

Item 15:**Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal****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 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal. The proposed amendment would require that to renew an educator's certificate, the educator must be in compliance with the terms of any SBEC order resulting from an educator discipline case against the educator. This requirement would allow the SBEC to enforce its disciplinary orders more efficiently and consistently, particularly when the order requires an educator to take training or continuing education but does not suspend the educator's certificate.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 232, Subchapter A, §232.7, is the Texas Education Code (TEC), §§21.003(a); 21.0031(f); 21.031; 21.041(b)(1)–(4) and (7)–(9); 21.054; 21.0541; and 21.0543; and Texas Occupations Code (TOC), §55.002 and §55.003.

TEC, §21.003(a), states 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)–(4), 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; and requires 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 the issuance and renewal of an educator certificate.

TEC, §21.041(b)(7)–(8), requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by

Government Code, Chapter 2001, and provide for the adoption, amendment, and enforcement of an educator's code of ethics.

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.

TEC, §21.0541, requires the SBEC to propose rules that allow an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator (AED).

TEC, §21.0543, requires the SBEC to propose rules that provide for continuing education credit related to digital technology instruction.

TOC, §55.002, states a state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

TOC, §55.003, states a military service member who holds a license is entitled to two years of additional time to complete any continuing education requirements and any other requirement related to the renewal of the military service member's license.

The full text of statutory citations can be found in the statutory authority section of this agenda.

EFFECTIVE DATE: If approved for filing as proposed in April 2022, and if adopted, subject to State Board of Education (SBOE) review, at the July 22, 2022 SBEC meeting, the proposed effective date of the proposal would be October 6, 2022, (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 §232.7 effective May 12, 2022.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 232, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, provide for rules that establish the requirements relating to types and classes of certificates issued, certificate renewal, and continuing professional education (CPE). In particular, 19 TAC §232.7, Requirements for Certificate Renewal, sets out the procedures for certificate renewal and the conditions an educator must meet in order to renew their educator certificate.

The proposed new §232.7(c)(4) would add a new prerequisite requirement for renewal of an educator's certificate to require the educator be in compliance with all terms of any SBEC disciplinary orders against the educator prior to renewal.

The purpose of this amendment is to allow the SBEC an efficient method of enforcing its orders that require an educator to complete training or additional continuing education but do not

suspend the educator's certificate. Currently, the SBEC is easily able to enforce the training or continuing education requirements of its orders involving suspensions because the educator has to show proof of the completed courses before the educator's certificate can be reinstated at the end of the suspension. To enforce an order that requires training but does not involve a suspension, the SBEC currently has to instigate a second contested case proceeding, seeking to find that the educator is in violation of the SBEC order. This is a long process and requires a significant amount of staff time and agency resources.

It is likely that SBEC orders requiring training without a suspension or other sanction will increase after recent rule changes to 19 TAC §249.15, Disciplinary Action by State Board for Educator Certification, to comply with House Bill 2519, 87th Texas Legislature, Regular Session, 2021, allowing the SBEC to order additional continuing education or training without otherwise sanctioning the educator's certificate. The proposed amendment would require educators to ensure that they had met the requirements of their disciplinary SBEC orders prior to renewing their certificates and would allow the SBEC to refuse to renew an educator's certificate until the educator has fully complied with the SBEC order by completing all required training and by submitting proof. This method of efficient enforcement of SBEC-ordered training requirements would ensure that more educators complete the ordered training or continuing education in a timely manner.

The proposal includes proposed technical edits that would renumber provisions in §232.7(c) to accommodate proposed new §232.7(c)(4) and that would edit a cross reference to 19 TAC §232.11 in §232.7(b)(4).

FISCAL IMPACT: The Texas Education Agency (TEA) staff has determined that there is no additional fiscal impact on state or 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: The 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, the proposal 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, repeal, 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: The public benefit anticipated as a result of the proposal would be enhanced student safety and welfare resulting from educators completing training to remediate in the specific areas that the SBEC found were necessary to improve the educators' worthiness to instruct. The 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.

