

## Item 6:

# Consider and Take Appropriate Action on Adoption of Review of 19 TAC Chapter 231, Requirements for Public School Personnel Assignments

### 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 231, Requirements for Public School Personnel Assignments, in February 2012. In 2013, the assignment chart in Chapter 231 was reorganized effective August 2013. This item presents for SBEC approval the adoption of the review of Chapter 231. The rules being reviewed provide requirements relating to the criteria for school districts to make personnel assignments based on the correlating certification requirements.

**STATUTORY AUTHORITY:** Statutory authority for the rule review is Texas Government Code, §2001.039. The statutory authority for 19 TAC Chapter 231 is the Texas Education Code (TEC), §21.031(a) and §21.041(b)(1)-(2).

**PREVIOUS BOARD ACTION:** The SBEC last adopted the review of 19 TAC Chapter 231 in February 2012, 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 231, Requirements for Public School Personnel Assignments, in the *Texas Register*.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The SBEC rules in 19 TAC Chapter 231 are organized as follows: Subchapter A, Criteria for Assignment of Public School Personnel; Subchapter B, Prekindergarten-Grade 6 Assignments; Subchapter C, Grades 6-8 Assignments; Subchapter D, Electives, Disciplinary Courses, Local Credit Courses, and Innovative Courses, Grades 6-12 Assignments; Subchapter E, Grades 9-12 Assignments; Subchapter F, Special Education-Related Services Personnel Assignments; Subchapter G, Paraprofessional Personnel, Administrators, and Other Instructional and Professional Support Assignments; and Subchapter H, Assignments for Teachers Certified Before 1966. These subchapters identify appropriate certificates and other requirements for placement of individuals into classroom and/or campus assignments.

The rules currently in effect in 19 TAC Chapter 231, which reflect a comprehensive reorganization of the assignment chart adopted by the SBEC in 2013, are available on the Texas Education Agency (TEA) website at <http://ritter.tea.state.tx.us/sbecrules/tac/chapter231/index.html>

It is anticipated that TEA staff will present proposed changes to 19 TAC Chapter 231 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 231, Requirements for Public School Personnel Assignments, 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 231 continue to exist. Any comments received during the review of 19 TAC Chapter 231 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 231 will result in clear guidance for districts on appropriate credentials for placement of individuals into classroom, administrative, and support assignments.

**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:** Forty-one individuals commented on the importance of individuals being certified to serve in the role of teacher of the deaf-blind due to the specialized preparation necessary for the certification and the benefits of that certification in meeting the unique needs of the students being served. All commenters also stated that Chapter 231 should retain the former Teacher of the Deaf-Blind certificate as one of several credentials appropriate to teach special education. All commenters have also requested creation of a new Teacher of the Deaf-Blind certificate.

**Board Response:** The SBEC recognizes the important role of the teacher of the deaf-blind and acknowledges the commenters' recommendation of retaining the current reference in rule to the former Teacher of the Deaf-Blind certificate. 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 231.

**Comment:** Twenty-three individuals commented on the importance of keeping the former Teachers of the Deaf-Blind certificate on the list of certificates appropriate to serve in the assignment of Special Education Teacher.

**Board Response:** The SBEC acknowledges the commenters' recommendation of retaining the current reference in rule to the Teacher of the Deaf-Blind certificate. 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 231.

**Comment:** Five individuals commented on the need for additional clarification on the last rule revisions related to requirements to serve as a special education teacher. The commenters asked for more specificity related to assignments to teach life skills, resource, and inclusion. The commenters have also requested guidance on the use of HOUSSE as it relates to certification of elementary special education teachers versus secondary special education

teachers and their respective requirements and eligibility for placement into various special education assignments.

**Board Response:** The SBEC acknowledges the commenters' recommendations for additional clarification in rule for special education assignments. 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 231.

**Comment:** One individual commented on the assignment to teach Commercial Photography and the certificates currently defined in rule as being appropriate for placement into the assignment. The commenter requested that the SBEC add the Technology Applications certificate to the list of certificates appropriate to teach Commercial Photography.

**Board Response:** The SBEC acknowledges the commenters' recommendations to add the Technology Applications certificate to the list of certificates appropriate to teach Commercial Photography. 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 231.

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

Adopt the review of 19 TAC Chapter 231, Requirements for Public School Personnel Assignments.

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

**Attachment:** I. Statutory Citations

**ATTACHMENT I****Statutory Citations Relating to Review of 19 TAC Chapter 231,  
Requirements for Public School Personnel Assignments****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 231, Requirements for Public School Personnel Assignments****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;