

Item 11:

Proposed Amendments to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss and propose amendments to 19 Texas Administrative Code (TAC) Chapter 234, Military Service Members, Military Spouses, and Military Veterans. The proposed amendments would implement House Bill (HB) 139, 87th Texas Legislature, Regular Session, 2021. The proposed amendments would add the space force to the list of branches of the United States Armed Forces and would allow service members, spouses, and veterans to get credit toward educator certification requirements for clinical and professional experience.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 234, §234.3 and §234.5, is the Texas Education Code (TEC), §§21.041(b)(2) and (4); 21.044(a), as amended by HB 159, 87th Texas Legislature, Regular Session, 2021; and 21.052(b-1), as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, (c), (d-1), (f), as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, and (i), as added by HB 139, 87th Texas Legislature, Regular Session, 2021; and Texas Occupations Code (TOC), §§55.001, as amended by HB 139, 87th Texas Legislature, Regular Session, 2021; 55.002; 55.003; 55.004, as amended and added by HB 139, 87th Texas Legislature, Regular Session, 2021, 55.0041, as amended and added by HB 139, 87th Texas Legislature, Regular Session, 2021; and 55.005–55.010.

TEC, §21.041(b)(2), requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

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, §21.044(a), as amended by HB 159, 87th Texas Legislature, Regular Session, 2021, 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, §21.052(b-1), as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, requires the SBEC to establish procedures to accurately identify military spouses and expedite processing of certification applications that they submit.

TEC, §21.052(c), specifies the SBEC can specify the term of a temporary certificate issued under this subsection.

TEC, §21.052(d-1), requires the SBEC to issue a three-year temporary certificate to eligible military spouses of active-duty service members.

TEC, §21.052(f), as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, provides definitions for terms used in the rest of TEC, §21.052.

TEC, §21.052(i), as added by HB 139, 87th Texas Legislature, Regular Session, 2021, defines active-duty service, lists the branches of the United States Armed Forces, and confirms the members of the military community eligible for processes established to certify educators from outside the state.

TOC, §55.001, as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, defines key terms and identifies the individuals relevant to the processing and support of members of the military community.

TOC, §55.002, provides clarification and guidelines for implementing fee exemptions for members of the military community.

TOC, §55.003, states military service members are eligible to receive a two-year extension of time to complete requirements for license renewal.

TOC, §55.004, as amended and added by HB 139, 87th Texas Legislature, Regular Session, 2021, requires state agencies to adopt rules for issuance of licensure to members of the military community and provides alternatives to become eligible for licensure.

TOC, §55.0041, as amended by HB 139, 87th Texas Legislature, Regular Session, 2021, requires state agencies to adopt rules to allow military spouses licensed in other states and in good standing to practice in their occupation of expertise with the license issued in another state.

TOC, §55.005, requires state agencies to establish a process to expedite applications for licensure submitted by members of the military community.

TOC, §55.006, requires state agencies to determine renewal requirements for expedited licenses issued to members of the military community.

TOC, §55.007, provides state agencies authority to credit verified military service, training, or education toward licensing requirements.

TOC, §55.008, authorizes state agencies to credit verified relevant military service, training, or education relevant to the occupation toward the apprenticeship requirements for licensure.

TOC, §55.009, confirms state agencies that issue licensure shall waive license application and examination fees paid to the state for applicable members of the military community.

TOC, §55.010, requires state agencies to prominently post notification of licensure provisions for military service members, military veterans, and military spouses on the home page of the agency's website.

EFFECTIVE DATE: If approved for filing as proposed in October 2021, and if adopted, subject to State Board of Education (SBOE) review, at the December 10, 2021 SBEC meeting, the proposed effective date of the proposal would be March 3, 2022 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is based on the SBEC and SBOE meeting schedules.

PREVIOUS BOARD ACTION: The SBEC last amended §234.3 effective August 28, 2016, and last amended §234.5 effective December 22, 2019.

BACKGROUND INFORMATION AND JUSTIFICATION: All military-related provisions for educator certification have been consolidated into 19 TAC Chapter 234. The proposed amendments to 19 TAC Chapter 234 would implement HB 139, 87th Texas Legislature, Regular Session, 2021. Following is a description of the proposed amendments included in Attachment II.

§234.3. Definitions.

The proposed amendment to §234.3(5) would implement HB 139, 87th Texas Legislature, Regular Session, 2021, by adding "space force" to update the list of branches of the United States Armed Forces.

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

The proposed amendment to §234.5(f) would implement HB 139, 87th Texas Legislature, Regular Session, 2021, by adding "clinical and professional experience" training to the list of appropriate credit toward certification requirements. HB 139 allows state licensing agencies to give military service members, spouses, and veterans credit toward certification requirements for clinical and professional experience.

The proposed amendment would also include a technical edit to further define a cross reference to 19 TAC §152.1001 in §234.5(h).

FISCAL IMPACT: The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons 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 (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: 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, §2001.045.

