

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 10. COMMUNITY DEVELOPMENT

### PART 5. OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM OFFICE

#### CHAPTER 201. TEXAS MICRO-BUSINESS DISASTER RECOVERY LOAN PROGRAM

##### 10 TAC §§201.1 - 201.8

The Office of the Governor, Texas Economic Development and Tourism Office ("Office") proposes new 10 TAC §§201.1 - 201.8, concerning the Texas Micro-Business Disaster Recovery Loan program.

##### EXPLANATION AND JUSTIFICATION OF THE RULES

These rules relate to the establishment and administration of the new Texas Micro-Business Disaster Recovery Loan Program ("Program") established by subchapter CC, chapter 481, Texas Government Code. The Program expands access to capital for qualifying micro-businesses following a declared disaster to create jobs in this state. Under the Program, the Office will make zero-interest loans to community development financial institutions ("CDFIs") to support interest-bearing disaster recovery loans from the CDFIs to qualifying micro-businesses following a declared disaster.

##### SECTION BY SECTION SUMMARY

Rule §201.1 states the authority and purpose of the new chapter. It references the statutory authorization and sets forth the purpose for the Program as described in statute.

Rule §201.2 provides definitions used throughout the new chapter for words and terms with specific meanings.

Rule §201.3 establishes the process for a CDFI to enter into a participation agreement with the Office. Entering into a participation agreement is required before a CDFI can apply for a zero-interest loan from the Office.

Rule §201.4 describes how a participating CDFI can submit a loan application to the Office. Once a CDFI has entered into a participation agreement, it may submit an application to the Office for a zero-interest loan to support one or more disaster recovery loans to one or more qualifying micro-businesses.

Rule §201.5 states the requirements for a disaster recovery loan from the CDFI to a qualifying micro-business.

Rule §201.6 lists general terms for a loan agreement from the Office to the CDFI. If the Office approves a loan application from a CDFI, the Office and the CDFI will enter into a loan agreement that contains certain minimum requirements. The loan agree-

ment will specify, among other things, that the loan is a zero-interest loan upon which quarterly payments must be made over seven years.

Rule §201.7 details monitoring and reporting requirements for a CDFI under a loan agreement. Certain information must be reported on a quarterly basis, and audited financial statements must be submitted annually. The Office must also be permitted to inspect financial records related to the Program.

Rule §201.8 provides the ability for the Chief of Staff or designee to waive any rules not required under statute upon a showing of good cause or when facts or circumstances make a waiver appropriate.

##### FISCAL NOTE

Adriana Cruz, Executive Director of Texas Economic Development and Tourism Office, Office of the Governor, has determined that the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction of costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rules. Additionally, Ms. Cruz has determined that enforcing or administering the rules does not have foreseeable implications relating to the costs or revenues of state or local government.

##### PUBLIC BENEFIT

Ms. Cruz has determined for the first five-year period the proposed rules are in effect there will be a benefit to participants in the Program and the general public. Participating CDFIs will be more likely to provide loans to qualifying micro-businesses thanks to the support of a zero-interest loan from the Office. Consequently, qualifying micro-businesses that traditionally have difficulty in accessing capital following a declared disaster will be more likely to obtain a loan to aid their recovery efforts. The general public will benefit in turn by qualifying micro-businesses who are able to recover from disasters to once again offer their goods and services.

##### PROBABLE ECONOMIC COSTS

Ms. Cruz has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with the proposed rules.

##### REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES.

Ms. Cruz has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities; rather, micro-businesses will be benefited. Thus, the Office is not required to prepare a regulatory flexibility analysis pursuant to §2006.002, Texas Government Code.

## LOCAL EMPLOYMENT IMPACT STATEMENT

Ms. Cruz has determined that the proposed rules will have a positive impact on local employment and local economies across the State of Texas. By their very nature, declared disasters create significant negative economic impacts to affected regions. The Office believes that the Program will help mitigate potential losses and inject essential recovery funds into the economy. Micro-businesses are the backbone of many communities and are often the most susceptible to the adverse effects of disasters. The Program will provide up to \$5 million in zero-interest loans to participating CDFIs, enabling them to offer interest-bearing loans to qualifying micro-businesses impacted by declared disasters. These loans will, in turn, directly support recovery efforts and foster job creation in the most vulnerable communities.

## GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Cruz has determined that during each year of the first five years in which the proposed rules are in effect, the rules:

- 1) will not create or eliminate a government program;
- 2) will not require the creation of new employee positions or the elimination of existing employee positions;
- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) will create new regulations;
- 6) will not expand certain existing regulations, limit certain existing regulations, or repeal existing regulations;
- 7) will increase the number of individuals subject to the applicability of the rules; and
- 8) will positively affect the Texas economy.

## TAKINGS IMPACT ASSESSMENT

Ms. Cruz has determined that there are no private real property interests affected by the proposed rules. Thus, the Office is not required to prepare a takings impact assessment pursuant to §2007.043, Texas Government Code.

## REQUEST FOR PUBLIC COMMENTS

Comments on the proposed rules may be submitted to R.J. Hakes, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78701, or by email to MBDR@gov.texas.gov with the subject line "Texas MBDR Program Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on November 18, 2024, which is at least 30 days from the date of publication in the *Texas Register*.

## STATUTORY AUTHORITY.

Section 481.456, Texas Government Code authorizes the Office to adopt rules relating to the implementation of the Program and any other rules necessary to accomplish the purposes of the relevant subchapter, including rules that provide criteria under which CDFIs may qualify for the Program.

## CROSS REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by the proposed rules.

§201.1. Authority and Purpose.

(a) Authority. Pursuant to the authority granted by the Texas Government Code, Chapter 481, Subchapter CC, concerning a Micro-Business Disaster Recovery Loan Program, and Texas Government Code, Chapter 2001, Subchapter B, concerning Rulemaking, the Texas Economic Development and Tourism Office in the Office of the Governor prescribes the following rules to provide definitions, procedures, and eligibility standards and criteria for the Texas Micro-Business Disaster Recovery Loan Program.

(b) Purpose. The purpose of this Program is to expand access to capital for qualifying micro-businesses following a declared disaster.

### §201.2. Definitions.

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A CDFI that submits an application to the Program.

(2) CDFI--A Community Development Financial Institution, as that term is defined in 12 U.S.C. § 4702, that has received its CDFI Certification from the United States Department of the Treasury.

(3) Declared Disaster--A declaration of a state of disaster under Texas Government Code §§ 418.014 or 418.108, or a disaster declared by the president of the United States, if any part of the State is named in the federally designated disaster area.

(4) Default rate--The percentage of Disaster Recovery Loans made by a Participant that did not meet the payment terms during a period specified by the Office.

(5) Disaster Recovery Loan--An interest-bearing loan made by a Participant to a Micro-Business that is supported by a Zero-Interest Loan from the Office to the Participant under the Program.

(6) Fiscal Year--The period beginning September 1 and ending August 31.

(7) Fund--The micro-business recovery fund established under Texas Government Code § 481.452.

(8) Loan Agreement--An agreement under the Program made between a Participant and the Office for a Zero-Interest Loan.

(9) Micro-Business--A corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state and has at least 95 percent of its employees located in this state;

(B) is formed to make a profit; and

(C) employs not more than 20 employees.

(10) Office--The Texas Economic Development and Tourism Office in the Office of the Governor, which is authorized to exercise any power necessary to carry out Texas Government Code, Chapter 481, and has established the Texas Economic Development Bank under Texas Government Code, Chapter 489 for the purpose of:

(A) providing globally competitive, cost-effective state incentives to expanding businesses operating in this state and businesses relocating to this state; and

(B) ensuring that communities and businesses in this state have access to capital for economic development purposes.

(11) Participant--A CDFI that is authorized to conduct business in the State, has submitted an application to the Program,

been approved by the Office to participate in the Program, and entered into a Participation Agreement with the Office.

(12) Participation Agreement--An agreement under the Program made between a Participant and the Office that must be entered before a Participant may apply to obtain a Zero-Interest Loan.

(13) Program--The Texas Micro-Business Disaster Recovery Loan program.

(14) State--The State of Texas.

