

Item 12:**Consider and Take Appropriate Action on Petition for Adoption of Rule Change Concerning 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification****DISCUSSION AND ACTION**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to consider petitions for rulemaking on 19 Texas Administrative Code (TAC) Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification, filed pursuant to Texas Government Code, §2001.021. The petitioner requests amendments regarding content certification examinations, candidate preparation prior to admission into an educator preparation program, educator preparation program accountability, and candidate internship assignments. The SBEC must either deny the petitions or direct the Texas Education Agency (TEA) staff to initiate rulemaking proceedings.

STATUTORY AUTHORITY: Texas Government Code, §2001.021, and Texas Education Code (TEC), §§21.003(a), 21.031, and 21.041(b)(2), (4), and (5).

EFFECTIVE DATE: None.

PREVIOUS BOARD ACTION: The SBEC last amended 19 TAC §227.5, effective December 22, 2019; §227.17, effective February 28, 2016; §229.4, effective December 27, 2026; and §230.36, effective December 27, 2016.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with the Texas Government Code, §2001.021, the SBEC may deny the petition or direct the TEA staff to initiate rulemaking proceedings.

At the February 21, 2020 SBEC meeting, the petitioner, Scott Fikes with Education Career Alternatives Program (ECAP), submitted four petitions for rulemaking to the Board during the public comment period at the meeting. Attachment II includes the submitted petitions requesting the SBEC change current rules.

Texas Education Agency (TEA) staff initiated a meeting with the petitioner and other representatives of ECAP on March 17, 2020. TEA staff and ECAP representatives met to ensure clarity on the petitioner's request and provide background information on the related rule sections of the requests. See Attachment II for actual petition language and Attachment III for current rule text. The tables below summarize the content of the petitioner's requests, the impact of the requests if granted, and TEA staff recommendations based on prior actions of the SBEC.

Petition 1

Request: Change §227.5(8) definition of Content Certification Examination to read:

Content Certification Examination – A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program. certificates as an educator.

Impact of Request:

This request would reverse action taken by the SBEC at the October 2019 meeting, effective December 22, 2019. The SBEC adopted this rule to align its rule with the statutory provision in TEC §21.0441 that allows an applicant for educator preparation to be tested on subject-matter knowledge for admission purposes on a pre-admission content test (PACT). TEC §21.0441 does not require all applicants to take the PACT; it only requires an applicant to take the pre-admission content test if the applicant does not have the coursework or GPA required for admission in an EPP to demonstrate subject-matter knowledge. Previously, SBEC rule had allowed these applicants to be forced to take prior to admission the same exam that candidates take for final certification, an exam that tests important pedagogical methods that are to be taught *during* the program experience. The SBEC amended the rule to ensure candidates were not required to test on pedagogical content prior to beginning EPP coursework because candidates' pre-admission test attempts, before they learned the pedagogical concepts, would count against their five-time test limit. If SBEC approves the rule change that ECAP requests, candidates once again will be required to pay for and successfully complete the exam without preparation prior to admission.

Recommendation Based on SBEC Action:

Deny Petition

This petition would reverse recent SBEC action taken to align the SBEC rules with the statutory provision in TEC §21.0441, which requires an examination of content knowledge if a candidate does not possess the required content coursework to enter an EPP. This recent SBEC rulemaking included receiving stakeholder input, TEA staff presenting a discussion item with rule text, the SBEC approving the proposed rule action with an official public comment period, the SBEC approving the rule action, and final review by the State Board of Education (SBOE).

