

Item 12:**Adoption of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates****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 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates. The proposed amendment would remove language that allows the SBEC to grant a waiver of the baccalaureate degree requirement for a probationary certificate that requires such a degree. The proposed amendment would also grant an additional year's extension of a probationary certificate to an educator whose contract is terminated, or who resigns in lieu of termination, before the end of a school year due to a reduction in force by a school district. No additional changes are recommended since published as proposed.

STATUTORY AUTHORITY: The statutory authority for 19 TAC §232.4 is the Texas Education Code (TEC), §21.041.

EFFECTIVE DATE: The proposed effective date of the proposed amendment to 19 TAC §232.4 would be October 25, 2009 (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: Section 232.4 was adopted to be effective October 12, 2003, and amended to be effective March 30, 2005, and August 17, 2008.

The SBEC approved the amendment to 19 TAC §232.4 for filing as proposed at the April 2009 meeting.

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: The TEC, §21.041, authorizes the SBEC to provide for the regulation of educators and to adopt rules providing for disciplinary proceedings.

Section 232.4 allows the SBEC to grant a waiver of the probationary certificate requirement of a baccalaureate degree. The rule currently establishes no procedures or standards for such a waiver. The rule would be amended to delete the provision for granting a waiver of the requirement of a baccalaureate degree for those certificates that require such a degree. Granting such waivers would result in a general reduction in teacher quality standards.

The proposed amendment to §232.4, Probationary Certificates, would delete the phrase "unless otherwise approved by the State Board for Educator Certification (SBEC)" in subsection (c)(1) for those certificates that require such a degree.

Section 232.4(d)(1) provides that a probationary certificate can be extended for no more than two additional annual terms. In the event that a school district is required by its financial situation to conduct a reduction in force, an educator who is so terminated, or resigns in lieu of termination, and is working under a probationary certificate would not be able to complete his or her internship and other requirements for certification and would lose one of his or her allotted probationary terms. In the case of the recent reduction in force by the Dallas Independent School District, there is at least one educator who would lose his last available probationary term. Therefore, an exception would be added to subsection (d)(1) that provides that an educator who is subject to a reduction-in-force termination, or resigns in lieu of termination, would not lose the annual probationary term for that school year.

Grammatical and technical changes would also be made to §232.4 such as the term "bachelor's" degree would be replaced with the term "baccalaureate" degree and the language regarding approved accrediting agencies would be revised to be consistent with current practice. Also, references to 19 TAC Chapter 230 would be updated and the definition for Texas Education Agency (TEA) staff would be moved from subsection (f) to subsection (a).

No additional changes are recommended since published as proposed.

FISCAL IMPACT: The TEA staff has determined that there are no additional costs to persons or entities required to comply with the proposed rule action. In addition, 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.

PUBLIC AND STUDENT BENEFIT: The public benefit of the proposed amendment would be to eliminate unnecessary requests for waivers to the SBEC and insure that all holders of probationary certificates meet minimum quality standards and to prevent certification candidates from losing one of their allowed probationary terms because of a school district's reduction in force.

PROCEDURAL AND REPORTING IMPLICATIONS: The proposed amendment would have no procedural and reporting implications.

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

PUBLIC COMMENTS: Following the April 2009 SBEC meeting, the proposed amendment to 19 TAC §232.4 was filed with the *Texas Register* initiating the official public comment period. At the time this item was prepared, no comments had been received. Any public comments received will be provided to the SBEC during the June 2009 meeting.

ALTERNATIVES: An alternative to the proposed amendment would be to continue operating under the current rule, resulting in uncertainty regarding requests for waivers to the SBEC and in unfairness to certification candidates who are subject to a reduction in force.

OTHER COMMENTS AND RELATED ISSUES: None.

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

Approve for adoption, subject to State Board of Education review, the proposed amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates, with an effective date of 20 days after filing as adopted with the *Texas Register*.

Respectfully submitted,

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Attachments: I. Statutory Citations
II. Text of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates

ATTACHMENT I

Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates**Texas Education Code, §21.041, Rules; Fees:**

- (a) The board may adopt rules as necessary for its own procedures.
- (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;
 - (6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;
 - (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
 - (10) provide for certification of persons performing appraisals under Subchapter H.
- (c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that is adequate to cover the cost of administration of this subchapter.

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 232. General Certification Provisions

Subchapter A. Types and Classes of Certificates Issued

§232.4. Probationary Certificates.