TAKINGS IMPACT ASSESSMENT: 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: 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 increase the number of individuals subject to the rule's applicability because it adds individuals in the space force branch of the United States Armed

Forces as military community members and adds military service members, veterans, and spouses who have clinical and professional experience to those persons eligible for credit toward certification requirements.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not 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 proposed amendments would be continued support to members of the military community who seek to become educators in Texas. There is no anticipated cost to persons who are required to comply with the proposal.

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 paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 22, 2021, and ends November 22, 2021. The SBEC will take registered oral and written comments on this item at the December 10, 2021 meeting in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve the proposed amendments to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans, to be published as proposed in the *Texas Register*.

Staff Member Responsible:

Marilyn Cook, Director, Educator Certification

Attachments:

- I. Statutory Citations
- II. Text of Proposed Amendments to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

ATTACHMENT I

Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans**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;

Texas Education Code, §21.044, Educator Preparation, as amended by House Bill (HB) 159, 87th Texas Legislature, Regular Session, 2021 (excerpt):

- (a) The board shall propose rules:
- (1) specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities;
 - (2) establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; and
 - (3) specifying [~~The board shall specify~~] the minimum academic qualifications required for a certificate.

Texas Education Code, §21.052, Certification of Educators from Outside the State, as amended and added by HB 139, 87th Texas Legislature, Regular Session, 2021, (excerpt):

- (b-1) The board shall propose rules in accordance with Chapter 55, Occupations Code, to establish procedures to expedite the processing of an application for a certificate under this section submitted by an educator who is a military veteran or military [~~the~~] spouse [~~of a person who is serving on active duty as a member of the armed forces of the United States~~], including rules for providing a permanent change of station order for purposes of establishing residency and for providing a military identification card [~~the appropriate documentation to establish the educator's status as a spouse of a person who is serving on active duty as a member of the armed forces of the United States~~].
- (c) The board may issue a temporary certificate under this section to an educator who holds a degree required by Subsection (a)(1) and a certificate or other credential required by Subsection (a)(2) but who has not satisfied the requirements prescribed by Subsection (a)(3). Subject to Subsections (d) and (d-1), the board may specify the term of a temporary certificate issued under this subsection.
- (d-1) A temporary certificate issued under Subsection (c) to an educator who is the spouse of a person who is serving on active duty as a member of the armed forces of the United States may not expire before the third anniversary of the date on which the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform satisfactorily to receive a standard certificate.
- (f) The board shall post on the board's Internet website the procedures for obtaining a certificate under Subsection (a) and the notice required under Section 55.010, Occupations Code.

(i) In this section:

- (1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.
- (2) "Armed forces of the United States" means the army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.
- (3) "Military service member" means a person who is on active duty.
- (4) "Military spouse" means a person who is married to a military service member.
- (5) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

Texas Occupations Code, §55.001, Definitions, as amended by HB 139, 87th Texas Legislature, Regular Session, 2021:

In this chapter:

- (1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.
- (2) "Armed forces of the United States" means the army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.
- (3) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.
- (4) "Military service member" means a person who is on active duty.
- (5) "Military spouse" means a person who is married to a military service member.
- (6) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.
- (7) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Texas Occupations Code, §55.002, Exemption from Penalty for Failure to Renew License:

A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Texas Occupations Code, §55.003, Extension of License Renewal Deadlines for Military Service Members:

A military service member who holds a license is entitled to two years of additional time to complete:

- (1) any continuing education requirements; and
- (2) any other requirement related to the renewal of the military service member's license.

Texas Occupations Code, §55.004, Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, as amended and added by HB 139, 87th Texas Legislature, Regular Session, 2021:

- (a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and:
 - (1) holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or
 - (2) within the five years preceding the application date held the license in this state.
- (b) The executive director of a state agency may waive any prerequisite to obtaining a license for an applicant described by Subsection (a) after reviewing the applicant's credentials.
- (c) In addition to the rules adopted under Subsection (a), a state agency that issues a license may adopt rules that would establish alternate methods for a military service member, military veteran, or military spouse to demonstrate competency to meet the requirements for obtaining the license, including receiving appropriate credit for training, education, and clinical and professional experience.
- (d) A state agency that issues a license that has a residency requirement for license eligibility shall adopt rules regarding documentation necessary for a military spouse applicant to establish residency for purposes of this subsection, including by providing to the agency a copy of the permanent change of station order for the military service member to whom the spouse is married.

Texas Occupations Code, §55.0041, Recognition of Out-of-State License of Military Spouse, as amended by HB 139, 87th Texas Legislature, Regular Session, 2021:

- (a) Notwithstanding any other law, a military spouse may engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.
- (b) Before engaging in the practice of the business or occupation, the military spouse must:
 - (1) notify the applicable state agency of the spouse's intent to practice in this state;
 - (2) submit to the agency proof of the spouse's residency in this state in accordance with the rules adopted under Section 55.004(d) and a copy of the spouse's military identification card; and

- (3) receive from the agency confirmation that:
 - (A) the agency has verified the spouse's license in the other jurisdiction; and
 - (B) the spouse is authorized to engage in the business or occupation in accordance with this section.
- (c) The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.
- (d) A military spouse may engage in the business or occupation under the authority of this section only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state but not to exceed three years from the date the spouse receives the confirmation described by Subsection (b)(3).
- (e) A state agency that issues a license shall adopt rules to implement this section. The rules must establish a process for the agency to:
 - (1) identify, with respect to each type of license issued by the agency, the jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state; and
 - (2) verify that a military spouse is licensed in good standing in a jurisdiction described by Subdivision (1).
- (f) In addition to the rules adopted under Subsection (e), a state agency that issues a license may adopt rules to provide for the issuance of a license to a military spouse to whom the agency provides confirmation under Subsection (b)(3). A license issued under this subsection must expire not later than the third anniversary of the date the agency provided the confirmation and may not be renewed. A state agency may not charge a fee for the issuance of the license.

