

## Item 5:

# COVER PAGE

### Type of Agenda Rule Item:

- Discussion Only:** TEA staff will present rule items with an update, potential future rule changes, and/or seek SBEC direction on potential rule changes. TEA staff will draft rule changes from the board's discussion on the item and start preparing rule text for proposal to the board.
- Proposal:** First SBEC reading (vote). SBEC members will give input on proposed rule text and will approve rule changes that will go out for public comment as a proposed rule with the *Texas Register*. Important to make substantive changes now because only non-substantive changes can be made at adoption.
- Adoption:** Second and final SBEC reading (vote). Only non-substantive changes are permissible at adoption phase. If approved will go to SBOE for review and filed as an SBEC rule with *Texas Register* if SBOE takes no action.

### Summary:

This item is an amendment adoption to 19 TAC Chapter 230, which covers all the certifying requirements for the issuance of educator certificates and permits, the testing requirements, and the types and classes of certificates and permits issued. This item specifies that all candidates who have earned their degree outside of the United States would be required to obtain minimum scaled scores on each of the four sections of the Test of English as a Foreign Language internet-Based Test (TEOFL) to demonstrate English language proficiency.

### Statutory Authority:

All of the relevant statutes pertaining to this chapter are listed for you on the agenda title page and the entire statutory language is on Attachment I. This is always helpful in referencing the law the TEA staff was working under when preparing this item.

### TEA Staff Recommendation:

To adopt the amendment as presented.

### Relevant SBEC Core Principles:

- *We believe well-prepared educators are essential.*
- *We believe high certification standards measured by rigorous and reliable assessments are essential.*
- *We believe student success is primary, and we must ensure the safety and welfare of Texas school children.*
- *We believe stakeholder input is essential, and we are accountable to all Texas stakeholders.*
- *We believe we must continually improve our policies and processes in response to changing needs.*

## Item 5:

### **Consider and Take Appropriate Action on Adoption of Proposed Amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements**

#### **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, the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements, which would specify the Test of English as a Foreign Language internet-Based Test (TOEFL iBT) and the minimum scaled scores required for each section of the test to demonstrate English language proficiency for a candidate whose degree was earned outside the United States. The proposed amendment would also require all candidates who did not complete an undergraduate or graduate degree at an accredited institution of higher education in the United States to demonstrate English proficiency by achieving the minimum scaled scores on the TOEFL iBT.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 230, Subchapter B, §230.11, is the Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(1), (4), and (5).

TEC, §21.003(a), states that 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, §21.031, 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), 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.

TEC, §21.041(b)(4), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(b)(5), requires the SBEC to propose rules that specify the requirements for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to TEC, §21.052.

**EFFECTIVE DATE:** The proposed effective date of the proposed amendment to 19 TAC §230.11 would be October 22, 2017 (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 June 9, 2017 SBEC meeting, the SBEC approved the amendment to 19 TAC §230.11 for publication in the *Texas Register* as proposed rules.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Under SBEC rule 19 TAC §230.11(b)(5), any applicant for a Texas educator certificate must "be able to communicate, listen, read, write, and comprehend the English language sufficiently to use it easily and readily in daily communication and teaching." For a candidate who earned his or her degree(s) outside of the United States at an institution of higher education where the primary language of instruction is not English, the candidate must achieve a satisfactory score on an English language proficiency examination approved by the SBEC to satisfy this requirement.

At the December 2016 and March 2017 SBEC meetings, the Board directed Texas Education Agency (TEA) staff to solicit stakeholder feedback and convene a standards-setting committee to develop recommended cut scores for the TOEFL iBT. The Board directives included using all four sections of the TOEFL iBT, cut score recommendations for each section or an overall score, and which candidates should be required to take the examination.

#### TOEFL Cut Scores:

At the June 9, 2017 SBEC meeting, TEA staff presented the Board with the cut score recommendations for each section of the examination. The chart below indicates the recommended scores from the standard-setting committee. Representatives from TEA and Educational Testing Service (ETS) attended the two-day meetings and agree that the recommended passing standards are reasonable.

<b>Speaking</b>	<b>Listening</b>	<b>Reading</b>	<b>Writing</b>
24	25	25	21

The Board members engaged in dialogue and requested clarification on the designations of the cut scores (High/Intermediate/Low or Good/Fail/Limited/Weak) previously shared by TEA staff. TEA staff provides further clarification for the Board's consideration, as follows.

