

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 13, Health Planning and Resource Development

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 13, Health Planning and Resource Development, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 13" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400227

Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: January 24, 2024



The Texas Health and Human Services Commission (HHSC), on behalf of Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 421, Health Care Information

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule con-

tinue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 421, Health Care Information, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSCRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 421" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400226

Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: January 24, 2024



Texas Juvenile Justice Department

Title 37, Part 11

The Texas Juvenile Justice Department (TJJJ) proposes the review of Title 37, Texas Administrative Code, Chapter 380, Subchapter B, Treatment, in accordance with §2001.039, Texas Government Code.

An assessment will be made by TJJJ to determine whether the reasons for adopting or readopting the rules in the subchapter continue to exist and whether the rules reflect current legal and policy considerations and current TJJJ procedure.

Comments on the review may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

TRD-202400158

Cameron Taylor
Senior Strategic Advisor
Texas Juvenile Justice Department
Filed: January 17, 2024



Texas Department of Transportation

Title 43, Part 1

Notice of Intention to Review

In accordance with Government Code, §2001.039, the Texas Department of Transportation (department) files this notice of intention to review Title 43 TAC, Part 1, Chapter 1, Management, Chapter 5, Finance, Chapter 11, Design, Chapter 15, Financing and Construction of Transportation Projects, Chapter 21, Right of Way, and Chapter 27 Toll Projects.

The department will accept comments regarding whether the reasons for adopting these rules continue to exist. Comments regarding this rule review may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Rule Review." The deadline for receipt of comments is 5:00 p.m. on March 4, 2024.

In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

TRD-202400159

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: January 17, 2024



Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 386, Disaster Assistance Program

Notice of the review of this chapter was published in the November 17, 2023, issue of the *Texas Register* (48 TexReg 6751). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 386 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 386. Any appropriate amendments to Chapter 386 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 386 as required by the Texas Government Code, §2001.039.

TRD-202400203

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: January 19, 2024



State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 230, Professional

Educator Preparation and Certification, pursuant to the Texas Government Code (TGC), §2001.039. The SBEC proposed the review of 19 TAC Chapter 230 in the August 18, 2023 issue of the *Texas Register* (48 TexReg 4527).

Relating to the review of 19 TAC Chapter 230, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The following provides a summary of public comments received on the proposal.

Comment: One individual commented neither in support nor against the proposed review of 19 TAC Chapter 230, suggesting additional wording to 19 TAC, §230.21, to minimize the impact of revised exams on candidates. The commenter suggested the following to 19 TAC §230.21(f): (1) Once a candidate receives a passing score on an examination, the scores cannot be invalidated due to a revision of the content exam or due to a new content exam being created. (2) A candidate's passing score on an exam will remain in effect so the candidate may activate their teaching certificate at the appropriate time.

The individual noted that when TExES exams are phased out, an inadvertent burden of having to pass multiple exams is created. This individual shared their experience spending time and money studying for two tests when the Generalist EC-6 (191) exam was revised in 2017, and they had to retake the Core Subjects EC-6 (291) exam as they had not been hired for a teaching position, yet. The individual proposes these changes to ensure that the scores for candidates who pass their exams will remain and candidates will not have to duplicate their efforts by taking another exam.

Response: The SBEC disagrees. The comment is outside the scope of the proposed rulemaking, however, Texas Education Agency (TEA) staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC.

Comment: One individual commented against the regulation set forth in Chapter 230, Subchapter B, General Certification Requirements, specifically regarding the "proficiency in the English language" requirement, which is stated as being "evidenced by completion of an undergraduate or graduate degree at an accredited institution of higher education in the United States." The individual shared their experience of being previously certified in 1998 and now, upon reentering the teaching field, has been denied certification due to the English proficiency requirements.

Response: The SBEC disagrees. The comment is outside the scope of the proposed rulemaking, however, TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC.

Comment: One individual commented neither in support nor against the proposed review of 19 TAC Chapter 230, stating that the certification test limitation for Principal candidates be 10 years, not five years post graduate degree.

Response: The SBEC disagrees. The comment is outside the scope of the proposed rulemaking, however, TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC.

This concludes the review of 19 TAC Chapter 230.

TRD-202400252

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: January 24, 2024



The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 239, Student

Services Certificates, pursuant to the Texas Government Code (TGC), §2001.039. The SBEC proposed the review of 19 TAC Chapter 239 in the August 18, 2023 issue of the *Texas Register* (48 TexReg 4527).

Relating to the review of 19 TAC Chapter 239, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The following provides a summary of public comments received on the proposal.

Comment: One individual commented in support of the proposed review of 19 TAC Chapter 239, stating that classroom experience plays a vital background role in working with students one on one. The individual stated that as a teacher, one learns how to communicate with students and parents and to understand the academic needs that arise, whereas as a counselor, having the classroom setting background helps one advocate for, not only students, but for teachers as well, who may be having difficulty.

Response: The SBEC agrees; however, due to Senate Bill 798, 88th Texas Legislature, Regular Session, 2023, effective September 1, 2023, the SBEC can no longer require that candidates for School Counselor certification have classroom teaching experience. Certificate issuance rules in 19 TAC Chapter 239, Subchapter A, School Counselor Certificate, must be updated to reflect the new requirement in Texas Education Code (TEC), §21.0462, Qualifications for Certification as School Counselor.

