

**Item 8:****Consider and Take Appropriate Action on Adoption of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.9, Inactive Status and Late Renewal****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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.9, Inactive Status and Late Renewal, which would clarify procedures used by the automated system to process late applications submitted for standard certificate renewal. No changes are recommended since published as proposed.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 232, Subchapter A, is the Texas Education Code (TEC), §§21.003(a), 21.0031(f), 21.031, 21.041(b)(1)-(4) and (9), and 21.054.

TEC, §21.003(a), states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B.

TEC, §21.0031(f), clarifies and places certain limits on provisions authorizing termination of an educator's contract for failure to maintain a valid certificate.

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

TEC, §21.041(b)(1), requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

TEC, §21.041(b)(2), requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

TEC, §21.041(b)(3), requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid.

TEC, §21.041(b)(4), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(b)(9), requires the SBEC to propose rules that provide for continuing education requirements.

TEC, §21.054, requires the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendment to 19 TAC §232.9 would be October 19, 2017 (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 §232.9 effective August 12, 2012, and amended §232.9 effective August 28, 2016. At the March 3, 2017 SBEC meeting, the SBEC approved the amendment to 19 TAC §232.9 for publication in the *Texas Register* as a proposed rule.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Current 19 TAC Chapter 232, General Certification Provisions, establishes the renewal requirements relating to types and classes of certificates issued, continuing professional education (CPE) hours to be completed, and the national criminal history record information review.

The proposed amendment to 19 TAC §232.9, shown in Attachment II, would clarify procedures the automated system currently uses to renew an educator's certificate(s) when the educator files a late renewal application.

Texas standard certificates have effective (start) dates and expiration (end) dates. The timeframe between the start and end dates of a standard certificate is considered the validity period for that certificate cycle. During that time, individuals should be accruing the required CPE hours for certificate renewal (i.e., 150 hours total for classroom teacher certificates and 200 hours total for certificates other than classroom teacher). Individuals are allowed to submit on-time applications for certificate renewal as early as six months prior and up to the certificate expiration date. Standard certificates not renewed by their expiration date immediately move from "valid" to "inactive" status. Standard certificates remain inactive until they are renewed. Once the renewal has been processed, based on submission of the online application and required fees, confirmation of CPE hours, and a clear background check, the next validity period is posted to the educator's online record of certification.

The renewal of Texas standard certificates is an online, automated application process that requires each educator to respond to a series of affidavit questions, pay the required application fee, complete the fingerprinting process, and provide TEA with the date that all CPE hours for renewal were completed. A renewal application for either certificate class is considered to be on-time if it is submitted before or by the expiration date of the certificate. An online application for certificate renewal is considered complete when all questions have been answered, including the date that the required CPE hours were completed, when the required renewal fee has been paid, and when the fingerprint status for an educator shows as "Complete." Once an educator has completed the fingerprinting process for certificate issuance purposes, he or she is not required to repeat that process for future certificate applications.

An individual who submits an online renewal application within the first six months after the certificate expiration date is required to pay a late fee in addition to the renewal fee. The proposed amendment is intended to make it clearer to the public that if all CPE hours were completed before or by the certificate expiration date, once the late renewal application has been processed, the face of the certificate does not show a break in certification validity periods for the certificates being renewed (i.e., the beginning of the next certificate renewal period is dated to begin immediately after the last certificate expiration date).

An individual who submits a renewal application more than six months after the certificate expiration date is required to pay the late fee, a reactivation fee, and the renewal fee. The proposed amendment is intended to clarify that if all CPE hours have been completed, once the late renewal application has been processed, the certification will have a new effective date and will show a break in validity from the prior expiration date to the new effective date. The next certificate renewal period will be the date the educator enters as the completion of CPE requirements, provided it is not more than 60 days prior to the date of the application.

Between September 1, 2012, through December 31, 2016, approximately 80% of the total applications submitted (181,401) were processed as on-time certificate renewals; approximately 15% of the total applications submitted (28,160) were processed as late renewals within the first six months after the expiration of the certificate validity period; and approximately 5% of the total applications submitted (12,893) were processed as late renewals more than six months after the expiration of the certificate validity period.