Petition 2
<p>Request: Change §227.17(f) provision of Formal Admission to read:</p> <p>Except as provided by §227.15 of this title (relating to Contingency Admission), an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an institution of higher education (IHE) may admit an applicant if coursework and training was provided by the same IHE as part of:</p>
<p>Impact of Request:</p> <p>This request would reverse rulemaking action taken by the SBEC at the December 2015 meeting, effective February 28, 2016. The SBEC adopted this rule to disallow EPPs from charging applicants for preparation prior to admission into the EPP. The current SBEC rule ensures that candidates are prepared in accordance with the SBEC-adopted preparation model that aligns all the provisions related to admission, educator preparation (curriculum and coursework/training), examination readiness, and EPP accountability. If the SBEC approves the rule change that ECAP requests, EPPs would be able to conduct preparation activities that are part of the preparation program without admitting the candidate, potentially charging additional fees to the candidate, while removing any oversight of these activities by the SBEC.</p> <p>The petitioner states the purpose for this proposed rule change is to allow EPPs to prepare applicants for the pre-admission content test (PACT), the examination to demonstrate content knowledge for admission purposes. Current rule permits EPPs to prepare applicants for the pre-admission content test, so no rule change is necessary for this to take place.</p>
<p>Recommendation Based on SBEC Action:</p> <p>Deny Petition</p> <p>The petition would reverse SBEC rulemaking action taken to protect candidates and allow for SBEC oversight of EPPs. The stated purpose of the proposed rule change is already allowable under current SBEC rule. The previous SBEC rulemaking included receiving stakeholder input, TEA staff presenting a discussion item with rule text, the SBEC approving the proposed rule action with an official public comment period, the SBEC approving the rule action, and final review by the SBOE.</p>

Petition 3**Requests:**

- Change §229.4(a)(1)(A) and (B) provisions of Determination of Accreditation Status to read:
 - (A) For both PPR and non-PPR examinations, the performance standard shall be calculated based on the percentage of individuals admitted after December 26, 2016, who passed an examination ~~within the first two attempts~~. For purposes of determining the pass rate, an individual shall not be excluded because the individual has not been recommended for a standard certificate. The pass rate is based solely on the examinations approved by the EPP and required to obtain initial certification in the class or category for which the individual serves his or her internship, clinical teaching, or practicum. Examinations not required for certification in that class or category, whether taken before or after admission to an EPP, are not included in the rate. The formula for calculation of pass rate is the number of individuals who have passed an examination on their first or second attempt, including any attempts after the candidate completed the EPP, divided by the number of individuals who passed an examination on their first attempt plus those who passed or failed on their second attempt.
 - (B) for the 2020–2021 academic year and following, the performance standard shall be the percent of individuals admitted after December 26, 2016, who passed an examination ~~within the first two attempts~~, including those attempted after the individual has completed the EPP or when the EPP has not recommended the individual for a standard certificate. The pass rate is based solely on the examinations approved by the EPP. Examinations taken before admission to the EPP or specific examinations taken for pilot purposes are not included in the pass rate.
- Change Figure §229.4(1)(c) provisions related to accountability manual
 - ASEP Indicator 1a:
Divide the number of passed PPR certification examinations ~~on the first or second attempt~~ by the total number of passed PPR certification examinations on the first, second, third and fourth attempts plus the number of PPR certification examinations passed or failed on their ~~second~~ fifth attempt. Multiply by 100. Round to the nearest whole number.
 - ASEP Indicator 1b:
Divide the number of passed non-PPR certification examinations ~~on the first or second attempt~~ by the total number of passed non-PPR certification examinations on the first, second, third and fourth attempts plus the number of non-PPR certification examinations passed or failed on their ~~second~~ fifth attempt. Multiply by 100. Round to the nearest whole number.

Petition 3**Impact of Request:**

This request would reverse rulemaking action taken by the SBEC at the October 2016 meeting, effective December 27, 2016. The SBEC adopted this rule to create a higher, consistent, and more transparent standard for this accountability indicator.

Statute requires the SBEC in TEC §21.045 to hold programs accountable for the results of candidates' certification examinations. Prior to 2016, SBEC rule setting out the accountability indicator utilized the pass rate based on a candidate's final attempt to pass the certification examination. In 2016, EPPs requested a change to the accountability indicator to include additional attempts by candidates to pass the certification examination. The SBEC engaged in the rulemaking process, discussing many options including basing EPP accountability on candidates' first attempt at passing the certification examination.

The SBEC ultimately adopted the current rule that allows candidates two attempts to pass the examination for the EPP accountability indicator. The rule action taken by SBEC in 2016 made the accountability system more transparent for candidates, school districts, and policymakers, differentiating EPPs by assessing program effectiveness in preparing candidates for examinations necessary for certification. The current rule provides clarity and consistency by measuring how well EPPs prepare candidates to pass examinations necessary for certification within the first two attempts.

