

Item 10:
Adoption of Proposed Amendments to 19 TAC Chapter 245,
Certification of Educators from Other Countries

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, proposed amendments to 19 Texas Administrative Code (TAC) Chapter 245, Certification of Educators from Other Countries. The proposed amendments would update the requirements for certification of educators from other countries. The proposed amendments reflect guidance provided by the SBEC at the July 2021 meeting. No changes are recommended since published as proposed, but additional changes may be recommended at the time of the meeting based on public comment.

STATUTORY AUTHORITY: The statutory authority for the proposed amendments to 19 TAC Chapter 245 is the Texas Education Code (TEC), §§21.041(b)(1), (4), and (5); 21.048; and 21.052(a), (b), (c), (d), and (e).

TEC, §21.041(b)(1), states the SBEC must propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B.

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

TEC, §21.041(b)(5), states the SBEC must propose rules that 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 the TEC, §21.052.

TEC, §21.048, states the SBEC shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board that includes not requiring more than 45 days elapsing between examination retakes and that starting January 1, 2021, all candidates teaching prekindergarten through grade six must demonstrate proficiency in the science of teaching reading on a certification examination.

TEC, §21.052(a), states that the SBEC may issue a certificate to an educator who submits an application for certification and holds a degree issued by an institution accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board, or a degree issued by an institution located in a foreign country, if the degree is equivalent to a bachelor's degree issued in the United States, or holds an appropriate certificate or other credential issued in another state or country and has met all certification requirements for issuance of the credential.

TEC, §21.052(b), states that for purposes of §21.052(a)(2), a person is considered to hold a certificate or other credential if the credential is not valid solely because it has expired.

TEC, §21.052(c), states that the SBEC may issue a temporary certificate under this section to an educator who holds a degree required by §21.052(a)(1) and a certificate or other credential required by §21.052(a)(2) but who has not satisfied the requirements prescribed by §21.052(a)(3). Subject to subsections (d) and (d-1), the SBEC may specify the term of a temporary certificate issued under this subsection.

TEC, §21.052(d), states that a temporary certificate issued under §21.052(c) to an educator employed by a school district that has constructed or expanded at least one instructional facility as a result of increased student enrollment due to actions taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) may not expire before the first anniversary of the date on which the SBEC completes the review of the educator's credentials and informs the educator of the examination or examinations under the TEC, §21.048, on which the educator must perform successfully to receive a standard certificate.

TEC, §21.052(e), states that an educator who has submitted all documents required by the board for certification and who receives a temporary certificate as provided by subsection (c) has one year to successfully complete examination requirements identified in the review of credentials and specified in Section 21.048, to receive a standard certificate.

EFFECTIVE DATE: The proposed effective date of the proposed amendments to 19 TAC Chapter 245 would be May 12, 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: At the December 10, 2021 SBEC meeting, the SBEC approved the proposed amendments to 19 TAC Chapter 245, Certification of Educators from Other Countries, for publication in the *Texas Register* as proposed rules.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC is statutorily authorized to regulate and oversee all aspects of certification of public school educators. The SBEC is also statutorily authorized to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse population of this state.

At the July 2021 SBEC meeting, the SBEC and Texas Education Agency (TEA) staff discussed the current pathway in which an individual certified in another country must comply to obtain a Texas educator certificate. Following is a description of the proposed amendments included in Attachment II that incorporates feedback received by the SBEC as well as technical clean-up to update current cross-references.

§245.1. General Provisions.

The proposed amendment to §245.1(d) would remove the outdated reference to a "certificate entitlement card" as it is not a document that has been presented by individuals certified outside the state who submit applications for the review of out of state credentials. Candidates must submit other documents referenced in rule (statement or approval letter) that are sufficient proof of an individual's completion of requirements for licensure to teach in another state.

§245.5. Requirements for Issuance of a Texas Certificate Based on Certification from Another Country.

Proposed new §245.5(a)(3) would add a reference to the provisions in Chapter 152, Commissioner's Rules Concerning Examination Requirements, that may qualify an individual for exemption from required state examinations leading to issuance of the Texas standard certificate.

The proposed amendment to §245.5(b) would clarify that demonstration of English language proficiency is required prior to issuance of a Texas one-year certificate and would add the word "legacy" to align with the correct title to Chapter 239, Student Services Certificates, Subsection E, that has been renamed, Legacy Master Teacher Certificate, effective December 27, 2020. The title of Chapter 241 would also be updated in subsection (b) to align with the correct title.

