

The State Board for Educator Certification (SBEC) proposes an amendment to §230.21, concerning educator assessment. The proposed amendment would implement the statutory requirements in House Bill (HB) 3, 86th Texas Legislature, 2019, that require that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. The proposed amendment would update the examination figure in 19 Texas Administrative Code (TAC) §230.21(e) to specify the required examination(s) for issuance of the replacement certificates that reflect the science of teaching reading requirement. The proposed amendment would also provide clarification on relevant implementation dates for specific certification examinations.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 230 specify the testing requirements for certification and the additional certificates based on examination. These requirements ensure educators are qualified and professionally prepared to instruct the schoolchildren of Texas. The following provides a description of changes to Chapter 230, Subchapter C, §230.21.

HB 3, 86th Texas Legislature, 2019, requires that all educators who teach any grade level from Prekindergarten-Grade 6 demonstrate proficiency in the science of teaching reading on a certification examination beginning January 1, 2021. The replacement certificates that incorporate this requirement are reflected in the proposed changes to Chapter 233 published in the Proposed Rules section of this issue. To comply with the enabling legislation, the appropriate examination(s) required for each of the replacement certificates must be reflected in the testing figure in §230.21(e). Additionally, the current examinations that will change due to the addition of the new science of teaching reading examination requirements must also be updated to reflect the changes.

Subchapter C, §230.21. Assessment of Educators.

The proposed amendment to §230.21(e) would update the figure to include the four replacement certificates proposed in Chapter 233 and the associated certification examinations requirements along with the corresponding operational dates of those examinations. The current and replacement certificates with the corresponding content pedagogy examinations are:

Certificate	Relevant Content Pedagogy Test(s)
Core Subjects: Early Childhood-Grade 6	<ul style="list-style-type: none"> • 291 Core Subjects EC-6 TExES
Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6	<ul style="list-style-type: none"> • 293 Science of Teaching Reading TExES and either: • 291 Core Subjects EC-6 TExES (last operational date 12/31/2021) or • 391 Core Subjects EC-6 TExES (starting 1/1/2021)
Core Subjects: Grades 4-8	<ul style="list-style-type: none"> • 211 Core Subjects 4-8 TExES
Core Subjects with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> • 293 Science of Teaching Reading TExES and • 211 Core Subjects 4-8 TExES
English Language Arts and Reading: Grades 4-8	<ul style="list-style-type: none"> • 117 English Language Arts and Reading 4-8 TExES
English Language Arts and Reading with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> • 293 Science of Teaching Reading TExES and • 117 English Language Arts and Reading 4-8 TExES (last operational date 12/31/2021) or • 217 English Language Arts and Reading 4-8 TExES (starting 1/1/2022)
English Language Arts and Reading/Social Studies: Grades 4-8	<ul style="list-style-type: none"> • 113 English Language Arts and Reading/Social Studies 4-8 TExES
English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8	<ul style="list-style-type: none"> • 293 Science of Teaching Reading TExES, and • 113 English Language Arts and Reading/Social Studies 4-8 TExES

The content pedagogy examination, 391 Core Subjects: Early Childhood-Grade 6, reflected in the table, would be developed to remove duplicative English Language Arts content that is now reflected in 293 Science of Teaching Reading. Due to the administration structure of the 291 Core Subjects: Early Childhood-Grade 6 exam, candidates may retake specific subject sections of the examination in order to earn the overall passing score. To accommodate the transition between the two examinations, the proposed figure would include a one-year transition period during which both examinations would be operational.

A technical edit to the Educational Diagnostician: Early Childhood-Grade 12 content pedagogy examination would be updated to reflect the correct test number from 251 to 253 to align with test number conventions.

The content pedagogy examination, 217 English Language Arts and Reading: Grades 4-8, reflected in the table, would be developed and would replace 117 English Language Arts and Reading: Grades 4-8. Updates to the English Language Arts and Reading Texas Essential Knowledge and Skills (TEKS) provided an opportunity to update the content pedagogy examination. To signal the transition between the two examinations, the proposed figure provides the last operational date of the current 117 and the operational start date for the new 217.

The replacement certificates, as proposed in Chapter 233, would provide clarity on the certification examination requirements and would reflect the science of teaching reading knowledge and skills that teachers with the replacement certificates would demonstrate prior to issuance.

In addition to the proposed amendment related to HB 3, the proposed figure in §230.21(e) would phase out the retired 183 Braille TExES examination for the §233.8 Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12 certificate.