(15) Zero-Interest Loan--A zero-interest loan made by the Office to a Participant to support one or more Disaster Recovery Loans.

#### §201.3. Participation Agreement.

(a) A CDFI seeking to participate in the Program must enter a Participation Agreement with the Office.

(b) The Office shall make the Participation Agreement available through the Program website.

(c) Before entering the Participation Agreement, the Applicant must provide the Office:

(1) the Applicant's official name and primary business address, including the county;

(2) the Applicant's federal tax identification and Comptroller of Public Accounts numbers;

(3) documents from the Texas Secretary of State demonstrating the Applicant's authority to do business in Texas;

(4) a letter from the Texas Comptroller of Public Accounts confirming the Applicant is in good standing;

(5) an incumbency certificate from the Applicant; and

(6) the Applicant's audited financial statements from the past three years.

(d) Upon request, an Applicant must provide to the Office any additional information the Office determines is necessary.

(e) The Applicant must identify all information it submits to the Office that the Applicant considers to be confidential or proprietary.

(f) The Office may decline to enter into a Participation Agreement if an Applicant fails to provide the additional information requested under this Section.

(g) The Office shall determine the Applicant's eligibility to participate in the Program based on the information submitted under subsection (c) of this section and any other information the Office determines is necessary and requests pursuant to subsection (d) of this section. The Office has no obligation to enter into a Participation Agreement with an Applicant.

#### §201.4. Loan Application.

(a) After entering a Participation Agreement, a Participant seeking to obtain a Zero-Interest Loan from the Office to support one or more Disaster Recovery Loans must submit a completed Loan Application to the Office through the Program website.

(b) All confidential and proprietary information must be identified by the Participant.

(c) The Loan Application must provide, at a minimum:

(1) the following information for each Micro-Business that will receive a Disaster Recovery Loan pursuant to the Loan Application:

(A) the official business name and primary business address, including the county;

(B) the federal tax identification and Comptroller of Public Accounts numbers;

(C) certification of Micro-Business eligibility and Disaster Recovery Loan eligibility under the Program;

(D) documents from the Texas Secretary of State demonstrating the Micro-Business's authority to do business in Texas; and

(E) a letter from the Comptroller of Public Accounts confirming the Micro-Business is in good standing;

(2) the total loan amount requested by the Participant from the Office;

(3) a certification of the Loan Application from an authorized Participant representative; and

(4) a resolution by the Participant's governing body authorizing the Loan Application.

(d) The Office, in its sole discretion, may deny a Loan Application in full or in part for any reason.

#### §201.5. Disaster Recovery Loan Requirements.

(a) A Disaster Recovery Loan may only be made to a Micro-Business that:

(1) is in good standing under the laws of this state; and

(2) did not owe delinquent taxes to a taxing unit of this state before the date of the initial issuance of the Declared Disaster.

(b) A Disaster Recovery Loan may not be made to a Micro-Business that:

(1) has total revenue that exceeds the amount for which no franchise tax is due under Tax Code § 171.002(d)(2);

(2) is a franchise;

(3) is a national chain with operations in this state;

(4) is a lobbying firm; or

(5) is a private equity firm or backed by a private equity firm.

#### §201.6. Loan Agreement.

(a) Before the Office may provide a Zero-Interest Loan to a Participant, the Office and the Participant must enter a Loan Agreement that will set forth the terms and conditions of the Zero-Interest Loan. The Loan Agreement shall ensure the proper use of funds and will include, but is not limited to, provisions with respect to the following:

(1) Interest Rate-- The Office shall provide a loan at a zero-percent interest rate to an applicant;

(2) Amortization--Each loan shall be repaid on a quarterly basis;

(3) Maturity--Each loan shall mature seven years after loan origination;

(4) Security--The Office shall not take security interest; and

(5) Income--All income received on a Disaster Recovery Loan made by a Participant, including the payment of interest by a Micro-Business and the administrative fees assessed by the Participant, remains the property of the Participant.

(b) The Office shall specify any other terms and conditions that are reasonable, appropriate, and consistent with the purposes and objectives of the Program.

§201.7. Monitoring and Reporting Requirements.