- (a) The following definitions apply, when used in this section, unless the rule or context in which the word or phrase is used requires a different definition.
- (1) Alternative certification program--An educator preparation program that offers an alternative route to certification as authorized under Chapter 228 of this title (relating to Requirements for Educator Preparation Programs).
 - (2) Core academic subject--English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, history, geography, or the arts.
 - (3) Early Childhood--Children ages 3-5.
 - (4) High-quality professional development--As defined by the No Child Left Behind Act of 2001, 20 United States Code (USC), §7801 (2001, as amended) and its subsequent amendments, which includes, but is not limited to, activities that are sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction; that advance the teacher's understanding of effective instructional strategies; that are developed with participation of teachers, principals, parents, and administrators; and that are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement.
 - (5) Mentoring--As defined under the No Child Left Behind Act of 2001, 20 USC, §7801 and its subsequent amendments, which includes, but is not limited to, activities that consist of structured guidance and regular ongoing support for beginning educators, especially beginning teachers, as part of a developmental induction process designed to assist educators in their professional growth and development. Beginning educator support is to be provided by an experienced educator who has been trained in mentoring.
 - (6) Texas Education Agency (TEA) staff--Staff of the TEA assigned by the commissioner of education to perform the State Board for Educator Certification's (SBEC's) administrative functions and services.
- (b) A probationary certificate may be issued for any class of certificate except educational aide.
- (c) A probationary certificate may be issued to an individual who meets the conditions and requirements prescribed in this subsection.
- (1) Except as otherwise provided in rules of the SBEC related to certain career and technical education certificates based on skill and experience, the [The] individual must hold [~~unless otherwise approved by the State Board for Educator Certification (SBEC),~~] at least a baccalaureate [~~bachelor's~~] degree from an institution of higher education that, when the degree was conferred, was accredited by an [~~a recognized governmental organization; a recognized regional~~] accrediting organization [~~as specified in Chapter 230, Subchapter Y, of this title (relating to Definitions); or an accrediting organization~~] recognized by the Texas Higher Education Coordinating Board.
 - (2) The individual must meet appropriate requirements prescribed in §230.413 of this title (relating to General Requirements).
 - (3) The individual must have been accepted to participate in an approved Texas educator preparation program and has been assigned to serve in the subject area and at the grade level of certification sought.

- (4) The individual must receive mentoring and high-quality professional development that is sustained, intensive, and classroom-focused prior to and throughout the assignment.
 - (5) The individual must pay the fee prescribed in §230.436 of this title (relating to Schedule of Fees for Certification Services).
 - (6) The individual must submit fingerprints in accordance with §232.905(c) of this title (relating to Submission of Required Information) and the Texas Education Code (TEC), §22.0831.
 - (7) The teacher in a core academic subject must demonstrate mastery of each subject to be taught:
 - (A) at the public elementary school level (Early Childhood-Grade 6), by passing the appropriate certification examination as prescribed in Chapter 230, Subchapter B ~~[A]~~, of this title (relating to Assessment of Educators); or
 - (B) at the public middle or high school level (Grades 7-12):
 - (i) by passing the appropriate content area certification examination as prescribed in Chapter 230, Subchapter B ~~[A]~~, of this title; or
 - (ii) by completing an academic major, graduate degree, or coursework equivalent to an academic major that complies with the TEC, §21.050, and comprises not fewer than 24 semester hours, including 12 semester hours of upper division coursework in the subject taught.
 - (8) The teacher in a special education assignment must demonstrate mastery of each subject to be taught:
 - (A) at the public elementary school level (Early Childhood-Grade 6):
 - (i) by passing the appropriate certification examination as prescribed in Chapter 230, Subchapter B ~~[A]~~, of this title for the assignment; and
 - (ii) by passing a special education Early Childhood-Grade 12 examination; or
 - (B) at the public middle or high school level (Grades 7-12):
 - (i) by passing the appropriate content area certification examination as prescribed in Chapter 230, Subchapter B ~~[A]~~, of this title for the assignment or by completing an academic major, graduate degree, or coursework equivalent to an academic major comprised of not fewer than 24 semester hours, including 12 semester hours of upper division coursework in the subject taught; and
 - (ii) by passing a special education Early Childhood-Grade 12 examination.
- (d) A probationary certificate shall be valid for a 12-month period from the date of issuance, except as otherwise provided under this title.
- (1) A certificate may be extended for no more than two annual terms following expiration of the initial term. A probationary certificate may be extended for an annual term only if the Texas educator preparation program, recommends extension and certifies that the holder is making satisfactory progress toward standard certification. If an educator is employed under a probationary certificate and is terminated, or resigns in lieu of termination, before the end of the school year due to a reduction in force, that probationary term shall not count as one of the three allowed annual probationary terms.
 - (2) Without obtaining initial, standard certification, an individual may not serve for more than three 12-month periods while holding:
 - (A) probationary certificates as described in this subsection;
 - (B) emergency certificates as specified in §230.512 of this title (relating to Emergency Certificates); or

- (C) one-year certificates as specified in Chapter 230, Subchapter O, of this title (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).
- (e) The TEA [~~Texas Education Agency (TEA)~~] staff shall establish reasonable procedures to implement this section.
- ~~[(f) For purposes of this section, "TEA staff" means staff of the TEA assigned by the commissioner of education to perform the SBEC's administrative functions and services.]~~