FISCAL IMPACT: Ryan Franklin, associate commissioner for educator leadership and quality, has determined that there is an anticipated fiscal impact on state government (TEA) required to comply with the proposal. The TEA estimates a cost of \$128,909 for each of the next five fiscal years (FYs) from FYs 2021-2025 for the development and ongoing administrative costs needed to maintain assessments. The TEA will receive an \$11 remittance for each Science of Teaching Reading test taken associated with the Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6, Core Subjects with Science of Teaching Reading: Grades 4-8, English Language Arts and Reading with Science of Teaching Reading: Grades 4-8 and English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 certification fields for an estimated total of \$212,754 for FY 2021 and \$322,355 for FYs 2022-2025. Based on 2018-2019 testing data, TEA estimates 19,341 examinations taken in FY 2021 and 29,305 Science of Teaching Reading examinations taken per annual year starting FY 2022. There is no additional fiscal impact on local governments or 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, §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 Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does impose a cost on regulated persons, another state agency, a special district, or a local government, and, therefore, is subject to TGC, §2001.0045. However, the proposal is exempt from TGC, §2001.0045, as provided under that statute, because the proposal is necessary to implement legislation. In addition, the proposal is necessary to ensure certified Texas educators are competent to educate Texas students and, therefore, necessary to protect the safety and welfare of the residents of this state.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §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, it would require an increase in fees paid to the agency for each Science of Teaching Reading assessment taken (\$11 per assessment), but those fees would be offset by the increased costs to the agency of developing and administering

the new test. The development and administration of the Science of Teaching Reading assessment is required by HB 3, 86th Texas Legislature, 2019.

The proposed rulemaking would not create or eliminate a 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 a decrease in fees paid to the agency; would not create a new 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 the increased teacher knowledge and skills in science-based reading instruction, leading to the anticipated growth in student reading performance. The TEA staff determined there is an economic cost to persons required to comply with this proposal. Future teacher candidates seeking certification in Core Subjects with Science of Teaching Reading: Early Childhood-Grade 6, Core Subjects with Science of Teaching Reading: Grades 4-8, English Language Arts and Reading with Science of Teaching Reading: Grades 4-8, and English Language Arts and Reading/Social Studies with Science of Teaching Reading: Grades 4-8 will be required to take the Science of Teaching Reading assessment. Based on 2018-2019 data, TEA staff anticipates this will impact about 19,341 test attempts in FY 2021 with the cost of each test being \$136 for a total of \$2,630,427 and about 29,305 test attempts in FYs 2022-2025 for a total of \$4,029,200 per year. Future teacher candidates for English Language Arts and Reading: Grades 4-8 will be required to take a certification assessment that has both selected-response and constructed-response questions. Based on the 2018-2019 data, TEA staff anticipates this impact to be about 2,186 test attempts with the cost of each test increasing from \$116 to \$136 for a total of \$43,720 starting FY 2022.

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 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 May 29, 2020 and ends June 29, 2020. 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 July 24, 2020 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on May 29, 2020.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.041(b)(1), (2), and (4), which require the State Board for Educator Certification (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; which specify the classes of educator certificates to be issued, including emergency certificates; and which specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017, 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, §21.048, as amended by House Bill (HB) 3, 86th Texas Legislature, 2019, which states the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes and that starting January 1, 2021, all candidates teaching prekindergarten through grade six must demonstrate proficiency in the science of teaching reading on a certification examination; TEC, §21.050(a), which states a person who applies for a teaching certificate must possess a bachelor's degree; TEC, §21.050(b), as amended by HB 3217, 86th Texas Legislature, 2019, which states the SBEC shall provide for a minimum number of semester credit hours of field-based experience or internship; TEC, §21.050(c), which states a person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under the TEC, §54.363, may not be required to participate in any field

experience or internship consisting of student teaching to receive a teaching certificate; TEC, §22.082, which requires SBEC to subscribe to the criminal history clearinghouse as provided by Texas Government Code, §411.0845, and may obtain any law enforcement or criminal history records that relate to a specific applicant for or holder of a certificate issued under Chapter 21, Subchapter B; and Texas Occupations Code, §54.003, which states a licensing authority shall provide accommodations and eligibility criteria for examinees diagnosed as having dyslexia.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §§21.041(b)(1), (2), and (4); 21.044(a), as amended by Senate Bills 7, 1839, and 1963, 85th Texas Legislature, Regular Session, 2017; 21.048, as amended by House Bill (HB) 3, 86th Texas Legislature, 2019; 21.050, as amended by HB 3217, 86th Texas Legislature, 2019; 22.082; and Texas Occupations Code, §54.003.