If the SBEC approves the rule change that ECAP requests, EPPs would only be held accountable for failed tests when a candidate failed on the fifth attempt. This would cloud transparency in how well programs are preparing candidates to meet the requirements for certification. Importantly, this would set up an inequitable system wherein candidates at programs that withhold remediation and investment in candidate preparation until after multiple exam failures would have to pay examination fees up to five times to pass an exam, while candidates at programs that proactively prepare candidates in the first attempt successfully would pay only once. Changing this indicator in accordance with the petition would provide a false positive of how well EPPs are preparing candidates.

The petitioner cites the statutory provision of TEC §21.048 as a basis for the petition, but that is a misapplication of that statute. That statute prescribes that candidates cannot enter the teaching profession if they are cannot pass an examination on the first five attempts—it creates a lowest common denominator in candidate test performance, not an aspirational goal. Moreover, TEC §21.048 is a requirement for teacher candidates, not EPPs. The accountability system for EPPs is set out in TEC §21.045. It is important to note that the two-attempt limit in the accountability system does not prevent or even disincentivize EPPs from allowing a candidate five attempts for to take the exam because after the first two attempts, additional attempts are completely inconsequential for the EPP's accountability rating.

Petition 3

Recommendation Based on SBEC Action:

Deny Petition

This petition would reverse SBEC rulemaking action to increase transparency and enact meaningful quality standards for EPPs. Denying the petition will ensure a continuation of a meaningful accountability system that secures high standards for program preparation expectations and differentiates between programs in Texas. The previous SBEC rulemaking included receiving stakeholder input, TEA staff presenting a discussion item with rule text, the SBEC approving the proposed rule action with an official public comment period, the SBEC approving the rule action, and final review by SBOE.

Petition 4

Request: Change §230.36(c)(3) and (4)(A) provisions of Intern Certificates to read:

- (3) Term of an intern certificate. An intern certificate shall be valid for ~~one~~ two 12-month periods from the date of issuance.
- (4) (A) intern certificates, limited to ~~one~~ two 12-month periods maximum, as described in this subsection;

Impact of Request:

This request would change the rule adopted by the SBEC at the October 2016 meeting, effective December 27, 2016. The SBEC approved rule changes in 2016 establishing the Intern certificate, which is valid for one year and requires success on the content pedagogy examination for issuance. The SBEC also approved rules to allow candidates that fail to complete all EPP requirements by the end of their internship year to be granted a second internship year by passing the required pedagogy and professional responsibilities examination (PPR) for issuance of a Probationary certificate. The PPR measures basic competencies in teaching and classroom management practices. During the rulemaking process, the SBEC initially discussed making the PPR examination a prerequisite for all candidates seeking initial certification to become an teacher of record, but ultimately decided to approve a tiered licensure structure that allowed educators a full year in the classroom before they had to pass the PPR. The SBEC recently reduced the 45-day waiting period for retaking exams to a 30-day waiting period, providing additional opportunities to test during the first year-long internship. If the SBEC approves the rule change proposed in the petition, teachers will be allowed to teach Texas students for two years without demonstrating basic compliance with SBEC-required pedagogy and professional responsibilities teaching practices.

Petition 4

Recommendation Based on SBEC Action:

Deny Petition

This petition would allow for candidates to delay for a year the demonstration of basic competencies in pedagogy and professional responsibilities while serving as a teacher of record. The previous SBEC rulemaking included receiving stakeholder input, TEA staff presenting a discussion item with rule text, the SBEC approving the proposed rule action with an official public comment period, the SBEC approving the rule action, and final review by the SBOE.

OTHER COMMENTS AND RELATED ISSUES: Under SBEC rule 19 TAC §250.20, Petition for Adoption of Rules or Rule Changes, shown in Attachment I, the TEA must respond to a rule petition within 60 days even if it is not possible for the SBEC to act upon it within 60 days, as was the case with this petition. As a result, TEA staff notified the petitioner that the petition would be considered at the May 1, 2020 meeting.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Deny the petitions for rulemaking.