(a) A Participant must meet reporting and compliance requirements set out in the Loan Agreement, including, but not limited to providing:

(1) annual audited financial statements, including income statement, balance sheet, cash flow, and aging accounts receivables, on or before the one hundred and twentieth day after the end of each Fiscal Year during the term of the Loan Agreement;

(2) quarterly unaudited financial statements, including income statement, balance sheet, cash flow, and aging accounts receivables, on or before the thirtieth day after the end of each quarter during the term of the Loan Agreement;

(3) quarterly report of the Participant's portfolio of Disaster Recovery Loans under the Program on or before the thirtieth day after the end of each quarter during the term of the Loan Agreement, which includes:

(A) the name of the Micro-Businesses that have received a Disaster Recovery Loan;

(B) the current balance of all outstanding Disaster Recovery Loans; and

(C) the default rate of on existing Disaster Recovery Loans.

(b) A Participant shall allow the Office to inspect the Participant's financial records on request for purposes that relate to one or more Disaster Recovery Loans under the Program.

§201.8. Waiver.

The Chief of Staff or designee may suspend or waive any provision not statutorily imposed, in whole or in part, upon the showing of good cause or when, at the discretion of the Chief of Staff or designee, the particular facts or circumstances render such waiver of the Section appropriate in each instance.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

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Adriana Cruz

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Office of the Governor, Economic Development and Tourism Office

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For further information, please call: (512) 936-0100



## PART 8. TEXAS SPACE COMMISSION

### CHAPTER 321. GRANTS

#### 10 TAC §§321.1 - 321.16

The Texas Space Commission ("Commission") proposes new 10 TAC §§321.1 - 321.16, relating to Grants. The Commission proposes new §321.1, concerning Definitions, §321.2, concerning Authority, §321.3, concerning Applicability, §321.4, concerning Funding; Availability of Funds, §321.5, concerning Notices, §321.6, concerning Eligible Recipients; Eligible Activities,

§321.7, concerning Established Presence in the State, §321.8, concerning Application Process Generally, §321.9, concerning Application Requirements, §321.10, concerning Grant Evaluation, §321.11, concerning Amount of Grant Award; Payment Procedures, §321.12, concerning Reporting, §321.13, concerning Records Retention, §321.14, concerning Requests for Records; Audit, §321.15, concerning Noncompliance; Failure to Perform, and §321.16, concerning Direct Award.

#### EXPLANATION AND JUSTIFICATION OF THE RULES

In May 2023, the 88th Texas Legislature passed House Bill 3447, which, in part, created the Texas Space Commission, an agency administratively attached to the Office of the Governor. The Commission was established to strengthen Texas's proven leadership in civil, commercial, and military aerospace activity and to promote innovation in the fields of space exploration and commercial aerospace opportunities. House Bill 3447 established a Board of Directors ("Board") to govern the Commission and directed the Board to adopt rules regarding the procedure for awarding grants to an applicant under Chapter 482, Texas Government Code. In accordance with that directive, the Board unanimously voted to propose the grant-making procedures detailed in this rulemaking.

#### SECTION BY SECTION SUMMARY

Proposed new §321.1 establishes definitions the Commission and Board will utilize in its grant making process.

Proposed new §321.2 describes the authority under which the Commission may award grants.

Proposed new §321.3 describes the purposes for which grants may be awarded.

Proposed new §321.4 describes the sources of funding for grants and establishes that all grants are subject to the availability of funds and approval by the Commission. The rule also establishes that neither the rules in Title 10, Chapter 321, Texas Administrative Code, nor any grant agreement the Commission may enter with a grantee creates in a grantee any entitlement or right to grant funds.

Proposed new §321.5 establishes notice requirements, allowing for electronic notice.

Proposed new §321.6 establishes eligibility requirements related to eligible recipients and eligible activities.

Proposed new §321.7 requires grant recipients to be engaged in business in Texas.

Proposed new §321.8 establishes process requirements for grant applicants, including electronic submission.

Proposed new §321.9 establishes requirements for grant applications, including acceptable signatures.

Proposed new §321.10 establishes grant review process for the Board to consider an application.