<rule>

§230.21. Educator Assessment.

(a) A candidate seeking certification as an educator must pass the examination(s) required by the Texas Education Code (TEC), §21.048, and the State Board for Educator Certification (SBEC) in §233.1(e) of this title (relating to General Authority) and shall not retake an examination more than four times, unless the limitation is waived for good cause. The burden of proof shall be upon the candidate to demonstrate good cause.

(1) For the purposes of the retake limitation described by the TEC, §21.048, an examination retake is defined as a second or subsequent attempt to pass any examination required for the issuance of a certificate, including an individual core subject examination that is part of the overall examination required for the issuance of a Core Subjects certificate as described in §233.2 of this title (relating to Early Childhood; Core Subjects).

(A) A canceled examination score is not considered an examination retake.

(B) An examination taken by an educator during a pilot period is not considered part of an educator's five-time test attempt limit.

(C) Pursuant to TEC, §21.0491(d), the limit on number of test attempts does not apply to the trade and industrial workforce training certificate examination prescribed by the SBEC.

(D) A candidate who fails a computer- or paper-based examination cannot retake the examination before 30 days have elapsed following the candidate's last attempt to pass the examination.

(2) Good cause is:

(A) the candidate's highest score on an examination is within one conditional standard error of measurement (CSEM) of passing, and the candidate has completed 50 clock-hours of educational activities. CSEMs will be published annually on the Texas Education Agency (TEA) website;

(B) the candidate's highest score on an examination is within two CSEMs of passing, and the candidate has completed 100 clock-hours of educational activities;

(C) the candidate's highest score on an examination is within three CSEMs of passing, and the candidate has completed 150 clock-hours of educational activities;

(D) the candidate's highest score on an examination is not within three CSEMs of passing, and the candidate has completed 200 clock-hours of educational activities;

(E) if the candidate needs a waiver for more than one of the individual core subject examinations that are part of the overall examination required for the issuance of a Core Subjects certificate, the candidate has completed the number of clock-hours of educational activities required for each individual core subject examination as described in subparagraphs (A)-(D) of this paragraph up to a maximum of 300 clock-hours. The number of clock-hours for each examination may be divided equally based on the number of examinations in the waiver request, but the number of clock-hours for an examination shall not be less than 50; or

(F) if a CSEM is not appropriate for an examination, the TEA staff will identify individuals who are familiar and knowledgeable with the examination content to review the candidate's performance on the five most recent examinations, identify the deficit competency or competencies, and determine the number of clock-hours of educational activities required.

(3) Educational activities are defined as:

(A) institutes, workshops, seminars, conferences, interactive distance learning, video conferencing, online activities, undergraduate courses, graduate courses, training programs, in-service, or staff development given by an approved continuing professional education provider or sponsor, pursuant to §232.17 of this title (relating to Pre-Approved Professional Education Provider or Sponsor) and §232.19 of this title (relating to Approval of Private Companies, Private Entities, and Individuals), or an approved educator preparation program (EPP), pursuant to §228.10 of this title (relating to Approval Process); and

(B) being directly related to the knowledge and skills included in the certification examination competency or competencies in which the candidate answered less than 70 percent of competency questions correctly. The formula for identifying a deficit competency is the combined total of correct answers for each competency on the five most recent examinations divided by the combined total of questions for each competency on the five most recent examinations.

(4) Documentation of educational activities that a candidate must submit includes:

(A) the provider, sponsor, or program's name, address, telephone number, and email address. The TEA staff may contact the provider, sponsor, or program to verify an educational activity;

(B) the name of the educational activity (e.g., course title, course number);

(C) the competency or competencies addressed by the educational activity as determined by the formula described in paragraph (3)(B) of this subsection;

(D) the provider, sponsor, or program's description of the educational activity (e.g., syllabus, course outline, program of study); and

(E) the provider, sponsor, or program's written verification of the candidate's completion of the educational activity (e.g., transcript, certificate of completion). The written verification must include:

(i) the provider, sponsor, or program's name;

(ii) the candidate's name;

(iii) the name of the educational activity;

(iv) the date(s) of the educational activity; and

(v) the number of clock-hours completed for the educational activity. Clock-hours completed before the most recent examination attempt or after a request for a waiver is submitted shall not be included. One semester credit hour earned at an accredited institution of higher education is equivalent to 15 clock-hours.