Staff Members Responsible:

Christie Pogue, Director, EPP Accreditation and Policy Development

Marilyn Cook, Director, Educator Certification

Jessica McLoughlin, Director, Educator Standards and Testing

Mark Olofson, Director, Educator Data and Preparation Program Management

Attachments:

- I. Statutory Citations
- II. Petitions to Amend 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification
- III. Rule text of 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification

ATTACHMENT I**Statutory Citations Related to Consideration of Petition for Adoption of Rule Change Concerning 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification****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 (excerpt):

- (b) The board shall propose rules that:
 - (2) specify the classes of educator certificates to be issued, including emergency certificates;
 - (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;

Texas Government Code, §2001.021, Petition for Adoption of Rules:

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
 - (1) deny the petition in writing, stating its reasons for the denial; or
 - (2) initiate a rulemaking proceeding under this subchapter.
- (d) For the purposes of this section, an interested person must be:
 - (1) a resident of this state;
 - (2) a business entity located in this state;

- (3) a governmental subdivision located in this state; or
- (4) a public or private organization located in this state that is not a state agency.

19 TAC §250.20, Petition for Adoption of Rules or Rule Changes.

- (a) Any interested person may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.
Figure: 19 TAC §250.20(a)
- (b) In accordance with the Texas Government Code, §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.
 - (1) Where possible, the recommendation concerning the petition shall be placed on the SBEC agenda, and the SBEC shall act on the petition within the 60-calendar-day time limit.
 - (2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.
- (c) The SBEC will review the petition and the recommendation and will either direct the TEA staff to begin the rulemaking process or deny the petition, giving reasons for the denial. The TEA staff will notify the petitioner of the SBEC's action related to the petition.
- (d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:
 - (1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;
 - (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;
 - (3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding; or
 - (4) the petitioner is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing a petition:
 - (A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or
 - (B) to amend a rule proposed or adopted by the SBEC that has not yet become effective.
- (e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.

ATTACHMENT II

Petitions for Rulemaking

Figure: 19 TAC §250.20(a)

STATE BOARD FOR EDUCATOR CERTIFICATION
Petition for Adoption of a Rule

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

Office of Educator Leadership and Quality Texas Education Agency, 1701 North Congress Avenue,
Austin, Texas 78701-1494

Name:

J. Scott Fikes

Affiliation/Organization (if applicable):

Education Career Alternatives Program

Address: P.O. Box 162179

Ft. Worth, TX 76161

Telephone: (817) 284-7731

Date: February 21, 2020

Texas Government Code, §2001.021, specifies that an interested person must meet one of the following criteria. Please check all of the following that apply to you.

resident of Texas

business entity located in Texas

governmental subdivision located in Texas

public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

See Attached

Statutory authority for the proposed rule action:

The statutory authority for TAC Ch 227 subchapter A, is the Texas Education Code (TAC) 21.044

See Attached

Why is this rule action necessary or desirable?

See Attached

(If more space is required, attach additional sheets.)

Petitioner's Signature J.Scott Fikes

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 227.17(f) Except as provided by §227.15 of this title (relating to Contingency Admission), ~~an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate.~~ A post-baccalaureate or alternative certification program at an institution of higher education (IHE) may admit an applicant if coursework and training was provided by the same IHE as part of:

Statutory authority for the proposed rule action:

The statutory authority for TAC Ch 227 subchapter A, is the Texas Education Code (TAC) 21.044(a) 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.

Why is this rule action necessary or desirable?

This language was added in 2016:

1. It prohibits EPPs from preparing candidates for the PACT test which leads to low passing rates, yet EPPs are accountable for their pass rates.
2. It prohibits EPPs from providing teacher training while candidates are working to meet admission requirements. Many candidates are hired immediately due to the shortage of teachers, thus placing an untrained teacher in the classroom.

Figure: 19 TAC §250.20(a)

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- business entity located in Texas
- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 227.5 (8) Definition:

Content Certification Examination – A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual’s ~~admission to an educator preparation program.~~ Certificate as an educator.