Proposed new §321.11 establishes the Board as the sole entity permitted to set the grant award amount and establishes that the Commission is not required to fund any grant at the amount the grant applicant requests.

Proposed new §321.12 requires grant recipients to submit periodic reports and documentation in accordance with the grant agreement. This section also authorizes the Commission, upon reasonable notice, to request any additional information necessary to show that grant funds are being used for the intended

purpose and that the grant recipient has complied with the grant agreement.

Proposed new §321.13 requires grant recipients to maintain all records regarding the grant project and provides records retention requirements.

Proposed new §321.14 describes requirements for providing records, documentation, or other information required by the Commission and authorizes the Commission, upon reasonable notice, to audit the activities of a grantee as necessary to ensure that grant funds are used for the intended purpose of the reimbursement award and that the grantee has complied with the terms, conditions, and requirements of the reimbursement award.

Proposed new §321.15 describes the process for addressing a grantee's noncompliance with any term or condition of a reimbursement award or any applicable laws, rules, regulations, or guidance relating to the reimbursement award, and the remedies that could result from such noncompliance.

Proposed new §321.16 establishes the circumstances under which a grant may be directly awarded.

#### FISCAL NOTE

Executive Director of the Commission, Norman Garza, Jr., has determined that the first five-year period the proposed rules are in effect, there will be no additional estimated cost, reduction of costs, or loss or increase in revenue to the state or local governments due to the enforcement or administration of the rules. Additionally, the Executive Director has determined that enforcing or administering the rules does not have foreseeable implications relating to the costs or revenues of state or local government.

#### PUBLIC BENEFIT

The Executive Director has determined for the first five-year period the proposed rules are in effect there will be a benefit to grant applicants and the general public because the rules will facilitate the fair and transparent administration of the grant program entrusted to the Commission.

#### PROBABLE ECONOMIC COSTS

The Executive Director has determined for the first five-year period the proposed rules are in effect, there will be no additional economic costs to persons required to comply with the proposed rules.

#### REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES

The Executive Director has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Therefore, the Commission is not required to prepare a regulatory flexibility analysis pursuant to §2006.002, Texas Government Code.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The Executive Director has determined that the proposed rules will not affect a local economy, so the Commission is not required to prepare a local employment impact statement under §2001.022, Texas Government Code.

#### GOVERNMENT GROWTH IMPACT STATEMENT

The Executive Director has determined that during each year of the first five years in which the proposed rules are in effect, the rules:

- 1) will not create or eliminate government programs;
- 2) will not require the creation of new employee positions;
- 3) will not require an increase or decrease in future legislative appropriations to the Commission;
- 4) will not require an increase or decrease in fees paid to the Commission;
- 5) will create new regulations;
- 6) will not expand certain existing regulations, limit certain existing regulations, or repeal existing regulations;
- 7) will increase the number of individuals subject to the applicability of the rules; and
- 8) will positively affect the Texas economy.

#### TAKINGS IMPACT ASSESSMENT

The Executive Director has determined that there are no private real property interests affected by the proposed rules. Thus, the Commission is not required to prepare a takings impact assessment pursuant to §2007.043, Texas Government Code.

#### REQUEST FOR PUBLIC COMMENTS

Comments on the proposed rules may be submitted to Erin Chancellor, Chief Compliance Officer for the Texas Space Commission, P.O. Box 12428, Austin, Texas 78701, or by email to [erin.chancellor@space.texas.gov](mailto:erin.chancellor@space.texas.gov) with the subject line "Texas Space Commission Proposed Grant Rules." The deadline for receipt of comments is 5:00 p.m., Central Time, on November 18, 2024, which is at least 30 days from the date of publication in the *Texas Register*.

#### STATUTORY AUTHORITY.

Section 482.501, Texas Government Code, directs the Commission to adopt rules regarding the procedure for awarding grants to an applicant under this chapter.

#### CROSS REFERENCE TO STATUTE

Chapter 482, Texas Government Code. No other statutes, articles, or codes are affected by the proposed rules.