The proposed amendment to §245.5(e) would clarify that the current process requires applicants issued the temporary, one-year certificate to obtain a Texas standard classroom teacher certificate prior to adding a supplemental certificate area to their record of certification. This is not a change in the certification process, only a clarification of current rule and procedures.

§245.10. Application Procedures.

The proposed amendment to §245.10(a) would delete the requirement in paragraph (3) that individuals licensed in other countries must obtain an original written statement, provided by the authorizing licensing agency in the issuing country, that the educator's certificate is in good standing, and has not been revoked, suspended, or sanctioned for misconduct and is not pending disciplinary or adverse action. The proposed amendment would reduce duplicative efforts and barriers for educators. The original written statements from foreign licensing agencies have been difficult for some foreign educators to obtain and difficult for TEA staff to verify. With the proposed amendment, educators licensed in other countries would still be required to successfully complete Foreign Credential Evaluation and Texas background check and fingerprinting processes, which are the verifiable safeguards to ensure an educator applying for issuance of a Texas certificate is in good standing. These safeguards are sufficient to ensure that an applicant licensed by another country is qualified to be an educator in Texas.

The proposed amendment in §245.10(a) would provide technical edits to renumber paragraphs (4)–(6) to paragraphs (3)–(5).

§245.15. Evaluation of College Credentials.

The proposed amendment would add the phrase "Requests for" to the title of §245.15, which is the section that covers all requests to have college credentials reviewed by TEA staff, to match the title of §230.115, Requests for Evaluation of College Credentials, which is the rule specific to individuals certified in other states or territories of the United States. The proposed amendment would also establish the acronym "EPP" to align with *Texas Register* style requirements.

No changes are recommended to the proposed amendments to 19 TAC Chapter 245, Certification of Educators from Other Countries, but additional changes may be recommended at the time of the meeting based on public comment.

FISCAL IMPACT: No changes have been made to this section since published as proposed. The TEA staff has determined that there is no additional fiscal impact on state and local governments and that there are no additional costs to entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. The proposal has no direct adverse economic 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: No changes have been made to this section since published as proposed. 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, §2001.0045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed. 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: No changes have been made to this section since published as proposed. 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, the proposed amendment to §245.10 would repeal an existing regulation by removing the requirement that individuals must obtain a letter of professional standing by the issuing licensing country.

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 or limit an existing regulation; would not increase or 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: No changes have been made to this section since published as proposed. The public benefit anticipated as a result of the proposal would be clearly defined rules and requirements for individuals to obtain Texas certification based on already being licensed to teach in other countries. There is no anticipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed. The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. The TEA staff has determined the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal began December 31, 2021, and ended January 31, 2022. Any comments received will be provided to the SBEC under separate cover prior to the February 11, 2022 meeting. The SBEC will take registered oral and written comments on the proposal at the February 11, 2022 meeting in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve for adoption, subject to the State Board of Education (SBOE) review, the proposed amendments to 19 TAC Chapter 245, Certification of Educators from Other Countries, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Staff Member Responsible:

Marilyn Cook, Director, Educator Certification

Attachments:

- I. Statutory Citations
- II. Text of Proposed Amendments to 19 TAC Chapter 245, Certification of Educators from Other Countries

ATTACHMENT I**Statutory Citations Relating to Proposed Amendments to 19 TAC Chapter 245,
Certification of Educators from Other Countries****Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (b) The board shall propose rules that:
 - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;
 - (4) specify the requirements for the issuance and renewal of an educator certificate;
 - (5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

Texas Education Code, §21.048, Certification Examinations:

- (a) The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination.
- (a-1) The board may not require that more than 45 days elapse before a person may retake an examination. A person may not retake an examination more than four times, unless the board waives the limitation for good cause as prescribed by the board.
- (a-2) The board shall adopt rules that provide that in order to teach any grade level from prekindergarten through grade six a person must demonstrate proficiency in the science of teaching reading on a certification examination for each class of certificate issued by the board after January 1, 2021.
- (b) The board may not administer a written examination to determine the competence or level of performance of an educator who has a hearing impairment unless the examination has been field tested to determine its appropriateness, reliability, and validity as applied to, and minimum acceptable performance scores for, persons with hearing impairments.
- (c) An educator who has a hearing impairment is exempt from taking a written examination for a period ending on the first anniversary of the date on which the board determines, on the basis of appropriate field tests, that the examination complies with the standards specified in Subsection (b). On application to the board, the board shall issue a temporary exemption certificate to a person entitled to an exemption under this subsection.
- (c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057.
- (d) In this section:
 - (1) "Hearing impairment" means a hearing impairment so severe that the person cannot process linguistic information with or without amplification.