Statutory authority for the proposed rule action:

Please see attached.

Why is this rule action necessary or desirable?

Please see attached.

(If more space is required, attach additional sheets.)

Petitioner's Signature J.Scott Fikes

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 227.5 (8) Definition:

Content Certification Examination – A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program. Certificate as an educator.

Statutory Authority for the proposed rule action.

The statutory authority for TAC Ch. 227 subchapter A, is the Texas Education Code (TEC). 21.0441 requires the SBEC to adopt rules setting certain admission requirements for EPPs, including allowing Content Certification Examination to substitute for required college classroom credit hours in the subject in which the candidate is seeking individual certification.

Why is the Rule action necessary or desirable?

Adding the phrase “certification as an educator” will accomplish 4 things:

1. It will bring TAC rule back into compliance with TEC 21.0441, requiring a content certification examination can be used to substitute required college classroom credit hours.

Under the current definition this test is NOT a test required for teacher certification and will in NO WAY meet requirement for teacher certification and will NOT meet TEA requirement for teacher certification. *See Graphic A

2. It will bring TAC rule back into compliance with TEC 21.048 titled CERTIFICATION EXAMINATION
21.048 Certification Examination
(a) The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board.
(a-1) A person may not retake an examination more than four times.
This references the certification Examination, NOT Content Pedagogy (TEXES).
*See Graphic A
Content Certification Examination does NOT govern certification but, IS named in TEC 21.048.
Content Pedagogy Examination governs certification, but is NOT named in TEC 21.048.
3. Making this change will allow the candidate to know he/she is eligible for an intern certification upon admission to an EPP, eliminating an uncertainty and risk of entering the field of education.
4. This change will more readily allow new college graduates and career changers to move seamlessly into the classroom, eliminating the question, “how am I going to take care of my family and bills while waiting to be given permission, for the test that allows me to apply for teaching positions?”

