

**Item 10:****Consider and Take Appropriate Action on Adoption of Proposed New 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate****DISCUSSION AND ACTION**

**SUMMARY:** This item provides the State Board for Educator Certification (SBEC) an opportunity to adopt, subject to State Board of Education (SBOE) review, proposed new 19 Texas Administrative Code (TAC) Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate. The proposed new 19 TAC Chapter 239, Subchapter E, would provide for the requirements and validity period for Legacy Master Teacher certificate holders. 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 new 19 TAC Chapter 239, Subchapter E, is the Texas Education Code (TEC), §§21.031, 21.041(b)(1)–(4), and 21.064(a), as amended by House Bill (HB) 3, 86th Texas Legislature, 2019.

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, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

TEC, §21.041(b)(1)–(4), 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 the TEC, Chapter 21, Subchapter B; specify the classes of educator certificates to be issued, including emergency certificates; specify the period for which each class of educator certificate is valid; and specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.064(a), as amended by HB 3, 86th Texas Legislature, 2019, required the SBEC to stop the issuance and renewal of master teacher certificates effective September 1, 2019, to add a designation of "legacy" to each master teacher certificate issued, and to recognize these certificates until they expire.

**EFFECTIVE DATE:** The proposed effective date of the proposal would be December 27, 2020 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is also based on the SBEC and SBOE meeting schedules.

**PREVIOUS BOARD ACTION:** At the July 24, 2020 SBEC meeting, the SBEC approved proposed new 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate, for publication in the *Texas Register* as proposed rules.

**BACKGROUND INFORMATION AND JUSTIFICATION:** HB 3, 86th Texas Legislature, 2019, required the SBEC to repeal 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Master Teacher Certificate, in October 2019 to implement the requirements that SBEC no longer issue or renew master teacher certificates. HB 3 also specified that master teacher certificates will be designated as "legacy" certificates and recognized for assignment purposes until they expire.

The affected certificates were the Master Reading Teacher, Master Mathematics Teacher, Master Technology Teacher, and Master Science Teacher. There are 4,997 Legacy Master Teacher certificate holders. These certificates were only issued after an individual had obtained an initial certification in a particular teaching category.

As a result, the SBEC and Texas Education Agency (TEA) staff received written and oral public comments from educators, school districts, professional organizations, and teacher organizations requesting options to address the current master teacher population and the employing school districts. The feedback received reflects concerns from various stakeholders.

- Current educators who hold master teacher certificates obtained after preparing and paying for the additional certificate will no longer have a credential that reflects this certificate.
- Current educators who are assigned to courses with their master teacher certificates may lose those positions.
- Employing school districts that currently staff their courses with master teacher certificate holders may have personnel issues.

At the February 21, 2020 SBEC meeting, the SBEC received a letter from Chairman Dan Huberty, House Committee on Public Education, Texas House of Representatives, explaining that the intent of the legislation was not to prevent the current educators who hold a master teacher certificate from continuing educating students with those certificates and requested that the SBEC use its rulemaking authority to provide an avenue for those educators to continue serving students and school districts in those roles.

Additionally, at the February 21, 2020 SBEC meeting, the SBEC directed TEA staff to solicit stakeholder feedback and to bring the SBEC options for consideration at the May 1, 2020 meeting.

On April 15, 2020, TEA staff conducted a stakeholder meeting to explore options to allow Legacy Master Teacher certificate holders to continue serving in assignments and to utilize their skills in service to students and the profession.

At the May 1, 2020 SBEC meeting, the SBEC considered options and directed staff to initiate rulemaking that would designate all Legacy Master Teacher certificates as *valid* with no expiration date. The benefits to this option would be that it:

- addresses Chairman Huberty's clarification as well as stakeholders' request for remedy;
- allows all current certificate holders to continue teaching uninterrupted;
- does not cause additional cost and time to implement;
- does not affect continuing professional education (CPE) hours.

If the SBEC adopts, subject to SBOE review, the proposed new rules, they will take effect December 27, 2020. Therefore, there are Legacy Master Teacher certificate holders who have had or will have their certificates expire prior to the effective date of these rules. If the SBEC adopts, subject to SBOE review, the proposed new rules at this meeting, TEA staff will contact those educators to inform them that once the new rules are effective, their Legacy Master Teacher certificates will be converted back to a status of *valid*. TEA staff will provide guidance and options in communicating with current and prospective school districts to help ensure minimal disruption to personnel decisions regarding the impacted assignments.

TEC, §21.041, provides the SBEC full authority to specify the classes of educator certificates to be issued, the period for which each class of educator certificate is valid, and the requirements for the issuance and renewal of an educator certificate. The following is a description of the proposed new rules that reflect the SBEC's charge to draft rule text with the option to establish the status of the Legacy Master Teacher certificate holders to *valid* with no renewal requirements. The rule text is included in Attachment II.

§239.101. General Provisions for Legacy Master Teacher Certificates.

Proposed new §239.101 would provide the general requirements for all Legacy Master Teacher certificate holders. The new section would allow all individuals who held a *valid* or *inactive* master teacher certification on August 31, 2019, to be issued a Legacy Master Teacher certification with no expiration date. Additionally, under the new section, Legacy Master Teacher certificates would not be subject to renewal or CPE requirements. The new section would clarify that other standard certificates held by the certificate holder would still be subject to current renewal and CPE requirements. This would allow all current Legacy Master Teacher certificate holders to continue teaching with these certificates while complying with HB 3, which disallowed Legacy Master Teacher certificates from being renewed.