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- (2) "Reliability" means the extent to which an experiment, test, or measuring procedure yields the same results on repeated trials.
 - (3) "Validity" means being:
 - (A) well-grounded or justifiable;
 - (B) relevant and meaningful;
 - (C) correctly derived from premises or inferences; and
 - (D) supported by objective truth or generally accepted authority.

Texas Education Code, §21.052, Certification of Educators From Outside the State (excerpts):

- (a) The board may issue a certificate to an educator who applies for a certificate and:
 - (1) holds:
 - (A) a degree issued by an institution accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; or
 - (B) a degree issued by an institution located in a foreign country, if the degree is equivalent to a degree described by Paragraph (A);
 - (2) holds an appropriate certificate or other credential issued by another state or country; and
 - (3) performs satisfactorily on:
 - (A) the examination prescribed under Section 21.048; or
 - (B) if the educator holds a certificate or other credential issued by another state or country, an examination similar to and at least as rigorous as that described by Paragraph (A) administered to the educator under the authority of that state.
- (b) For purposes of Subsection (a)(2), a person is considered to hold a certificate or other credential if the credential is not valid solely because it has expired.
- (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) A temporary certificate issued under Subsection (c) to an educator employed by a school district that has constructed or expanded at least one instructional facility as a result of increased student enrollment due to actions taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) may not expire before the first 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 successfully to receive a standard certificate.
- (e) An educator who has submitted all documents required by the board for certification and who receives a temporary certificate as provided by Subsection (c) must perform satisfactorily on the examination prescribed under Section 21.048 not later than the first

anniversary of the date 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 successfully to receive a standard certificate.

ATTACHMENT II
Text of Proposed Amendments to 19 TAC

Chapter 245. Certification of Educators from Other Countries

§245.1. General Provisions.

- (a) A Texas educator certificate may be issued to an individual who holds a college degree and an acceptable certificate or other credential issued by the authorized licensing agency in another country and who meets appropriate requirements specified in §230.11 of this title (relating to General Requirements) and in this chapter.
- (b) The degree held by an applicant from another country must be equivalent to at least a bachelor's degree or higher issued by an accredited institution of higher education in the United States accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board or by the U.S. Department of Education.
- (c) The certificate(s) or other credential(s) issued by the authorized licensing agency in another country may not be a temporary permit, a credential issued by a city or school district, or a certificate for which academic or other program deficiencies are indicated. Specific examination or renewal requirements shall not be considered academic or program deficiencies.
- (d) A statement [] or approval letter [~~or certification entitlement card~~] issued by the authorized licensing agency in another country specifying eligibility for full certification upon employment or completion of specified examination requirements shall have the same standing as a certificate.
- (e) The certificate(s) or other credential(s) and areas of certification issued by the authorized licensing agency in another country must be equivalent to a certificate or grade level that is within the early childhood-Grade 12 level and approved by the State Board for Educator Certification (SBEC). Based on the certificate(s) submitted with the application for review of credentials, the Texas Education Agency (TEA) staff shall identify the certification areas for which the applicant qualifies in Texas. The certificate(s) for which the applicant qualifies may be issued by the TEA staff under the authority of the SBEC.
- (f) If a Texas examination or certification is scheduled to be eliminated, an individual requesting certification and examination comparability must ensure that the application and all review documentation, including examination scores, are received by TEA staff 60 calendar days before the application submission deadline for the examination and/or certification sought.

§245.5. Requirements for Issuance of a Texas Certificate Based on Certification from Another Country.

- (a) The appropriate standard certificate issued under Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued), may be issued to an applicant holding an acceptable certificate or other credential and college degree as specified in §245.1 of this title (relating to General Provisions). The applicant must:
 - (1) pass the appropriate examination(s) prescribed in the Texas Education Code (TEC), §21.048(a), and §230.21 of this title (relating to Educator Assessment); ~~or~~
 - (2) achieve an acceptable score on an examination(s) similar to and at least as rigorous as the requirements prescribed in the TEC, §21.048(a), and §230.21 of this title that was administered under the authority of another country. The applicant shall verify in a manner determined by the Texas Education Agency staff the level of performance on acceptable examinations administered under the authority of another country ; or []
 - (3) 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).
- (b) If all certification requirements are met, except successful completion of the appropriate certification examination(s), the applicant who has demonstrated English language proficiency as specified in §230.11 of this title (relating to General Requirements) may request issuance of a one-year certificate in one or more

of the certification areas authorized by the certificate(s) or other credential(s) from another country. An applicant who holds only a credential that is equivalent to a student services, principal, or superintendent certificate issued in accordance with Chapter 239 of this title (relating to Student Services Certificates), with the exception of Subchapter E (relating to Legacy Master Teacher Certificate); Chapter 241 of this title (relating to Certification as Principal [Certificate]); or Chapter 242 of this title (relating to Superintendent Certificate) may be issued the equivalent Texas certificate. The applicant must verify two creditable years of public or private school experience, as defined in Chapter 153, Subchapter CC, of Part 2 of this title (relating to Commissioner's Rules on Creditable Years of Service) and the TEC, §5.001(2), in the specific student services or administrative area sought.