Graphic A

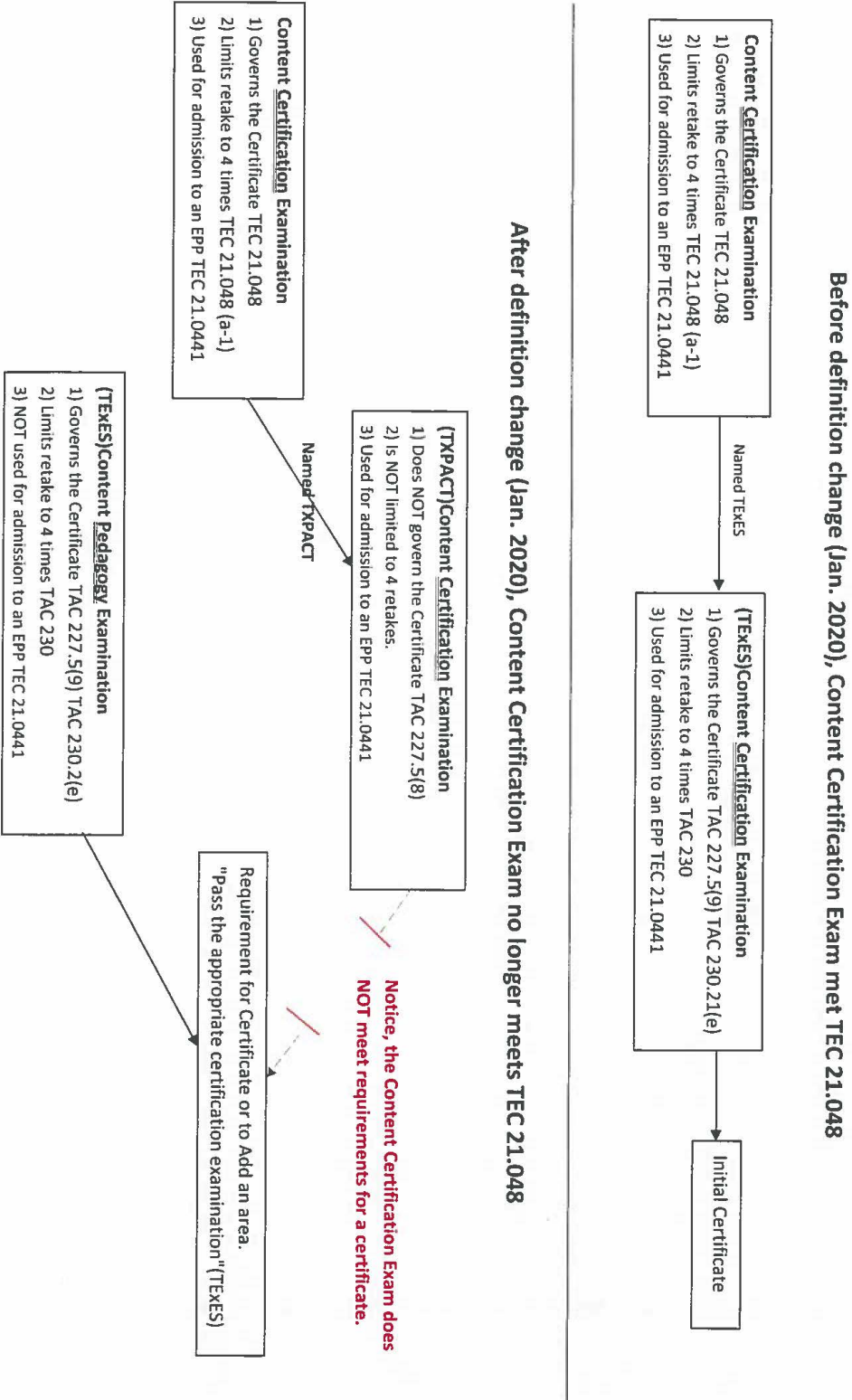


Figure: 19 TAC §250.20(a)

STATE BOARD FOR EDUCATOR CERTIFICATION
Petition for Adoption of a Rule

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

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Name:

J. Scott Fikes

Affiliation/Organization (if applicable):

Education Career Alternatives Program

Address: P.O. Box 162179

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Date: February 21, 2020

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- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 229.4(a)(1)(A)and(B)

TAC 229.1(c)

See Attached

Statutory authority for the proposed rule action:

The statutory authority for TAC 229.4 is the Texas Education Code (TAC) 21.045 and 21.048

See Attached

Why is this rule action necessary or desirable?

See Attached

(If more space is required, attach additional sheets.)

Petitioner's Signature J.Scott Fikes

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 229.4(a)(1)(A)

For both PPR and non-PPR examinations, the performance standard shall be calculated based on the percentage of individuals admitted after December 26, 2016, who passed an examination within the first two attempts. For purposes of determining the pass rate, an individual shall not be excluded because the individual has not been recommended for a standard certificate. The pass rate is based solely on the examinations approved by the EPP and required to obtain initial certification in the class or category for which the individual serves his or her internship, clinical teaching, or practicum. Examinations not required for certification in that class or category, whether taken before or after admission to an EPP, are not included in the rate. The formula for calculation of pass rate is the number of individuals who have passed an examination on their first or second attempt, including any attempts after the candidate completed the EPP, divided by the number of individuals who passed an examination on their first attempt plus those who passed or failed on their second attempt.

(B)

For the 2020-2021 academic year and following, the performance standard shall be the percent of individuals admitted after December 26, 2016, who passed an examination within the first two attempts, including those attempted after the individual has completed the EPP or when the EPP has not recommended the individual for a standard certificate. The pass rate is based solely on the examinations approved by the EPP. Examinations taken before admission to the EPP or specific examinations taken for pilot purposes are not included in the pass rate.

TAC 229.1 ASEP Manuel

Chapter 3 Calculation

ASEP Accountability Indicator 1a:

Divide the number of passed PPR certification examinations on the first or second attempt by the total number of passed PPR certification examinations on the first, second, third and fourth attempt plus the number of PPR certification examinations passed or failed on their second fifth attempt. Multiply by 100. Round to the nearest whole number.