#### §321.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Applicant--A person that has submitted an application for a grant award under this chapter.
- (2) Board--The board of directors of the commission.
- (3) Classified research--Research whose procedures, including required access to classified materials or cleared facilities, and results, subject to a Security Agreement between the U.S. Department of Defense and the governing body for an institution of higher education, are legally knowable only by individuals with U.S. government security clearance.
- (4) Commission--The Texas Space Commission.
- (5) Consortium--The Texas Aerospace Research and Space Economy Consortium created under Subchapter G, Chapter 482, Texas Government Code.
- (6) Digital signature--A signature that:

(A) is created as an electronic identifier by cryptographic means involving the use of two mathematically related keys (i.e., a public and private key pair, often referred to as Public Key Infrastructure or PKI);

(B) complies with the requirements of Title 1, Chapter 203, Texas Administrative Code (relating to Management of Electronic Transactions and Signed Records); and

(C) is not a photographic digital facsimile of a hand-made signature.

(7) Direct award--The award of a grant without first soliciting competitive proposals or applications.

(8) Electronic signature--A signature that is an image of a hand-made signature such as on a transmitted facsimile, an electronic document created by scanning the original physical document, or an electronic document (such as one created in a portable document format) where a separate image of a hand-made signature has been overlaid onto the electronic document in place of a physical hand-made signature.

(9) Fund--The Space Exploration and Aeronautics Research Fund.

(10) Governmental entity--Means:

(A) the State of Texas and all the agencies of government that collectively constitute the government of the state, including boards, commissions, departments, committees, institutions, or offices that are within or are created by the executive or legislative branch of state government and that are directed by one or more elected or appointed members;

(B) an institution of higher education, as that term is defined in Section 61.003, Texas Education Code;

(C) a political subdivision of this state, including any city, county, junior college district, or other entity; and

(D) any other institution, agency, or organ of government the status and authority of which are derived from the Constitution of Texas or from laws passed by the legislature under the constitution.

(11) Grant--The award of financial assistance, including cooperative agreements, in the form of money, property in lieu of money, or other financial assistance paid or furnished by the state or federal government to carry out a program in accordance with rules, regulations, and guidance provided by the commission. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, for which the grantee is not required to account.

(12) Grant agreement--An agreement between the commission and a grant recipient that establishes the terms, duties, reporting requirements, and other responsibilities of each party in relation to a grant awarded by the commission.

(13) Grant funds--Monies in the Space Exploration and Aeronautics Research Fund.

(14) Grant recipient or Grantee--An applicant that receives a grant award under this chapter.

(15) Hand-made signature--A signature created when a person physically marks a paper document; also known as a "wet ink" or "manual" signature.

(16) TxGMS--The publication titled Texas Grant Management Standards, promulgated by the Texas Comptroller of Public Accounts, in accordance with Texas Government Code, Chapter 783, concerning Uniform Grant and Contract Management.

§321.2. Authority.

Sections 482.301 and 482.302, Texas Government Code, authorize the commission to award grants for purposes set forth in §321.3 of this chapter (relating to Applicability).

§321.3. Applicability.

The commission may award grants for the following purposes:

(1) development of emerging technologies required for any aspect of human space flight;

(2) research involving any aspect of space exploration and space flight;

(3) workforce training to promote space exploration and space flight;

(4) curation of post-mission materials involved in space exploration and space flight; and

(5) development of infrastructure useful or necessary for the establishment or maintenance of a spaceport.

§321.4. Funding; Availability of Funds.

(a) Grants awarded by the board under this chapter may use:

(1) gifts, grants, and donations provided to the commission; and

(2) money from any source designated by the legislature.

(b) All grant funding is contingent upon the availability of funds, upon approval of a grant application by the commission, and the terms of the grant agreement. Neither this chapter nor a grant agreement creates any entitlement or right to grant funds by a grant applicant.

§321.5. Notices.

(a) Unless otherwise required by law, the commission may prescribe all forms or other documents required to implement this chapter and may require that the forms or other documents be submitted electronically.

(b) Any notice required by these rules to be sent by the commission may be provided electronically and the commission is entitled to rely on an email address provided by an applicant, grant recipient, or other person for all purposes relating to notification. Applicants and grant recipients must provide an email address that is designated for receipt of notices from the commission.