§239.103. Definitions.

Proposed new §239.103 would provide definitions for the terms *valid*, *inactive*, and *expired* that mirror the language used in the glossary of terms for the official record of educator certification maintained on the TEA website. This would provide clarification and alignment with §230.91(d), which specifies that the representation of an individual's certificate status as maintained on the TEA website is considered to be the official record of educator certification. The electronic representation of the certificate satisfies TEC, §21.053(a), which requires individuals to present their certificate prior to employment by a school district. A definition for *master teacher certificate* would also be provided as reference for the four master teacher certificates that fell under this category.

No changes are recommended to the proposed new 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate, but additional changes may be recommended at the time of the meeting based on public comment.

**FISCAL IMPACT:** No changes have been made to this section since published as proposed. The TEA staff has determined that 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:** 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 under Texas Government Code (TGC), §2001.022, is required

**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 impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis under 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. 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 create a government program, create a new regulation, and increase the number of individuals subject to the rule's applicability by allowing current and expired Legacy Master Teacher certificate holders to hold a *valid* SBEC certificate by designating those certificates as *valid* without the need to renew. As a result of HB 3, the SBEC repealed an existing regulation by repealing the master teacher certificates effective December 22, 2019. The new Chapter 239, Subchapter E, provides for those certified with those certificates to have them continue or be reinstated if they expired.

The proposed rulemaking 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 expand, limit, or repeal an existing regulation; 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 the ability for educators to continue utilizing the master teacher certificate obtained and for school districts to continue staffing those assignments. The TEA staff has determined that there is no anticipated cost to persons who are 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 data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** No changes have been made to this section since published as proposed. 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 began August 21, 2020, and ended September 21, 2020. Any comments received will be provided to the SBEC under separate cover prior to the October 9, 2020 meeting. The SBEC will take registered oral and written comments on the proposal at the October 9, 2020 meeting in accordance with the SBEC board operating policies and procedures.

**ASSOCIATE COMMISSIONER'S RECOMMENDATION:**

Approve for adoption, subject to the State Board of Education review, proposed new 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

**Staff Member Responsible:**

Marilyn Cook, Director, Educator Certification

**Attachments:**

- I. Statutory Citations
- II. Text of Proposed New 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate

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**ATTACHMENT I****Statutory Citations Related to Proposed New 19 TAC Chapter 239, Student Services Certificates, Subchapter E, Legacy Master Teacher Certificate****Texas Education Code, §21.031, Purpose:**

- (a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.
- (b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

**Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
  - (2) specify the classes of educator certificates to be issued, including emergency certificates;
  - (3) specify the period for which each class of educator certificate is valid;
  - (4) specify the requirements for the issuance and renewal of an educator certificate;

**Texas Education Code, §21.064, Legacy Master Teacher Certifications, as amended by HB3, 86th Texas Legislature, 2019 (excerpt):**

- (a) The board shall recognize a master teacher certificate issued under former Section 21.0481, 21.0482, 21.0483, or 21.0484 until the certificate expires. The board shall note a designation of "legacy" on the certificate.

ATTACHMENT II  
Text of Proposed New 19 TAC

**Chapter 239. Student Services Certificates**

**Subchapter E. Legacy Master Teacher Certificate**

**§239.101. General Provisions for Legacy Master Teacher Certificates.**

- (a) A Legacy Master Teacher certificate will be issued to individuals who held valid or inactive master teacher certificates on August 31, 2019.
- (b) Legacy Master Teacher certificates do not expire and are not subject to renewal requirements.
- (c) Any suspension of or condition on an educator's master teacher certificate in accordance with Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) will apply to the educator's Legacy Master Teacher certificate upon issuance.
- (d) All other standard certificates held by the Legacy Master Teacher certificate holders are subject to renewal and continual professional education requirements as prescribed by Chapter 232 of this title (relating to General Certification Provisions).
- (e) A legacy master teacher may serve as a mentor to other teachers in the subject area of his or her Legacy Master Teacher certification.
- (f) A legacy master teacher may teach in assignments as specified in Chapter 231 of this title (relating to Requirements for Public School Personnel Assignments).

**§239.103. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Expired--An expired credential is no longer valid because it was issued for a specific term, and the ending date has passed.
- (2) Inactive--An inactive certificate does not currently entitle the certificate holder to work as a professional educator in a Texas public school. A certificate is placed on inactive status when one or more of the following conditions exists, and the certificate is returned to valid status once an educator satisfies the condition or conditions that caused the certificate to be placed on inactive status:
  - (A) the holder's standard certificate has not been renewed;
  - (B) the certificate holder has not completed fingerprinting as required by the Texas Education Code, §22.0831; or
  - (C) the certificate holder has fees pending.
- (3) Master teacher certificate--a Master Reading Teacher, Master Mathematics Teacher, Master Science Teacher, or Master Technology Teacher certificate issued by the State Board for Educator Certification that, effective September 1, 2019, was no longer issued or renewed.
- (4) Valid--A valid certificate qualifies the holder for employment as an educator in a Texas public school, is not expired or inactive, and is not subject to an active suspension, surrender, cancellation, or revocation.