Texas Occupations Code, §55.005, Expedited License Procedure for Military Service Members, Military Veterans, and Military Spouses:

- (a) A state agency that issues a license shall, as soon as practicable after a military service member, military veteran, or military spouse files an application for a license:
 - (1) process the application; and
 - (2) issue the license to an applicant who qualifies for the license under Section 55.004.
- (b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

Texas Occupations Code, §55.006, Renewal of Expedited License Issued to Military Service Member, Military Veteran, or Military Spouse:

- (a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.
- (b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.

- (c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

Texas Occupations Code, §55.007, License Eligibility Requirements for Applicants with Military Experience:

- (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.
- (b) The state agency shall adopt rules necessary to implement this section.
- (c) Rules adopted under this section may not apply to an applicant who:
- (1) holds a restricted license issued by another jurisdiction; or
 - (2) has an unacceptable criminal history according to the law applicable to the state agency.

Texas Occupations Code, §55.008, Apprenticeship Requirements for Applicant with Military Experience:

- (a) Notwithstanding any other law, if an apprenticeship is required for a license issued by a state agency, the state agency shall credit verified military service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.
- (b) The state agency shall adopt rules necessary to implement this section.

Texas Occupations Code, §55.009, License Application and Examination Fees:

Notwithstanding any other law, a state agency that issues a license shall waive the license application and examination fees paid to the state for an applicant who is:

- (1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or
- (2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

Texas Occupations Code, §55.010, Notice of Chapter Provisions:

A state agency that issues a license shall prominently post a notice on the home page of the agency's Internet website describing the provisions of this chapter that are available to military service members, military veterans, and military spouses.

ATTACHMENT II
Text of Proposed Amendments to 19 TAC

Chapter 234. Military Service Members, Military Spouses, and Military Veterans

§234.3. Definitions.

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

- (1) Military service member--A person who is on active duty.
- (2) Military spouse--A person who is married to a military service member.
- (3) Military veteran--A person who has served on active duty and who was discharged or released from active duty.
- (4) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by the Texas Government Code, §437.001, or similar military service of another state.
- (5) Armed forces of the United States--The army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

- (a) The application for certification of a military service member, military veteran, or military spouse, including an application based upon certification by a jurisdiction other than Texas that has certification requirements substantially similar to the Texas certification requirements, shall be processed as soon as practicable.
- (b) As soon as practicable after the issuance of a one-year certificate, Texas Education Agency (TEA) staff shall notify, in writing or by email, a military spouse of the requirements for obtaining a standard Texas certificate.
- (c) A military spouse who has been issued a one-year certificate prior to September 1, 2017, under the provisions of this chapter, is eligible for two additional years from the date of issuance, not to exceed a total of three years maximum, to align with provisions for a military spouse referenced in subsection (d) of this section.
- (d) Effective September 1, 2017, a military spouse shall be issued a three-year temporary certificate upon completion of the review of credentials.
- (e) Effective December 1, 2019, prior to beginning employment, a military spouse must declare his or her intent to teach in Texas with a license issued by another state department of education, by submitting an application and required documents for a review of credentials to the TEA and completing the criminal background check. TEA staff must provide approval for the military spouse to teach in Texas a maximum of three years with credentials issued by another state.
- (f) A military service member or a military veteran shall be entitled to credit verified military service, training, clinical and professional experience, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification. TEA staff and educator preparation programs (EPPs) shall use information from the U.S. Department of Veterans Affairs or other reliable sources to assist in crediting applicable military service, training, or education to certification requirements.

- (g) A military service member pursuing certification in career and technical education must meet requirements for the certificate, but for career and technical education certificate areas requiring experience and licensure, the military service member shall be entitled to substitute military experience in the trade for the required license or professional credential for the specific trade.
- (h) A military service member, military spouse, and military veteran shall complete educator examination requirements for certificate issuance as outlined in Texas Education Code, Chapter 21, Subchapter B, and rules in the Texas Administrative Code, Title 19, Part 7, or qualify for an exemption from required Texas examinations through provisions in §152.1001 of Part 2 of this title (relating to Exceptions to Examination Requirements for Individuals Certified Outside the State).
- (i) Military service members and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.
- (j) Military service members and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, one-year certificate, or out-of-state standard certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.
- (k) Military spouses are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, three-year temporary certificate, or out-of-state standard certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.