Comment: One individual commented neither in support nor against the proposed rule review of 19 TAC Chapter 239. The commenter stated that school districts across the state of Texas are having a difficult time filling vacancies for school counselor positions. The commenter stated that graduate level counseling students typically choose the clinical counseling degree due to the classroom teaching experience requirement associated with the School Counselor certification and that if the classroom experience requirement were to be lifted as a requirement for certification, this would allow people who gain the graduate level knowledge and experience to be able to get a School Counselor certificate to work with students in the school setting without having to go into teaching first or to gain a teacher certification, which requires more education and training for teaching. The individual further commented that lifting the teaching requirement would also help to fill the current shortage of school counselors that the state of Texas is currently facing. Texas Education Agency (TEA) may want to consider making it a requirement that, during a student's graduate counseling program, a certain number of hours are required to complete counseling practicum and internship hours within the school setting as an option to implement for certification purposes.

Response: The SBEC disagrees. The comment is outside the scope of the proposed rulemaking; however, TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC. The requirement of two years of classroom teaching experience will be repealed from 19 TAC Chapter 239, Subchapter A, School Counselor Certificate, per new requirements in TEC, §21.0462, Qualifications for Certification as School Counselor, wherein effective September 1, 2023, classroom teaching experience can no longer be required for School Counselor certification.

Comment: One individual commented against the proposed review of 19 TAC Chapter 239 stating disagreement that one should have to hold a master's degree to be a school librarian. While supporting proper training, the individual stated that a strong preparation program, coupled with a background in teaching, will adequately prepare one to serve in this position more than simply having a master's degree will and that the requirement is more of an obstacle than it is helpful.

Response: The SBEC disagrees. This requirement is based on recommendations by the SBEC-approved advisory committee whose mem-

bers are current educators and experts in the field and whose charge is to improve outcomes for educators in these classes of certificates.

This concludes the review of 19 TAC Chapter 239.

TRD-202400253

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: January 24, 2024



Texas Water Development Board

Title 31, Part 10

The Texas Water Development Board (TWDB) files the adoption of its review of rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 357.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years.

Notice of the review of the aforementioned chapter was published in the October 20, 2023, issue of the *Texas Register* (48 TexReg 6223). TWDB received no comments during the comment period.

TWDB conducted its review in accordance with the requirements of the Texas Government Code, §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. TWDB considered whether the initial factual, legal, and policy reasons for adopting each rule in these subchapters continued to exist and determined that the original reasons for adopting these rules continue to exist and readopts this chapter. This concludes TWDB's review of 31 TAC, Title 31, Part 10, Chapter 357.

TRD-202400180

Ashley Harden

General Counsel

Texas Water Development Board

Filed: January 18, 2024



The Texas Water Development Board (TWDB) files the adoption of its review of rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 358.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years.

Notice of the review of the aforementioned chapter was published in the October 20, 2023, issue of the *Texas Register* (48 TexReg 6223). TWDB received no comments during the comment period.

TWDB conducted its review in accordance with the requirements of the Texas Government Code, §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. TWDB considered whether the initial factual, legal, and policy reasons for adopting each rule in these subchapters continued to exist and determined that the original reasons for adopting these rules continue to exist and readopts this chapter. This concludes TWDB's review of 31 TAC, Title 31, Part 10, Chapter 358.

TRD-202400182

Ashley Harden
General Counsel
Texas Water Development Board
Filed: January 18, 2024



The Texas Water Development Board (TWDB) files the adoption of its review of rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 360.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years.

Notice of the review of the aforementioned chapter was published in the October 20, 2023, issue of the *Texas Register* (48 TexReg 6223). TWDB received no comments during the comment period.

TWDB conducted its review in accordance with the requirements of the Texas Government Code, §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years. TWDB considered whether the initial factual, legal, and policy reasons for adopting each rule in these subchapters continued to exist and determined that the original reasons for adopting these rules continue to exist and re-adopts these rules. This concludes TWDB's review of 31 TAC, Title 31, Part 10, Chapter 360. Changes to the rules identified as part of this review process may be addressed in a separate rulemaking.

TRD-202400184
Ashley Harden
General Counsel
Texas Water Development Board
Filed: January 18, 2024



The Texas Water Development Board (TWDB) files the adoption of its review of rules in 31 Texas Administrative Code, Title 31, Part 10, Chapter 377.

This review is being conducted in accordance with the requirements of the Texas Government Code §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years.

Notice of the review of the aforementioned chapter was published in the October 20, 2023, issue of the *Texas Register* (48 TexReg 6225). TWDB received no comments during the comment period.

TWDB conducted its review in accordance with the requirements of the Texas Government Code, §2001.039, which requires state agencies to review and consider for re-adoption each of their rules every four years. TWDB considered whether the initial factual, legal, and policy reasons for adopting each rule in these subchapters continued to exist and determined that the original reasons for adopting these rules continue to exist and re-adopts these rules. This concludes TWDB's review of 31 TAC, Title 31, Part 10, Chapter 377.

TRD-202400186
Ashley Harden
General Counsel
Texas Water Development Board
Filed: January 18, 2024

