

Item 7:**Adoption of Proposed Amendment to 19 TAC Chapter 230,
Professional Educator Preparation and Certification,
Subchapter B, General Certification Requirements, §230.11,
General Requirements****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, a proposed amendment to 19 Texas Administrative Code (TAC) Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements. The proposed amendment would update the list of countries that permit individuals who have obtained the equivalent of a United States bachelor's or master's degree to be exempt from the Test of English as a Foreign Language internet-Based Test (TOEFL iBT) to demonstrate English language proficiency; would clarify that individuals who have already demonstrated English language proficiency to receive an SBEC-issued Texas certificate would not have to demonstrate English language proficiency again for purposes of admission into an educator preparation program (EPP) to obtain an additional Texas educator certificate; and would provide technical and grammatical edits. 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 19 TAC Chapter 230, Subchapter B, §230.11, is the Texas Education Code (TEC), §§21.003(a); 21.031; and 21.041(b)(1), (4), and (5).

TEC, §21.003(a), states that 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 the TEC, Chapter 21, Subchapter B.

TEC, §21.031, authorizes the SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

TEC, §21.041(b)(1), requires the SBEC to 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), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.041(b)(5), requires the SBEC to propose rules that specify the requirements for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to TEC, §21.052.

EFFECTIVE DATE: The proposed effective date of the proposed amendment to 19 TAC Chapter 230 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: At the October 1, 2021 SBEC meeting, the SBEC approved the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements, for publication in the *Texas Register* as proposed rules.

BACKGROUND INFORMATION AND JUSTIFICATION: At the August 2017 SBEC meeting, the SBEC adopted changes to 19 TAC Chapter 230 to remove the provision that required candidates to demonstrate English language proficiency by providing evidence that the primary language of instruction at an institution of higher education that the candidate attended outside of the United States was English. The SBEC adopted a list of countries in which English is the official language and allowed candidates from these countries to be exempt from the requirement to take the TOEFL iBT. The SBEC derived its list of English-speaking countries from the lists the colleges and universities of the University of Texas and Texas A&M University systems use to determine exemptions from English language proficiency requirements for student admissions.

At the July 2021 SBEC meeting, the SBEC directed Texas Education Agency (TEA) staff to draft amendments to 19 TAC Chapter 230 to update the list of qualifying countries to include any new additions to the lists used by the colleges and universities of the University of Texas and Texas A&M University systems.

Following is a description of the proposed amendment that would add the additional countries to the approved list as outlined in Attachment II.

§230.11. General Provisions.

The proposed amendment would update Figure: 19 TAC §230.11(b)(5)(C) to add, "Federated States of Micronesia," "India," "Ireland," "New Zealand," and "Singapore" to the list of qualifying countries where English is the primary or predominant language. These are countries that the colleges and universities of the University of Texas and Texas A&M University systems have identified as English-speaking for the purposes of determining exemptions to English language proficiency requirements. This proposed amendment would permit individuals who have obtained the equivalent of a United States bachelor's or master's degree from colleges or universities in the Federated States of Micronesia, India, Ireland, New Zealand, and Singapore to be exempt from the English language proficiency requirement for educator certification. The proposed amendment to Figure: 19 TAC §230.11(b)(5)(C) would also provide grammatical and technical edits to the list of countries to properly place "Canada" and the "Cayman Islands" alphabetically and to add "Islands" to Turks and Caicos.

Proposed new 19 TAC §230.11(c) would clarify that individuals who have previously demonstrated English language proficiency to receive an SBEC-issued certificate would not be required to demonstrate English language proficiency again if they seek admission into an approved Texas EPP at a later time to pursue an additional area of certification. This would prevent redundant, inefficient, and unnecessary paperwork for both educators and TEA staff.

No changes are recommended to the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements, 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 or local governments and there are no additional costs to entities required to comply with the proposal. The state and entities deemed as local government do not pay for or receive any funds from administration of the English language proficiency examination requirement (i.e., TOEFL iBT) in rule for issuance of Texas certification.

The TEA staff has determined, however, that the proposal would create an anticipated economic benefit for individuals. The TEA estimates that the proposal will cause a cost savings of \$2,350 per fiscal year for each of the next five fiscal years (FYs), FYs 2022-2027, for individuals who will not be required to take the TOEFL iBT test to demonstrate English language proficiency. TOEFL iBT test fees vary in cost, but TEA staff is using \$235 (the fee to test in several Texas cities as that is often the location where these candidates for certification will test) to calculate the anticipated savings to individuals. TEA staff estimates that approximately five individuals per year will apply from the five new countries that the proposal would add to the SBEC-approved list of English-speaking countries, and that when multiplied by the \$235 test fee, the result is a cost savings of \$1,175 per fiscal year. Additionally, TEA staff anticipates a minimum of five individuals who have already demonstrated English language proficiency would return to a Texas-approved EPP to seek an additional certification per fiscal year. For these five returning candidates, the cost savings would be \$1,175 per fiscal year when multiplied by the \$235 test fee. In total, the estimated cost savings per fiscal year would be \$2,350.