First, the cut score designations are not intended to inform score requirement decisions; they are only used to provide test takers with broad feedback on their performance in comparison to the population of those taking the TOEFL iBT. TEA and ETS staff believe that the outcome of the rigorous two-day standard setting study provides the most useful and relevant information for the Board to consider in determining cut scores.

Also, the standard-setting committee was not made aware of how the raw score would translate to a scaled-score, so the committee members would not be influenced by their knowledge of current scaled score requirements or by a desire to reach or not exceed a specific scaled score. Instead, the standard-setting process requires panelists to determine the skill level needed for a Texas educator and then use this information to determine the appropriate raw score that will ensure that an applicant has demonstrated the English language skills required for successful performance in Texas classrooms.

The chart below indicates the minimum scores approved for proposal on June 9, 2017, by the SBEC.

<b>Speaking</b>	<b>Listening</b>	<b>Reading</b>	<b>Writing</b>
24	22	22	21

Candidates Required to Take TOEFL iBT:

The Board also engaged in dialogue focused on which candidates should be required to take the TOEFL iBT to demonstrate English language proficiency and requested clarification on the procedures used by TEA staff to ensure that foreign-educated applicants graduated from institutions of higher education (IHE) where English was the primary language of instruction. Currently, applicants are required to submit official university transcripts showing degree conferred and date from either an IHE in the United States where English is the primary language of instruction or from an IHE outside the United States where the primary language of instruction was English. TEA staff will provide further clarification for the Board's consideration at the August 3, 2017 SBEC work session.

At the conclusion of the Board's discussion, the SBEC took action to remove the provision for candidates to demonstrate English language proficiency by providing evidence that the primary language of instruction from an IHE outside of the United States was English. This change would ensure that all candidates whose baccalaureate degree was earned outside the United States would demonstrate English language proficiency in a uniform manner. The SBEC stated a desire to consider public comments on how best to move forward with this provision. TEA staff will provide a summary of public comments and further clarification to inform a discussion at the August 3, 2017 SBEC work session.

The proposed amendment to 19 TAC §230.11, shown in Attachment II, reflects the following changes approved at the June 9, 2017 SBEC meeting.

Subchapter B, General Certification Requirements

The purpose of 19 TAC Chapter 230, Subchapter B, General Certification Requirements, is to outline general certification requirements applicable to all individuals regardless of route taken to obtain Texas certification.

The proposed amendment would remove the provision in 19 TAC §230.11(b)(5)(B) that would allow an educator certification applicant who earned an undergraduate or graduate degree at an IHE outside of the United States, including territories of the United States, to provide evidence that the primary language of instruction at the IHE was English. All applicants who received degrees from outside of the United States, including applicants who graduated from a university in a foreign country where English was the primary language of instruction would be required to demonstrate English language proficiency by achieving the minimum scaled scores on the TOEFL iBT as proposed in §230.11(b)(5)(C), relettered as §230.11(b)(5)(B).

Language in 19 TAC §230.11(b)(5)(B) would be amended to clarify that minimum scaled scores on the TOEFL iBT would be used to satisfy English language proficiency requirements. The proposed specific scaled score requirements of 24 for speaking, 22 for listening, 22 for reading, and 21 for writing would replace the current use of a score of at least 26 on only the speaking section of the TOEFL iBT.

An applicant would be required to earn the minimum score in all four sections (speaking, listening, reading, and writing) because all these English language proficiency skills are needed for an educator to use English readily and easily in communication and teaching. An applicant would be allowed to retake the TOEFL iBT to cumulatively achieve the required minimum scores on all sections of the test (i.e., test results from prior administrations that meet one or more of the requirements would count and not have to be retaken).

The SBEC-proposed minimum TOEFL iBT scaled scores, specified in 19 TAC §230.11(b)(5)(B), would provide clarity to candidates and educator preparation programs on the required minimum scaled scores required by foreign-educated Texas certification applicants.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments. There is an anticipated economic cost to persons who are required to comply with the proposed amendment. An individual who has earned an undergraduate or graduate degree at an IHE outside of the United States will be required to take the TOEFL iBT at an estimated cost of \$195 to demonstrate English language proficiency. The TEA estimates a total of 250 individuals would take the TOEFL iBT each year, resulting in an anticipated total cost of \$48,750 per year for the first five years that the proposed amendment will be in effect.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit anticipated as a result of the proposed amendment to 19 TAC §230.11 would be ensuring that educator certificate applicants demonstrate the level of English language proficiency needed to instruct and support all learners and to communicate effectively with parents, colleagues, and other stakeholders upon certification.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendment would have no additional procedural and reporting requirements.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** The proposed amendment would have no additional locally maintained paperwork requirements.

