

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §239.20, concerning requirements for the issuance of the standard school counselor certificate. The proposed amendment would implement the statutory requirement of Senate Bill (SB) 798, 88th Texas Legislature, Regular Session, 2023, and would update the certificate issuance rules to remove the requirement that an individual must have two years of classroom teaching experience to receive a school counselor certificate.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, establish requirements for minimum admission, preparation, standards, certificate issuance, renewal, and transition and implementation dates for the school counselor certificate. These requirements ensure educators are qualified and professionally prepared to instruct the schoolchildren of Texas.

SB 798, 88th Texas Legislature, Regular Session, 2023, Requirements

SB 798, 88th Texas Legislature, Regular Session, 2023, took effect on September 1, 2023, and requires the SBEC to propose rules not later than January 1, 2024, to remove the requirement that a candidate for school counselor certification must have experience as a classroom teacher. The proposed amendment would comply with the deadline given in legislation to initiate SBEC rulemaking.

Following is a description of the proposed amendment to 19 TAC Chapter 239, Subchapter A, §239.20, that would update the school counselor certificate issuance rule and implement the provisions of SB 798.

§239.20. Requirements for the Issuance of the School Counselor Certificate.

The proposed amendment to 19 TAC §239.20(4) would strike the text in its entirety and comply with provisions in SB 798 to remove the requirement of two creditable years of teaching experience as a classroom teacher as a condition for issuance of the school counselor certificate. Additional minor technical edits would be made to reflect the deletion of this requirement.

FISCAL IMPACT: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement has determined that for the first five years that the proposal is in effect there is no additional fiscal impact on state and local governments and that there are no additional costs to entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation as SB 798 requires the SBEC to remove two years of classroom teaching experience as a requirement for issuance of the standard school counselor certificate.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in

future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Emily Garcia, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years that the rule will be in effect that the public benefit anticipated as a result of the proposal would be clarity around the rules regarding certificate issuance for school counselors. TEA staff has determined there is no anticipated cost to persons required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

ENVIRONMENTAL IMPACT STATEMENT: The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA staff has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins December 29, 2023, and ends January 29, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposal at the February 16, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.031(a), which charges the State Board for Educator Certification (SBEC) with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators; TEC, §21.040(2), which states that the SBEC shall, for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the board; TEC, §21.041(a), which authorizes the SBEC to adopt rules as necessary to implement its procedures; TEC, §21.041(b)(1), which 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 TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which require the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for issuance and renewal of an educator certificate; TEC, §21.041(b)(5), which requires the SBEC to 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 §21.052; TEC, §21.041(b)(9), which requires the SBEC to provide for continuing education requirements; TEC, §21.044(a)(2), which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.0462, as added by Senate Bill 798, 88th Texas Legislature, Regular Session, 2023, which prohibits requiring candidates have experience as a classroom teacher; TEC, §21.048(a), which requires the SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the SBEC and requires the commissioner of education to determine the satisfactory level of performance required for each certification examination and each core subject covered by the generalist certification examination; TEC, §21.054, as amended by House Bill 2929, 88th Texas Legislature, Regular Session, 2023, which requires classroom teachers, principals, and school counselors to earn continuing professional education units in specific areas and directs the SBEC to propose rules relating to continuing professional education courses and programs for educators; and TEC, §22.0831(f), which states 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.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.031(a); 21.040(2); 21.041(a), (b)(1)-(5), and (9); 21.044(a)(2); 21.0462, as added by Senate Bill 798, 88th Texas Legislature, Regular Session, 2023; 21.048(a); 21.054, as amended by House Bill 2929, 88th Texas Legislature, Regular Session, 2023; and 22.0831(f).

<rule>

§239.20. Requirements for the Issuance of the Standard School Counselor Certificate.

To be eligible to receive the standard School Counselor Certificate, a candidate must:

(1) successfully complete a school counselor preparation program that meets the requirements of §239.10 of this title (relating to Preparation Program Requirements) and §239.15 of this title (relating to Standards Required for the School Counselor Certificate);

(2) successfully complete the examination based on the standards identified in §239.15 of this title; and

(3) hold, at a minimum, a 48-hour master's degree in counseling from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board . [~~and~~]

[~~(4) — have two creditable years of teaching experience as a classroom teacher, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on Creditable Years of Service) and the Texas Education Code, §5.001(2).]~~