#### §232.9. Inactive Status and Late Renewal

Language in 19 TAC §232.9(b) would be amended to clarify that the automated processing of late renewal applications submitted within six months of the certificate expiration date makes an educator's next certificate renewal begin date the same as the expiration date of the last certificate, as long as the educator has submitted a complete online application, paid renewal fee(s), completed the fingerprinting process, and confirmed that he or she has completed the required CPE hours for certificate renewal prior to the expiration date. Language would also be added to clarify the automated processing of late renewal applications and the effective date for the next certificate renewal period for educators submitting online renewal applications more than six months after the certificate expiration date. The new language would confirm that upon receipt of a complete online application, renewal fee(s), fingerprinting, and confirmation that an educator has completed the required CPE hours for certificate renewal, the automated processing will issue an effective date for the next renewal period.

No changes are recommended since published as proposed.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposed rule action. 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. There is no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit would be clarified certificate renewal requirements relating to the types and classes of certificates issued and a

safer school environment through national criminal history record information review of active certificate holders.

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

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

**PUBLIC COMMENTS:** The public comment period on the proposal 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:** An individual commented that fees being imposed for certificate renewal are extensive, may create an undue hardship to some beginning teachers or teachers on a tight budget, and create another obstacle for a teacher that may have left the field (after 3-5 years) and is considering returning.

**Board Response:** The SBEC disagrees. Certification renewal fees for standard certificates are authorized by the TEC, §21.041(c). The proposed amendment to 19 TAC §232.9 does not add any new costs to educators. The SBEC maintains language as published as proposed.

**Comment:** An individual stated that the proposed amendment is incompatible with other sections of the rule and allows SBEC to protect professional educators who are derelict in their responsibility to timely renew their certificate in order to maintain their eligibility for employment as a professional educator in a public school district.

**Board Response:** The SBEC disagrees and maintains that the procedures the SBEC follows in processing late renewal applications do not violate any of its own rules. TEC, §21.003, gives guidelines to school districts regarding who they can hire as teachers and the voidability of teacher contracts in the event an educator allows his or her certification to lapse. The statute does not dictate the manner in which SBEC renews applications or how SBEC determines the effective date of a late renewal application. The SBEC's rules regarding renewal and effective dates for late renewal applications do not impact a school district's ability to void an educator's contract in accordance with the TEC, §21.003, while an educator's certificate is inactive due to the educator's failure to renew timely. The SBEC maintains language as published as proposed.

**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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.9, Inactive Status and Late Renewal, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Members Responsible:** Marilyn Cook, Director  
Educator Certification and Testing

Tim Miller, Director  
Educator Preparation

**Attachments:** I. Statutory Citations  
II. Text of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.9, Inactive Status and Late Renewal

**ATTACHMENT I****Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.9, Inactive Status and Late Renewal****Texas Education Code, §21.003, Certification Required (excerpt):**

- (a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

**Texas Education Code, §21.0031, Failure to Obtain Certification; Contract Void (excerpt):**

- (f) For purposes of this section, a certificate or permit is not considered to have expired if:
- (1) the employee has completed the requirements for renewal of the certificate or permit;
  - (2) the employee submitted the request for renewal prior to the expiration date; and
  - (3) the date the certificate or permit would have expired is before the date the State Board for Educator Certification takes action to approve the renewal of the certificate or permit.

**Texas Education Code, §21.031, Purpose:**

- (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.
- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

**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;
  - (2) specify the classes of educator certificates to be issued, including emergency certificates;
  - (3) specify the period for which each class of educator certificate is valid;
  - (4) specify the requirements for the issuance and renewal of an educator certificate;
  - (9) provide for continuing education requirements; and