ASEP Accountability Indicator 1b:

Divide the number of passed non-PPR certification examinations on the first or second attempt by the total number of passed non-PPR certification examinations on the first, second, third and fourth attempt plus the number of non-PPR certification examinations passed or failed on their second fifth attempt. Multiply by 100. Round to the nearest whole number.

Statutory authority for the proposed rule action:

The statutory authority for TAC 229.4 is the Texas Education Code (TAC) 21.045 and 21.048

21.045 Accountability System for Educator Preparation Programs

(a) The board shall propose rules necessary to establish standards to govern the continuing accountability of all Educator Preparation Programs based on the following information that is disaggregated with respect to race, sex and ethnicity:

(1) results of the certification examinations prescribed under section 21.048(a)

TEC 12.048(a-1) A person may not retake an examination more than four times.

Why is this rule action necessary or desirable?

1. This rule change will remove regulation that limits test attempts which have proven unfavorable to minority populations.
2. This rule change will allow more test attempts helping to alleviate the 9.8% drop in new teachers certified last year.
3. This rule change will legitimately allow individuals 5 test attempts as is provided in TAC 21.048.

Figure: 19 TAC §250.20(a)

STATE BOARD FOR EDUCATOR CERTIFICATION
Petition for Adoption of a Rule

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Name:
J. Scott Fikes

Affiliation/Organization (if applicable):
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Address: P.O. Box 162179
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Telephone: (817) 284-7731 Date: February 21, 2020

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- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 230.35
See Attached

Statutory authority for the proposed rule action:

TEC 21.041
See Attached

Why is this rule action necessary or desirable?

See Attached

(If more space is required, attach additional sheets.)

Petitioner's Signature J.Scott Fikes

Proposed rule text (indicate words to be added or deleted from the current text):

TAC 230.36(c)(3) Term of an intern certificate. An intern certificate shall be valid for ~~one~~ **two** 12-month periods from the date of issuance.

TAC 230.36(c)(4)(A) intern certificates, limited to ~~one~~ **two** 12-month periods maximum, as described in this subsection.

Statutory authority for the proposed rule action:

The statutory authority for TAC 230.36 is the Texas Education Code (TEC) 21.041 Rules Fees:

(b)The board shall propose rules that

(3) Specify the period for each class of educator certificate is valid.

Why is this rule action necessary or desirable?

Changing the term of an intern certificate from one year to two years will alleviate the problem of losing teachers at the end of their first year of teaching due to the lack of opportunity to pass the PPR, This will:

1. Keep good teachers in the classroom, that we were losing after their first year due to lack of opportunity to test. The certification structure was changed in 2017: the 2017-18 school year had 1620 fewer PPR testers (-5.7%) and 2590 less teachers certified (-9.8%) compared to the previous year. Last year saw a decrease of 2357 PPR tests a 1.5% larger decrease than 2017-18.

***See Chart PPR number of testers and pass rate**

2. This change is the most cost effective and immediate way to comply with TEC statute related to TEA teacher recruitment and retention mandate.
3. This change will bring Texas more in-line with the other 49 states that give 2 - 3 years to pass their Pedagogy Test.

PPR number of testers and Pass rate

Sch. Yr.	Pass 1 st att. 2013-14 Pass Best att.	Pass 1 st att. 2014-15 Pass Best att.	Pass 1 st att. 2015-16 Pass Best att.	Pass 1 st att. 2016-17 Pass Best att.	Pass 1 st att. 2017-18 Pass Best att.	Pass 1 st att. 2018-19 Pass Best att.
#Testers	25778 (93%)	27314 (93%)	26928 (93%)	28333 (94%)	26713 (88%)	24356 (85%)
1 st time pass/ Best Pass	(98%)	(98%)	(98%)	(98%)	(92%)	(91%)
Increase/Decrease in Number of testers		+ 1536	-386	+1405	- 1620	-2357
Increase/Decrease in Percent of testers		+6%	-1.4%	+5.2%	-5.7%	-8.8%

* Data Source - Educator Certification Production Report (TEA Website)

The numbers in red are years after the two-time test rule and the requirement to pass the he PPR within the first year of teaching is implemented.