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 June 3, 2022, and ends July 5, 2022. The SBEC will take registered oral and written comments on the proposal at the July 22, 2022 meeting in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve the proposed amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal, to be published as proposed in the *Texas Register*.

Staff Member Responsible:

Laura Moriaty, Director, SBEC Enforcement

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Certificate Renewal and Continuing Professional Education Requirements, §232.7, Requirements for Certificate Renewal
([Attachment](#))

ATTACHMENT
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Text of Proposed Amendment to 19 TAC

Chapter 232. General Certification Provisions

Subchapter A. Certificate Renewal and Continuing Professional Education Requirements

§232.7. Requirements for Certificate Renewal.

- (a) The Texas Education Agency (TEA) staff shall develop procedures to:
- (1) notify educators at least six months prior to the expiration of the renewal period to the email address as specified in §230.91 of this title (relating to Procedures in General);
 - (2) confirm compliance with all renewal requirements pursuant to this subchapter;
 - (3) notify educators who are not renewed due to noncompliance with this section; and
 - (4) verify that educators applying for reactivation of certificate(s) under §232.9 of this title (relating to Inactive Status and Late Renewal) are in compliance with subsection (c) of this section.
- (b) The TEA staff shall administratively approve each hardship exemption request that meets the criteria specified in paragraphs (1)-(4) of this subsection.
- (1) A hardship exemption must be due to one of the following circumstances that prevented the educator's completion of renewal requirements:
 - (A) catastrophic illness or injury of the educator;
 - (B) catastrophic illness or injury of an immediate family member; or
 - (C) military service of the educator.
 - (2) The request for a hardship exemption must include documentation from a licensed physician or verified military records.
 - (3) The request for the amount of time allowed for renewal is equal to:
 - (A) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the educator's catastrophic illness or injury; or
 - (B) the amount of time that a licensed physician determined that the educator was not able to complete renewal requirements due to the catastrophic illness or injury of an immediate family member; or
 - (C) two years of additional time for a military service member, in accordance with the Texas Occupations Code, §55.003.
 - (4) A hardship exemption may be approved for a local education agency on behalf of an educator who has an invalid certificate due to lack of earning the required continuing professional education (CPE) hours as prescribed in §232.11 of this title (relating to Number ~~and~~ of Content of Required Continuing Professional Education Hours). The hardship exemption is valid for the academic year of the application and may be renewed up to one additional academic year, provided that the superintendent or designee of the local education agency requests the extension.
 - (5) If a hardship exemption request is approved, the educator must pay the appropriate renewal fee, pursuant to §230.101 of this title (relating to Schedule of Fees for Certification Services).
- (c) To be eligible for renewal, an educator must:
- (1) subject to §232.16(c) of this title (relating to Verification of Renewal Requirements), satisfy CPE requirements, pursuant to §232.11 of this title;

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- (2) hold a valid standard certificate that is not currently suspended and has not been surrendered in lieu of revocation or revoked by lawful authority;
 - (3) not be a respondent in a disciplinary proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);
 - (4) be in compliance with all terms of any orders of the State Board for Educator Certification resulting from a disciplinary proceeding against the educator under Chapter 249 of this title;
 - (5) ~~(4)~~ successfully resolve any reported criminal history, as defined by §249.3 of this title (relating to Definitions);
 - (6) ~~(5)~~ not be in arrears of child support, pursuant to the Texas Family Code, Chapter 232;
 - (7) ~~(6)~~ pay the renewal fee, provided in §230.101 of this title, which shall be a single fee regardless of the number of certificates being renewed; and
 - (8) ~~(7)~~ submit fingerprints in accordance with §232.35(c) of this title (relating to Submission of Required Information) and the Texas Education Code, §22.0831.
- (d) The TEA staff shall renew the certificate(s) of an educator who meets all requirements of this subchapter.