

Item 11:
Proposed Amendment to 19 TAC Chapter 250,
Administration, Subchapter B, Rulemaking Procedures,
§250.20, Petition for Adoption of Rules or Rule Changes

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss and propose an amendment to 19 Texas Administrative Code (TAC) Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment would update the SBEC's petition for adoption of rule change procedures to align with statute.

STATUTORY AUTHORITY: The statutory authority for Chapter 250, Subchapter B, §250.20, is the Texas Education Code (TEC), §21.035(b) and §21.041(a) and (b)(1), and Texas Government Code (TGC), §2001.021.

TEC, §21.035(b), requires the Texas Education Agency (TEA) to provide the SBEC's administrative functions and services.

TEC, §21.041(a), authorizes the SBEC to adopt rules as necessary to implement its procedures.

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.

TGC, §2001.021, authorizes a state agency to prescribe by rule the form for a petition and the procedure for the submission, consideration, and disposition.

EFFECTIVE DATE: If approved for filing as proposed, and if adopted, subject to State Board of Education (SBOE) review, the proposed effective date of the proposal would be August 3, 2025 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is based on the SBEC and SBOE meeting schedules.

PREVIOUS BOARD ACTION: The SBEC last amended 19 TAC §250.20 effective July 21, 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: TGC, §2001.021, requires that procedures to petition for the adoption of rule changes be adopted by rule. To comply with statute, the SBEC rules in 19 TAC Chapter 250, Subchapter B, establish procedures for SBEC petition for rulemaking in §250.20, Petition for Adoption of Rules or Rule Changes.

The proposed amendment to §250.20 would strike subsections (b)(1) and (2) and add new subsection (b) to align with statute and allow the SBEC to address petitions for rulemaking more effectively, by either denying or initiating rulemaking within the 60-day required window.

FISCAL IMPACT: Jessica McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years enforcing or administering the rule does not have foreseeable implications relating to cost or revenues of the state or local governments. 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 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 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, 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: Jessica McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years the proposal is in effect, the public benefit anticipated would be aligning with statute and reflecting current procedures. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

ENVIRONMENTAL IMPACT: 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 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 March 14, 2025, and ends April 14, 2025. The SBEC will take registered oral and written comments on the proposal

at the April 25, 2025 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

MOTION TO BE CONSIDERED:

Approve the proposed amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes, as presented, to be published in the *Texas Register*.

Staff Members Responsible:

Kameryn McCain, Director, EPCE Policy and Planning

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes

ATTACHMENT

Chapter 250. Administration

Subchapter B. Rulemaking Procedures

§250.20. Petition for Adoption of Rules or Rule Changes.

- (a) Any interested person, as defined in Texas Government Code (TGC), §2001.021, may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on the form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the petition to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §250.20(a) (No change.)

- ~~(b) The SBEC shall respond to a written request for rulemaking from an interested person in accordance with TGC §2001.021.~~

- ~~[(b) In accordance with TGC, §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.~~

~~(1) Where possible, the recommendation concerning the petition shall be placed on the next SBEC agenda, and the SBEC shall act on the petition within 60 calendar days.~~

~~(2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.]~~

- (c) The SBEC will review the petition and the recommendation and will either deny the petition, giving reasons for the denial, or direct the TEA staff to begin the rulemaking process. The TEA staff will notify the petitioner of the SBEC's action related to the petition.
- (d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:
- (1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;
 - (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;
 - (3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding;
 - (4) the petitioner files a petition:
 - (A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or
 - (B) to amend a rule proposed or adopted by the SBEC that has not yet become effective; or
 - (5) any other reason the SBEC determines is grounds for denial.
- (e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.