**PUBLIC COMMENTS:** The public comment period on the proposal began June 30, 2017, and ended July 31, 2017. Any comments received will be provided to the SBEC under separate cover prior to the August 4, 2017 meeting. The SBEC will take registered oral and written comments on this item at the August 4, 2017 meeting in accordance with the SBEC board operating policies and procedures.

**ASSOCIATE COMMISSIONER'S RECOMMENDATION:**

A recommendation from TEA staff will be provided at the time of the Board meeting to ensure public comments have been considered. At the time this item was prepared, the public comment period had not closed.

**Staff Members Responsible:** Marilyn Cook, Director  
Educator Certification and Testing

Tim Miller, Director  
Educator Preparation

Becky McCoy, Manager  
Educator Certification and Testing

Jennifer Perez, Program Specialist  
Educator Certification and Testing

**Attachments:** I. Statutory Citations  
II. Text of Proposed Amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements

**ATTACHMENT I****Statutory Citations Related to Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements****Texas Education Code, §21.003, Certification Required (excerpt):**

- (a) 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 Subchapter B.

**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;
  - (4) specify the requirements for the issuance and renewal of an educator certificate;
  - (5) 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;

**ATTACHMENT II**  
**Text of Proposed Amendment to 19 TAC**

**Chapter 230. Professional Educator Preparation and Certification**

**Subchapter B. General Certification Requirements**

**§230.11. General Requirements.**

- (a) The only credits and degrees acceptable for certification of educators are those earned from and conferred by accredited institutions of higher education. All credit hour requirements for certification are semester credit hours or their equivalent.
- (b) An applicant for a Texas educator certificate must:
- (1) be at least 18 years of age;
  - (2) submit to the criminal history review required by the Texas Education Code (TEC) §22.0831, not be disqualified by the TEC, §21.058, §21.060, or other Texas statute, and not be subject to administrative denial pursuant to §249.12 of this title (relating to Administrative Denial; Appeal) or a pending proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);
  - (3) not be disqualified by federal law;
  - (4) be willing to support and defend the constitutions of the United States and Texas;
  - (5) be able to communicate, listen, read, write, and comprehend the English language sufficiently to use it easily and readily in daily communication and teaching. English language proficiency shall be evidenced by one of the following:
    - (A) completion of an undergraduate or graduate degree at an accredited institution of higher education in the United States; or
    - ~~[(B) if an undergraduate or graduate degree was earned at an institution of higher education outside of the United States, including territories of the United States, evidence must be provided under procedures approved by the Texas Education Agency (TEA) staff that the primary language of instruction was English; or]~~
    - (B) ~~[(C)]~~ verification of minimum scaled [satisfactory] scores on the Test of English as a Foreign Language internet-Based Test (TOEFL iBT) [an English language proficiency examination(s) approved by the State Board for Educator Certification (SBEC)] of 24 for speaking, 22 for listening, 22 for reading, and 21 for writing;
  - (6) successfully complete appropriate examinations prescribed in §230.21 of this title (relating to Educator Assessment) for the educator certificate sought; and
  - (7) satisfy one or more of the following requirements:
    - (A) complete the requirements for certification specified in this chapter, Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), Chapter 239 of this title (relating to Student Services Certificates), Chapter 241 of this title (relating to Principal Certificate), or Chapter 242 of this title (relating to Superintendent Certificate), and be recommended for certification by an approved educator preparation program;
    - (B) qualify under Subchapter H of this chapter (relating to Texas Educator Certificates Based on Certification and College Credentials from Other States or Territories of the United States);
    - (C) qualify under §230.105 of this title (relating to Issuance of Additional Certificates Based on Examination);



- (D) qualify for a career and technical education certificate based on skill and experience specified in §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)); or
- (E) qualify under Chapter 245 of this title (relating to Certification of Educators from Other Countries).