(5) To request a waiver of the limitation, a candidate must meet the following conditions:

(A) the candidate is otherwise eligible to take an examination. A candidate seeking a certificate based on completion of an EPP must have the approval of an EPP to request a waiver;

(B) beginning September 1, 2016, the candidate pays the non-refundable waiver request fee of \$160;

(C) the candidate requests the waiver of the limitation in writing on forms developed by the TEA staff; and

(D) the request for the waiver is postmarked not earlier than:

(i) 45 calendar days after an unsuccessful attempt at the fourth retake of an examination as defined in the TEC, §21.048; or

(ii) 90 calendar days after the date of the most recent denied waiver of the limitation request; or

(iii) 180 calendar days after the date of the most recent unsuccessful examination attempt that was the result of the most recently approved request for waiver of the limitation.

(6) The TEA staff shall administratively approve each application that meets the criteria specified in paragraphs (2)-(5) of this subsection.

(7) An applicant who does not meet the criteria in paragraphs (2)-(5) of this subsection may appeal to the SBEC for a final determination of good cause. A determination by the SBEC is final and may not be appealed.

(b) A candidate seeking a standard certificate as an educator based on completion of an approved EPP may take the appropriate certification examination(s) required by subsection (a) of this section only at such time as the EPP determines the candidate's readiness to take the examinations, or upon successful completion of the EPP, whichever comes first.

(c) The holder of a lifetime Texas certificate effective before February 1, 1986, must pass examinations prescribed by the SBEC to be eligible for continued certification, unless the individual has passed the Texas Examination of Current Administrators and Teachers (TECAT).

(d) The commissioner of education approves the satisfactory level of performance required for certification examinations, and the SBEC approves a schedule of examination fees and a plan for administering the examinations.

(e) The appropriate examination(s) required for certification are specified in the figure provided in this subsection.

Figure: 19 TAC §230.21(c) [~~Figure: 19 TAC §230.21(e)~~]

(f) Scores from examinations required under this title must be made available to the examinee, the TEA staff, and, if appropriate, the EPP from which the examinee will seek a recommendation for certification.

(g) The following provisions concern ethical obligations relating to examinations.

(1) An educator or candidate who participates in the development, design, construction, review, field testing, scoring, or validation of an examination shall not reveal or cause to be revealed the contents of the examination to any other person.

(2) An educator or candidate who administers an examination shall not:

(A) allow or cause an unauthorized person to view any part of the examination;

- (B) copy, reproduce, or cause to be copied or reproduced any part of the examination;
 - (C) reveal or cause to be revealed the contents of the examination;
 - (D) correct, alter, or cause to be corrected or altered any response to a test item contained in the examination;
 - (E) provide assistance with any response to a test item contained in the examination or cause assistance to be provided; or
 - (F) deviate from the rules governing administration of the examination.
- (3) An educator or candidate who is an examinee shall not:
- (A) copy, reproduce, or cause to be copied or reproduced any test item contained in the examination;
 - (B) provide assistance with any response to a test item contained in the examination, or cause assistance to be provided;
 - (C) solicit or accept assistance with any response to a test item contained in the examination;
 - (D) deviate from the rules governing administration of the examination; or
 - (E) otherwise engage in conduct that amounts to cheating, deception, or fraud.
- (4) An educator, candidate, or other test taker shall not:
- (A) solicit information about the contents of test items on an examination that the educator, candidate, or other test taker has not already taken from an individual who has had access to those items, or offer information about the contents of specific test items on an examination to individuals who have not yet taken the examination;
 - (B) fail to pay all test costs and fees as required by this chapter or the testing vendor; or
 - (C) otherwise engage in conduct that amounts to violations of test security or confidentiality integrity, including cheating, deception, or fraud.
- (5) A person who violates this subsection is subject to:
- (A) sanction, including, but not limited to, disallowance and exclusion from future examinations either in perpetuity or for a period of time that serves the best interests of the education profession, in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases); and/or
 - (B) denial of certification in accordance with the provisions of the TEC, §21.041(b)(7), and Chapter 249 of this title; and/or
 - (C) voiding of a score from an examination in which a violation specified in this subsection occurred as well as a loss of a test attempt for purposes of the retake limit in subsection (a) of this section.