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 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, it would limit an existing regulation by adding countries to the list that individuals from those countries would no longer be required to take and pass an English

language proficiency examination for Texas certification and by allowing individuals who have previously proven their English proficiency to attain a Texas certification to be exempt from having to prove it again when they seek another Texas certification.

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 repeal 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 ensuring that educator certification applicants demonstrate the level of English language proficiency needed to instruct and to support all learners and to communicate effectively with parents, colleagues, and other stakeholders upon certification, while avoiding unnecessarily burdensome testing and paperwork for applicants who are from English-speaking countries or have already proven their English proficiency to attain a prior Texas educator certificate. 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 that 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 October 22, 2021, and ended November 22, 2021. Any comments received will be provided to the SBEC under separate cover prior to the December 10, 2021 meeting. 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 for adoption, subject to the State Board of Education (SBOE) review, the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements, 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 Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements
- III. Text of Proposed Figure: 19 TAC §230.11(b)(5)(C)

ATTACHMENT I**Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter B, General Certification Requirements, §230.11, General Requirements****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:
 - (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;

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 230. Professional Educator Preparation and Certification

Subchapter B. General Certification Requirements

§230.11. General Requirements.

- (a) The only credits and degrees acceptable for certification of educators are those earned from and conferred by accredited institutions of higher education. All credit hour requirements for certification are semester credit hours or their equivalent.
- (b) An applicant for a Texas educator certificate must:
- (1) be at least 18 years of age;
 - (2) submit to the criminal history review required by the Texas Education Code (TEC), §22.0831, not be disqualified by the TEC, §21.058, §21.060, or other Texas statute, and not be subject to administrative denial pursuant to §249.12 of this title (relating to Administrative Denial; Appeal) or a pending proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases);
 - (3) not be disqualified by federal law;
 - (4) be willing to support and defend the constitutions of the United States and Texas;
 - (5) be able to communicate, listen, read, write, and comprehend the English language sufficiently to use it easily and readily in daily communication and teaching. English language proficiency shall be evidenced by one of the following:
 - (A) completion of an undergraduate or graduate degree at an accredited institution of higher education in the United States; or
 - (B) verification of minimum scaled scores on the Test of English as a Foreign Language internet-Based Test (TOEFL iBT) of 24 for speaking, 22 for listening, 22 for reading, and 21 for writing; or
 - (C) ~~if~~ an undergraduate or graduate degree that was earned at an institution of higher education in a country outside of the United States listed in the figure provided in this subparagraph.
Figure: 19 TAC §230.11(b)(5)(C) [Figure: 19 TAC §230.11(b)(5)(C)]
 - (6) successfully complete appropriate examinations prescribed in §230.21 of this title (relating to Educator Assessment) for the educator certificate sought; and
 - (7) satisfy one or more of the following requirements:
 - (A) complete the requirements for certification specified in this chapter, Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), Chapter 239 of this title (relating to Student Services Certificates), Chapter 241 of this title (relating to Certification as Principal [Certificate]), or Chapter 242 of this title (relating to Superintendent Certificate), and be recommended for certification by an approved educator preparation program (EPP);
 - (B) qualify under 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);
 - (C) qualify under §230.105 of this title (relating to Issuance of Additional Certificates Based on Examination);

- (D) qualify for a career and technical education certificate based on skill and experience specified in §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)); or
 - (E) qualify under Chapter 245 of this title (relating to Certification of Educators from Other Countries).
- (c) An educator who has received a State Board for Educator Certification (SBEC)-issued standard certificate shall not be required to demonstrate English language proficiency as prescribed in subsection (b)(5)(B) and (C) of this section for purposes of admission into an EPP to obtain additional SBEC-issued certifications.

ATTACHMENT III
Text of Proposed Amendment to

Figure: 19 TAC §230.11(b)(5)(C)

Figure: 19 TAC §230.11(b)(5)(C)

Countries in which English is the Official Language

The countries listed below have been approved by the State Board for Educator Certification (SBEC) to satisfy the English language proficiency requirement specified in 19 TAC §230.11(b)(5)(C). To be exempted from the Test of English as a Foreign Language internet-Based Test (TOEFL iBT) testing requirement specified in 19 TAC §230.11(b)(5)(B), a certification candidate must have earned an undergraduate or graduate degree from an institution of higher education on the SBEC-approved list of countries.

American Samoa	Grand Cayman
Anguilla	Grenada
Antigua and Barbuda	Guyana
Australia	<u>India</u>
Bahamas	<u>Ireland</u>
Barbados	Jamaica
Belize	Liberia
Bermuda	<u>New Zealand</u>
British Virgin Islands	Nigeria
<u>Canada (except Quebec) [Cayman Islands]</u>	Saint Kitts and Nevis
<u>Cayman Islands [Canada (except Quebec)]</u>	Saint Lucia
Dominica	<u>Singapore</u>
<u>Federated States of Micronesia</u>	Trinidad/Tobago
Gambia	Turks and Caicos <u>Islands</u>
Ghana	United Kingdom
Gibraltar	U.S. Pacific Trust