

The State Board for Educator Certification (SBEC) proposes an amendment to 19 Texas Administrative Code (TAC) §230.11, concerning professional educator preparation and certification. The proposed amendment would expand the options for demonstrating English language proficiency (ELP).

BACKGROUND INFORMATION AND JUSTIFICATION: At the February 2024 SBEC meeting, Texas Education Agency (TEA) staff provided the Board with an overview of the history of the ELP requirement and confirmed that regardless of the pathway to certification in Texas, demonstration of ELP is required for all candidates. TEA staff also posed key questions for the Board's consideration regarding current requirements in rule and possible updates for the demonstration of ELP. TEA staff anchored the conversation with the Board around required performance on the Test of English as a Foreign Language internet-Based Test (TOEFL-iBT), the list of countries approved by the SBEC to satisfy demonstration of ELP, the addition of U.S. territories to exempt individuals from the ELP requirement, and the potential use of standard certification obtained in another state by individuals licensed to teach in other countries.

At the April 2024 SBEC meeting, TEA staff provided a follow-up discussion item, including recommendations for amendments to 19 TAC Chapter 230 to be presented for consideration and action by the Board at the July SBEC meeting. The Board provided final direction on how to move forward with the proposal.

The following is a description of the proposed amendment.

Proposed Amendment to Required Performance on the TOEFL-iBT

The proposed amendment to §230.11(b)(5)(B) would update TOEFL-iBT score requirements from a specific score for each of the four sections (24 for Speaking, 22 for Listening, 22 for Reading, and 21 for Writing) to any score that falls within the range identified for performance at the High-Intermediate Level for all four sections of the test.

Proposed Amendment Related to U.S. Territories and the ELP Requirement

Proposed new §230.11(b)(5)(A) would add the phrase, "or one of its territories," to allow degrees obtained in the U.S. territories to also count toward meeting the ELP requirement.

Proposed Amendment to Add Countries to the List Approved by the SBEC for Exemption from the ELP Requirement

The proposed amendment to Figure: 19 TAC §230.11(b)(5)(C) would add Cameroon, Kenya, Philippines, South Africa, Uganda, Zambia, and Zimbabwe to the list of countries approved for exemption from the ELP requirement and would strike American Samoa to align with proposed changes that would incorporate all U.S. territories in meeting the requirement.

Proposed Amendment to Include an Additional Option to Meet the ELP Requirement

Proposed new §230.11(b)(5)(D) would allow an individual applying for the out-of-country credentials review who also holds a standard certificate issued in another state where exams were taken and passed to be eligible for consideration of exemption from ELP requirements.

FISCAL IMPACT: Jessica McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years 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 expand an existing regulation by including additional provisions for individuals to meet the ELP requirement.

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 limit or repeal 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: Ms. McLoughlin has determined that for the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be increased flexibility in demonstrating ELP. The proposal would reduce the number of TOEFL-iBT test attempts for some candidates. The addition of countries approved by the SBEC to satisfy the ELP requirement would save TOEFL-iBT testing fees for some candidates. Also, the future ability to utilize a standard certificate issued by another state department of education would also be a TOEFL-iBT test fee savings for some candidates. TEA staff has determined there is an anticipated savings to persons required to comply with the proposal. The proposal would allow an individual to score within a range of scores on the TOEFL-iBT, as opposed to a required specific scaled score. This would have a potential savings of approximately \$200 per exam for an estimated 114 individuals per fiscal year (FY) who may have needed to retake the test to meet the minimum scaled score requirement. This would result in a savings of \$22,800 for each year of FYs 2025-2028 for the individuals who were able to demonstrate ELP outside of TOEFL-iBT testing.

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: 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 August 9, 2024, and ends September 9, 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 during the September 20, 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), §21.003(a), which 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 TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (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), (2), and (4), which require 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, specify the classes of educator certificates to be issued, including emergency certificates, and specify the requirements for the issuance and renewal of an educator certificate; and TEC, §21.041(b)(5), which requires the SBEC to propose rules that

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 TEC, §21.052.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031, and 21.041(b)(1), (2), (4), and (5).

<rule>

§230.11. General Requirements.

(a) The only credits and degrees acceptable for certification of educators are those earned from and conferred by accredited institutions of higher education. All credit hour requirements for certification are semester credit hours or their equivalent.

(b) An applicant for a Texas educator certificate must:

(1) be at least 18 years of age;

(2) submit to the criminal history review required by the Texas Education Code (TEC) §22.0831, not be disqualified by the TEC, §21.058, §21.060, or other Texas statute, and not be subject to administrative denial pursuant to §249.12 of this title (relating to Administrative Denial; Appeal) or a pending proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);

(3) not be disqualified by federal law;

(4) be willing to support and defend the constitutions of the United States and Texas;

(5) be able to communicate, listen, read, write, and comprehend the English language sufficiently to use it easily and readily in daily communication and teaching. English language proficiency shall be evidenced by one of the following:

(A) completion of an undergraduate or graduate degree at an accredited institution of higher education in the United States or one of its territories; or

(B) verification of a minimum scaled score that falls within the High-Intermediate level in each section on the Test of English as a Foreign Language internet-Based Test (TOEFL-iBT) [~~minimum scaled scores on the Test of English as a Foreign Language internet Based Test (TOEFL iBT) of 24 for speaking, 22 for listening, 22 for reading, and 21 for writing~~]; or

(C) an undergraduate or graduate degree that was earned at an institution of higher education in a country outside of the United States listed in the figure provided in this subparagraph: or [-]

Figure: 19 TAC §230.11(b)(5)(C) [~~Figure: 19 TAC §230.11(b)(5)(C)~~]

(D) a standard certificate issued by the department of education in another state where examinations for the certificate were taken and passed;

(6) successfully complete appropriate examinations prescribed in §230.21 of this title (relating to Educator Assessment) for the educator certificate sought; and

(7) satisfy one or more of the following requirements:

(A) complete the requirements for certification specified in this chapter, Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), Chapter 239 of this title (relating to Student Services Certificates), Chapter 241 of this title (relating to Certification as Principal), or Chapter 242 of this title (relating to Superintendent Certificate), and be recommended for certification by an approved educator preparation program (EPP);

(B) qualify under Subchapter H of this chapter (relating to Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States);

(C) qualify under §230.105 of this title (relating to Issuance of Additional Certificates Based on Examination);

(D) qualify for a career and technical education certificate based on skill and experience specified in §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area));

or

(E) qualify under Chapter 245 of this title (relating to Certification of Educators from Other Countries).

(c) An educator who has received a State Board for Educator Certification (SBEC)-issued standard certificate shall not be required to demonstrate English language proficiency as prescribed in subsection (b)(5)(B) and (C) of this section for purposes of admission into an EPP to obtain additional SBEC-issued certifications.