

Item 6:**Adoption of Proposed Amendment to 19 TAC Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, §239.20, Requirements for the Issuance of the Standard School Counselor Certificate****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to adopt the proposed amendment to 19 Texas Administrative Code (TAC) Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, §239.20, 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. The proposed revisions would also include technical edits to comply with Texas Register formatting and style requirements. No changes are recommended since published as proposed, but additional changes may be recommended at the time of the meeting based on public comment.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 239, Subchapter A, §239.20, is Texas Education Code (TEC), §§21.031(a); 21.040(2); 21.041(a), (b)(1)–(5), and (9); 21.044(a)(2); 21.0462, as added by SB 798, 88th Texas Legislature, Regular Session, 2023; 21.048(a); 21.054, as amended by House Bill (HB) 2929, 88th Texas Legislature, Regular Session, 2023; and 22.0831(f).

TEC, §21.031(a), charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators.

TEC, §21.040(2), 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), 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 TEC, Chapter 21, Subchapter B.

TEC, §21.041(b)(2)-(4), 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), 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 Section 21.052.

TEC, §21.041(b)(9), requires the SBEC to provide for continuing education requirements.

TEC, §21.044(a)(2), 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 SB 798, 88th Texas Legislature, Regular Session, 2023, prohibits requiring candidates have experience as a classroom teacher.

TEC, §21.048(a), 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 HB 2929, 88th Texas Legislature, Regular Session, 2023, 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.

TEC, §22.0831(f), 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.

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

EFFECTIVE DATE: The proposed effective date of the proposal would be May 19, 2024 (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: At the December 7-8, 2023 SBEC meeting, the SBEC approved the proposed amendment to 19 TAC Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, §239.20, Requirements for the Issuance of the Standard School Counselor Certificate, for publication in the *Texas Register* as proposed rules.

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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. TEA staff has determined the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

ENVIRONMENTAL IMPACT: No changes have been made to this section since published as proposed. The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

PUBLIC COMMENTS: The public comment period on the proposal began on December 29, 2023, and ended on January 29, 2024. Any comments received will be provided to the SBEC under separate cover prior to the February 16, 2024 meeting. The SBEC will also take registered oral and written comments on the proposal during the February 16, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve for adoption, subject to the State Board for Education review, the proposed amendment to 19 TAC Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, §239.20, Requirements for the Issuance of the Standard School Counselor Certificate, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Staff Members Responsible:

Marilyn Cook, Senior Director, Educator Preparation and Certification
Lorrie Ayers, Director, Educator Preparation Program Management

Attachment:

Text of Proposed Amendment to 19 TAC Chapter 239, Student Services Certificates, Subchapter A, School Counselor Certificate, §239.20, Requirements for the Issuance of the Standard School Counselor Certificate

ATTACHMENT
Text of Proposed Amendment to 19 TAC

Chapter 239. Student Services Certificates

Subchapter A. School Counselor Certificate

§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).]~~