From School years 2017-18 to 2018-19 there were 3977 fewer first attempts at the PPR compared to 2016-17, a decrease of 14%. Although there were fewer testers the pass rate fell dramatically during these two years.

The conclusion is obvious, regulating the tests accountability to two attempts and limiting testing to the first year, has a detrimental effect on the pass rate and opportunity for testers to attempt the test in order to become certified.

ATTACHMENT III**Rule text of 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Chapter 229, Accountability System for Educator Preparation Programs, and Chapter 230, Professional Educator Preparation and Certification****Rule text of 19 TAC Chapter 227, Provisions for Educator Preparation Candidates****§227.5. Definitions.**

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

- (8) Content certification examination--A standardized test or assessment required by statute or State Board for Educator Certification rule that governs an individual's admission to an educator preparation program.

§227.17. Formal Admission.

- (f) Except as provided by §227.15 of this title (relating to Contingency Admission), an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate. A post-baccalaureate or alternative certification program at an institution of higher education (IHE) may admit an applicant if coursework and training was provided by the same IHE as part of:
 - (1) a previous degree that was conferred;
 - (2) a prerequisite for a master's degree leading to initial certification; or
 - (3) a different post-baccalaureate program of study.

Rule text of 19 TAC Chapter 229, Accountability System for Educator Preparation Programs**§229.4. Determination of Accreditation Status.**

- (a) Accountability performance indicators. The State Board for Educator Certification (SBEC) shall determine the accreditation status of an educator preparation program (EPP) at least annually, based on the following accountability performance indicators, disaggregated by demographic group and other requirements of this chapter and determined with the formulas and calculations included in the figure provided in §229.1(c) of this title (relating to General Provisions and Purpose of Accountability System for Educator Preparation Programs). Data will be used only if the following indicators were included in the accountability system for that academic year:
 - (1) the EPP candidates' performance on examinations of pedagogy and professional responsibilities (PPR) and non-PPR standard certification examinations. The EPP candidates' performance on PPR and non-PPR examinations shall provide separate accountability performance indicators for EPPs.
 - (A) For both PPR and non-PPR examinations, the performance standard shall be calculated based on the percentage of individuals admitted after December 26, 2016, who passed an examination within the first two attempts. For purposes of determining the pass rate, an individual shall not be excluded because the individual has not been recommended for a standard certificate. The pass rate is based solely on the examinations approved by the EPP and required to obtain initial certification in the class or category for which the individual serves his or her internship, clinical teaching, or practicum. Examinations not required for certification in that class or category, whether taken before or after admission to an EPP, are not included in the rate. The formula for calculation of pass rate is the number of individuals who have passed an examination on their first or second attempt,

including any attempts after the candidate completed the EPP, divided by the number of individuals who passed an examination on their first attempt plus those who passed or failed on their second attempt.

- (B) For the 2020–2021 academic year and following, the performance standard shall be the percent of individuals admitted after December 26, 2016, who passed an examination within the first two attempts, including those attempted after the individual has completed the EPP or when the EPP has not recommended the individual for a standard certificate. The pass rate is based solely on the examinations approved by the EPP. Examinations taken before admission to the EPP or specific examinations taken for pilot purposes are not included in the pass rate.

Rule text of 19 TAC Chapter 230, Professional Educator Preparation and Certification

§230.36. Intern Certificates.

- (c) Conditions. The validity and effectiveness of an intern certificate is subject to the following conditions.
- (3) Term of an intern certificate. An intern certificate shall be valid for one 12-month period from the date of issuance.
- (4) Limit on preliminary certifications and permits. Without obtaining standard certification, an individual may not serve for more than three 12-month periods while holding any combination of the following:
- (A) intern certificates, limited to one 12-month period maximum, as described in this subsection;
- (B) probationary certificates, limited to two 12-month periods maximum, as specified in §230.37 of this title (relating to Probationary Certificates)
- (C) emergency permits as specified in Subchapter F of this chapter (relating to Permits); or
- (D) one-year certificates as specified in 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) and Chapter 245 of this title (relating to Certification of Educators from Other Countries).