

**Item 11:**  
**Adoption of Review of 19 TAC Chapter 232, General Certification Provisions**

**DISCUSSION AND ACTION**

**SUMMARY:** Texas Government Code, §2001.039, establishes a four-year rule review cycle for all state agency rules, including State Board for Educator Certification (SBEC) rules. This item presents for SBEC approval the adoption of the review of 19 TAC Chapter 232, General Certification Provisions. The rules being reviewed provide requirements relating to types and classes of certificates issued, certificate renewal and continuing professional education requirements, and national criminal history record information review of active certificate holders.

**STATUTORY AUTHORITY:** Statutory authority for the rule review is Texas Government Code, §2001.039. The statutory authority for 19 TAC Chapter 232 is the Texas Education Code (TEC), §§21.003(a), 21.031, 21.041(b)(1)-(5) and (9), and 22.0831(c), (f), and (g), for Subchapter A; the TEC, §§21.003(a), 21.031(a), and 21.041(b)(1)-(3) and (7)-(9), for Subchapter B; and the TEC, §21.041(c) and §22.0831(f), for Subchapter C.

**PREVIOUS BOARD ACTION:** The SBEC last adopted the review of 19 TAC Chapter 232, Subchapters A and B, in January 2008, finding that the reasons for initially adopting the rules continue to exist. A majority of the rules in 19 TAC Chapter 232, Subchapters A and B, were last amended to be effective June 22, 2008. Section 232.4 was last amended to be effective October 25, 2009. Section 232.5 was last amended to be effective August 17, 2008. Section 232.830 was last amended to be effective June 21, 2009. Section 232.900 was repealed effective June 22, 2008.

The review of 19 TAC Chapter 232, General Certification Provisions, was presented to the SBEC for discussion in June 2011.

**BACKGROUND INFORMATION AND SIGNIFICANT ISSUES:** The SBEC rules in 19 TAC Chapter 232 are organized as follows: Subchapter A, Types and Classes of Certificates Issued; Subchapter B, Certificate Renewal and Continuing Professional Education Requirements; and Subchapter C, National Criminal History Record Information Review of Active Certificate Holders. These subchapters provide for rules that establish the requirements relating to types and classes of certificates issued, certificate renewal, continuing professional education, and national criminal history record information review.

Revisions are anticipated to the SBEC rules in 19 TAC Chapter 232 to incorporate any changes that may result from the 2011 legislative session, as well as to clarify the rules and incorporate current SBEC policy and procedures. Texas Education Agency staff anticipate presenting for discussion proposed revisions at the October 2011 SBEC meeting following a stakeholder meeting.

To reduce the volume of the agenda and cost of printing, the text of 19 TAC Chapter 232 is not presented in this agenda. A copy of the text of Chapter 232 will be available at the meeting. The text can also be viewed on the Secretary of State website at <http://www.sos.state.tx.us/tac/index.shtml> by selecting the "View the current *Texas Administrative Code*" link.

**RULE REVIEW:** The notice of proposed review of 19 TAC Chapter 232, General Certification Provisions, was filed with the *Texas Register* following the June 2011 SBEC meeting. If authorized by the SBEC, the notice of adopted review will be filed with the *Texas Register* following the August 2011 SBEC meeting. The notice of adopted review will state that the SBEC finds the reasons for adopting 19 TAC Chapter 232 continue to exist. Any public comments received during the review of 19 TAC Chapter 232 will also be filed.

The filing of the notice of adopted review stating that the reasons for adoption continue to exist would not preclude any amendments that may be proposed at different dates through a separate rulemaking process.

**FISCAL IMPACT:** None.

**PUBLIC AND STUDENT BENEFIT:** The review of 19 TAC Chapter 232 will result in the continuation of types and classes of certificates issued, the renewal of these certificates, and a safer school environment through national criminal history record information review of active certificate holders.

**PROCEDURAL AND REPORTING IMPLICATIONS:** None.

**LOCALLY MAINTAINED PAPERWORK REQUIREMENTS:** None.

**PUBLIC COMMENTS:** Following the June 2011 SBEC meeting, notice of the proposed review of 19 TAC Chapter 232 was filed with the *Texas Register* initiating the official public comment period for the review. At the time this item was prepared, no comments had been received regarding this review. Any public comments received will be provided to the SBEC during the August 2011 meeting.

**ALTERNATIVES:** None.

**OTHER COMMENTS AND RELATED ISSUES:** None.

**ASSOCIATE COMMISSIONER'S RECOMMENDATION:** I recommend that the State Board for Educator Certification:

Adopt the review of 19 TAC Chapter 232, General Certification Provisions.

Respectfully submitted,

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Associate Commissioner  
School Improvement and Educator Initiatives

**Staff Members Responsible:** Janice Lopez, Ph.D., Director  
Educator Certification and Standards

Andrew Allen, Assistant Counsel  
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**Attachment:** Statutory Citations

**ATTACHMENT****Statutory Citations Relating to Review of 19 TAC Chapter 232, General Certification Provisions****Rule Review****Texas Government Code, §2001.039, Agency Review of Existing Rules:**

- (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.
- (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.
- (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
- (d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.
- (e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

**19 TAC Chapter 232, General Certification Provisions****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 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;
  - (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;
  - (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;
  - (7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;
  - (8) provide for the adoption, amendment, and enforcement of an educator's code of ethics;
  - (9) provide for continuing education requirements; and
- (c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that, when combined with any fees imposed under Subsection (d), is adequate to cover the cost of administration of this subchapter.

**Texas Education Code, §22.0831, National Criminal History Record Information Review of Certified Educators (excerpts):**

- (c) The board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review.
- (f) The board may propose rules to implement this section, including rules establishing:
- (1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and
  - (2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.
- (g) The board by rule shall establish a schedule for obtaining and reviewing the information a certified educator must provide the board under this section. Not later than September 1, 2011, the board must obtain all national criminal history record information on all certified educators. This subsection expires October 1, 2011.