- (c) After satisfying all certification requirements, including all appropriate examination requirements, the applicant is eligible to apply for issuance of the standard certificate issued under Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued).
- (d) An applicant issued a one-year certificate under Chapter 230, Subchapter D, of this title and this chapter who does not satisfy the appropriate examination requirements to establish eligibility for a standard certificate during the validity of the one-year certificate is not eligible for any type of certificate or permit authorizing employment for the same certification level or area until he or she has satisfied the examination requirements. If, due to extenuating circumstances beyond the control of the educator, examination requirements are not met during the validity period of the one-year certificate, the district may request an extension of the one-year certificate, not to exceed one calendar year in length.
- (e) An applicant shall not be required to complete the content specialization portion of the certification examination in a certification area for which he or she does not seek standard certification unless the examination is required to establish a base classroom teaching certificate. A supplemental certificate, as described in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), may not be issued as a standard certificate unless the educator has established a classroom teaching certificate and may not be added to a one-year certificate.
- (f) An applicant issued a one-year certificate under subsection (d) of this section who, during or subsequent to the validity of the one-year certificate, satisfies the appropriate examination requirements and establishes eligibility for a standard certificate may apply for:
 - (1) a new one-year certificate in another certification area based on a certificate or other credential issued by another country; or
 - (2) a second one-year certificate in an area previously authorized on a one-year certificate, provided the applicant was not assigned to the area and has not attempted the appropriate examination requirements for that area.

§245.10. Application Procedures.

- (a) An individual who has been issued an appropriate certificate or other credential by the authorized licensing agency in another country as specified in §245.1 of this title (relating to General Provisions) may apply for a review of credentials by submitting the following items to the Texas Education Agency (TEA) staff:
 - (1) a completed application;
 - (2) the original detailed report or course-by-course evaluation for professional licensing of all college-level credits prepared by a foreign credential evaluation service recognized by the TEA staff. The evaluation must verify that the individual:
 - (A) holds, at a minimum, the equivalent of a baccalaureate degree issued by an accredited institution of higher education in the United States as specified in §245.1(b) of this title, including the date that the degree was conferred; and
 - (B) has completed an educator preparation program, including a teaching practicum;
 - ~~(3) an original written statement, provided by the authorized licensing agency in the issuing country, that the educator certificate(s) or other credential(s) specified in §245.1 of this title is currently in good standing and has not been revoked, suspended, or sanctioned for misconduct and is not pending disciplinary or adverse action. The statement must be written in the English language or~~

~~must be accompanied by a translation in the English language from a foreign credential evaluation service recognized by the TEA staff or an accredited translation service;~~

- (3) ~~(4)~~ official transcripts of any additional college credits and/or degrees earned in the United States;
 - (4) ~~(5)~~ copies of any standard certificates issued by another state department of education; and
 - (5) ~~(6)~~ a nonrefundable review fee as specified in Chapter 230, Subchapter G, of this title (relating to Certificate Issuance Procedures).
- (b) Pursuant to §245.5(b) of this title (relating to Requirements for Issuance of a Texas Certificate Based on Certification from Another Country) , an applicant may apply for a one-year certificate by submitting the following items to the TEA staff:
- (1) a completed application; and
 - (2) the appropriate fee as specified in Chapter 230, Subchapter G, of this title.
- (c) Pursuant to §245.5(a) of this title, an applicant may apply for a standard certificate by submitting the following items to the TEA staff:
- (1) a completed application; and
 - (2) the appropriate fee as specified in Chapter 230, Subchapter G, of this title.

§245.15. Requests for Evaluation of College Credentials.

- (a) A request to evaluate an applicant's credentials for areas of certification that are not identified on the certificate(s) or other credential(s) issued in accordance with §245.1 of this title (relating to General Provisions) must be directed to a State Board for Educator Certification (SBEC)-approved educator preparation program (EPP) for admission to and recommendation by the EPP ~~[program]~~ for certification.
- (b) An individual who does not hold a certificate or other credential issued in accordance with §245.1 of this title must seek admission to an SBEC-approved EPP ~~[educator preparation program]~~ and be recommended by the EPP ~~[program]~~ for certification.