**Texas Education Code, §21.054, Continuing Education:**

- (a) The board shall propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.
- (b) Continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia.
- (c) The training required under Subsection (b) may be offered in an online course.
- (d) Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:
  - (1) collecting and analyzing information that will improve effectiveness in the classroom;
  - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
  - (3) integrating technology into classroom instruction; and
  - (4) educating diverse student populations, including:
    - (A) students with disabilities, including mental health disorders;
    - (B) students who are educationally disadvantaged;
    - (C) students of limited English proficiency; and
    - (D) students at risk of dropping out of school.
- (e) Continuing education requirements for a principal must provide that not more than 25 percent of the training required every five years include instruction regarding:
  - (1) effective and efficient management, including:
    - (A) collecting and analyzing information;
    - (B) making decisions and managing time; and
    - (C) supervising student discipline and managing behavior;
  - (2) recognizing early warning indicators that a student may be at risk of dropping out of school;
  - (3) integrating technology into campus curriculum and instruction; and
  - (4) educating diverse student populations, including:
    - (A) students with disabilities, including mental health disorders;
    - (B) students who are educationally disadvantaged;
    - (C) students of limited English proficiency; and
    - (D) students at risk of dropping out of school.
- (f) Continuing education requirements for a counselor must provide that not more than 25 percent of training required every five years include instruction regarding:
  - (1) assisting students in developing high school graduation plans;
  - (2) implementing dropout prevention strategies; and

- (3) informing students concerning:
  - (A) college admissions, including college financial aid resources and application procedures; and
  - (B) career opportunities.
- (g) The board shall adopt rules that allow an educator to fulfill up to 12 hours of continuing education by participating in a mental health first aid training program offered by a local mental health authority under Section 1001.203, Health and Safety Code. The number of hours of continuing education an educator may fulfill under this subsection may not exceed the number of hours the educator actually spends participating in a mental health first aid training program.

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

**Chapter 232. General Certification Provisions**

**Subchapter A. Certificate Renewal and Continuing Professional Education Requirements**

**§232.9. Inactive Status and Late Renewal.**

- (a) The certificate(s) of an educator holding a valid standard certificate who does not satisfy the requirements of this subchapter shall be placed on inactive status, subject to the requirements of the Texas Education Code, §21.0031(f). Texas Education Agency (TEA) staff shall notify a person by email of the reason(s) for denying the renewal and the actions or conditions required for removal from inactive status. At any time, the educator may apply to have his or her certificate(s) reactivated and submit the reactivation fee. The TEA staff shall administratively approve reactivation of the educator's certificate(s) subject to verification that the educator is in compliance with §232.7 of this title (relating to Requirements for Certificate Renewal). The renewal date of a reactivated certificate(s) shall be five years after the last day of the certificate holder's next birth month.
- (b) A person who satisfies all requirements for renewal prior to the certificate expiration date and submits an application no more than six months after the ~~renewal~~ expiration date of a certificate shall pay a late renewal fee in addition to the standard renewal fee. The certificate status will be set to valid, and the effective date of the certificate will be the day after the prior expiration date. A person whose certificate has become inactive longer than six months after the expiration date because of failure to renew shall pay a late renewal fee in addition to the standard renewal fee and also pay a reactivation fee. The certificate status will be set to valid, and the effective date of the certificate will be the date the educator completed continuing professional education (CPE) hours, provided it is not more than 60 days prior to the date of the application. If the application is submitted more than 60 days after CPE hours were completed, the effective date will be 60 days prior to the date of the application. The amount of these fees shall be as provided in §230.101 of this title (relating to Schedule of Fees for Certification Services).
- (c) If a person does not satisfy the required CPE ~~continuing professional education (CPE)~~ hours at the expiration of the renewal period, the person may have the certificate(s) removed from inactive status and reactivated by verifying through an affidavit whether he or she is in compliance with renewal requirements, including CPE hours, and paying any applicable fee(s).
- (d) The TEA staff shall be responsible for auditing compliance with renewal requirements. The TEA audit procedures shall be based on available resources and may include random audits. The TEA staff shall contact an educator selected for an audit of his or her renewal requirements and provide the educator with information needed to submit the documentation that supports certificate renewal. The TEA staff at any time may review the documentation required for renewal under this subchapter, which may include the documentation described in §232.15 of this title (relating to Types of Acceptable Continuing Professional Education Activities) and §232.21 of this title (relating to Provider Registration Requirements).