); and 22.0831(f).

§245.1. General Provisions.

- (a) A Texas educator certificate may be issued to an individual who holds a college degree and an appropriate certificate or other credential issued by the authorized licensing agency in another country and who meets appropriate requirements specified in §230.413 of this title (relating to General Requirements) and in this chapter.
- (b) The degree held by an applicant from another country must be, at a minimum, equivalent to a baccalaureate degree issued by an institution of higher education in the United States accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board.
- (c) The certificate(s) or other credential(s) issued by the authorized licensing agency in another country may not be a temporary permit, a credential issued by a city or school district, or a certificate for which academic or other program deficiencies are indicated. Specific examination or renewal requirements shall not be considered academic or program deficiencies.
- (d) A statement, approval letter, or certification entitlement card issued by the authorized licensing agency in another country specifying eligibility for full certification upon employment or completion of specified examination requirements shall have the same standing as a certificate.
- (e) The certificate(s) or other credential(s) and areas of certification issued by the authorized licensing agency in another country must be equivalent to a certificate and certification areas issued by the State Board for Educator Certification (SBEC). The Texas Education Agency (TEA) staff shall identify the certification areas for which the applicant qualifies in Texas. The certificate, including all certification areas for which the applicant qualifies, may be issued by the TEA staff under the authority of the SBEC.

Source: The provisions of this §245.1 adopted to be effective February 3, 2000, 25 TexReg 572; amended to be effective June 9, 2002, 27 TexReg 4701; amended to be effective June 23, 2010, 35 TexReg 5195.

§245.5. Requirements for Issuance of a Texas Certificate Based on Certification from Another Country.

- (a) The appropriate standard certificate issued under Chapter 232, Subchapter A, of this title (relating to Types and Classes of Certificates Issued), may be issued to an applicant holding a certificate or other credential and college degree as specified in §245.1 of this title (relating to General Provisions). The applicant must:
 - (1) pass the appropriate examination(s) prescribed in the Texas Education Code (TEC), §21.048(a), and §230.5 of this title (relating to Educator Assessment); or
 - (2) achieve an acceptable score on an examination(s) similar to and at least as rigorous as the requirements prescribed in the TEC, §21.048(a), and §230.5 of this title that was administered under the authority of another country. The applicant shall verify in a manner determined by the Texas Education Agency staff the level of performance on acceptable examinations administered under the authority of another country.
- (b) If all certification requirements are met, except successful completion of the appropriate certification examination(s), the applicant may request issuance of a one-year certificate in one or more of the certification areas authorized by the certificate(s) or other credential(s) from another country. An applicant who holds only a credential that is equivalent to a student services, principal, or superintendent certificate issued in accordance with Chapter 239 of this title (relating to Student Services Certificates), with the exception of Subchapter E (relating to Master Teacher Certificate); Chapter 241 of this title (relating to Principal Certificate); or Chapter 242 of this title (relating to Superintendent Certificate) may be issued the equivalent Texas certificate. The applicant must verify two creditable years of public or private school experience, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on

Creditable Years of Service) and the TEC, §5.001(2), in the specific student services or administrative area sought.

- (c) An applicant issued a one-year certificate under §232.1 of this title (relating to Types of Certificates) and this chapter who does not satisfy the appropriate examination requirements to establish eligibility for a standard certificate during the validity of the one-year certificate is not eligible for any type of certificate or permit authorizing employment for the same certification level or area until he or she has satisfied the examination requirements. If, due to extenuating circumstances, examination requirements are not met during the validity period of the one-year certificate, the educator may request an extension of the one-year certificate, not to exceed one calendar year in length.
- (d) An applicant issued a one-year certificate under subsection (c) of this section who, during or subsequent to the validity of the one-year certificate, satisfies the appropriate examination requirements and establishes eligibility for a standard certificate may apply for:
 - (1) a new one-year certificate in another certification area based on a certificate or other credential issued by a another country; or
 - (2) a second one-year certificate in an area previously authorized on a one-year certificate, provided the applicant was not assigned to the area and has not attempted the appropriate examination requirements for that area.

Source: The provisions of this §245.5 adopted to be effective February 3, 2000, 25 TexReg 572; amended to be effective June 9, 2002, 27 TexReg 4701; amended to be effective June 23, 2010, 35 TexReg 5195.

§245.10. Application Procedures.

- (a) An individual who has been issued an appropriate certificate or other credential by the authorized licensing agency in another country as specified in §245.1 of this title (relating to General Provisions) may apply for a review of credentials by submitting the following items to the Texas Education Agency (TEA) staff:
 - (1) a completed application;
 - (2) the original detailed report or course-by-course evaluation for professional licensing of all college-level credits prepared by a foreign credential evaluation service recognized by the TEA staff. The evaluation must verify that the individual:
 - (A) holds, at a minimum, the equivalent of a baccalaureate degree issued by an accredited institution of higher education in the United States as specified in §245.1(b) of this title, including the date that the degree was conferred; and
 - (B) has completed an educator preparation program, including a teaching practicum;
 - (3) an original written statement, provided by the authorized licensing agency in the issuing country, that the educator certificate(s) or other credential(s) specified in §245.1 of this title is currently in good standing and has not been revoked, suspended, or sanctioned for misconduct and is not pending disciplinary or adverse action. The statement must be written in the English language or must be accompanied by a translation in the English language from a foreign credential evaluation service recognized by the TEA staff or an accredited translation service;
 - (4) official transcripts of any additional college credits earned in the United States; and
 - (5) a nonrefundable review fee as specified in Chapter 230, Subchapter N, of this title (relating to Certificate Issuance Procedures).
- (b) Pursuant to §245.5(b) of this title (relating to Requirements for Issuance of a Texas Certificate Based on Certification from Another Country) an applicant may apply for a one-year certificate by submitting the following items to the TEA staff:
 - (1) a completed application; and
 - (2) the appropriate fee as specified in Chapter 230, Subchapter N, of this title.

- (c) Pursuant to §245.5(a) of the title, an applicant may apply for a standard certificate by submitting the following items to the TEA staff:
- (1) a completed application; and
 - (2) the appropriate fee as specified in Chapter 230, Subchapter N, of this title.

Source: The provisions of this §245.10 adopted to be effective February 3, 2000, 25 TexReg 572; amended to be effective June 9, 2002, 27 TexReg 4701; amended to be effective June 23, 2010, 35 TexReg 5195.

§245.15. Evaluation of College Credentials.

- (a) A request to evaluate an applicant's credentials for areas of certification that are not identified on the certificate(s) or other credential(s) issued in accordance with §245.1 of this title (relating to General Provisions) must be directed to a State Board for Educator Certification (SBEC)-approved educator preparation program for admission to and recommendation by the program for certification.
- (b) An individual who does not hold a certificate or other credential issued in accordance with §245.1 of this title must seek admission to an SBEC-approved educator preparation program and be recommended by the program for certification.

Source: The provisions of this §245.15 adopted to be effective February 3, 2000, 25 TexReg 572; amended to be effective June 23, 2010, 35 TexReg 5195.