(c) If notice cannot be sent electronically, the commission shall provide notice by regular mail via U.S. Postal Service and the commission is entitled to rely on the mailing address currently on file for all purposes relating to notification.

(d) Service of notice by the commission is complete and receipt is presumed on:

(1) the date the notice is sent, if sent before 5:00 p.m. by electronic mail;

(2) the date after the notice is sent, if sent after 5:00 p.m. by electronic mail; or

(3) three business days after the date it is placed in the mail, if sent by regular U.S. Mail.

§321.6. Eligible Recipients; Eligible Activities.

(a) Entities that are eligible for a grant award include:

(1) a business or nonprofit entity with an established presence in this state that is involved in the space exploration, research, or aeronautics industry; and

(2) a governmental entity with which the commission has entered into an intergovernmental agreement for that purpose.

(b) An entity that has made a gift or grant to the commission, or to a nonprofit organization established to provide support to the commission, is not eligible for a grant award.

(c) Multiyear projects are eligible for a grant award.

(d) All activities funded by a grant awarded by the commission must relate directly to a purpose specified in the grant.

§321.7. Established Presence in the State.

(a) To be eligible to receive a grant, an applicant must engage in business in the state of Texas by:

(1) maintaining employees in the state of Texas;

(2) having a fixed place of business in the state of Texas; or

(3) providing any service in the state of Texas, whether or not the individuals performing the service are residents of the state.

(b) Applicants may be located outside the state of Texas when the application is submitted and reviewed; however, the applicant must demonstrate that it engages in business in the state of Texas as a condition of the award of grant funds.

(c) A grant recipient's failure to engage in business in the state of Texas is in violation of these rules for the purpose of §321.15 of this chapter (relating to Noncompliance; Failure to Perform).

§321.8. Application Process Generally.

(a) The commission may not award a competitive grant to persons who do not submit an application or do not submit a complete application in accordance with the requirements established in this chapter.

(b) Applicants must submit an application in the form and manner prescribed by the commission. The commission may require that applicants submit applications electronically.

(c) The commission may reject and take no further action on an application that does not appear to comply with applicable program requirements on its face.

(d) The commission may seek input from the consortium on grant applications.

§321.9. Application Requirements.

(a) As set forth in greater detail in the application instructions prescribed by the commission, each application shall include:

(1) applicant's exact name;

(2) a description of the project, projected milestone dates, and proposed services;

(3) project lead(s) and/or researcher(s), budget(s), matching funds, costs, and proof of funding availability;

(4) project area and location(s) to be served;

(5) information required by the application; and

(6) any other information or documentation that the commission may require.

(b) During the application process, the applicant shall provide any information the commission determines is necessary to make a determination on an application. The commission may disqualify an application if an applicant fails to supply the additional information requested under this subsection on or before the thirtieth day after the date the applicant receives notice from the commission.

(c) The commission may accept:

(1) hand-made signatures;

(2) electronic signatures; or

(3) digital signatures.

§321.10. Grant Evaluation.

(a) Except as provided under §321.16 of this chapter (relating to Direct Award), the commission shall establish, for each proposed grant or series of grants, recipient selection criteria appropriate to the purposes of and activities under the proposed grant or grants.

(b) The commission may specify any selection criterion it considers relevant to the grant.

(c) All selection criteria must address the evaluation and scoring of:

(1) available fiscal controls;

(2) project effectiveness;

(3) project cost;

(4) the potential grant recipient's previous experience with grants and contracts; and

(5) the potential grant recipient's established presence in the state and good faith efforts to achieve a goal of more than 50 percent of its purchase goods and services from suppliers in this state.

(d) In addition to evaluation criteria provided under subsection (c) of this section, the commission may include and provide preferences for the following evaluation criteria:

(1) application participant(s) relevant experience;

(2) estimated project completion date;

(3) the availability of matching funds, including amount, percentage, and source of matching funds;

(4) cost effectiveness and overall impact, as measured by the total project cost; and

(5) any additional factors the commission determines are necessary to promote innovation in the fields of space exploration and commercial aerospace opportunities, including the integration of space, aeronautics, and aviation industries into the economy of this state.

(e) The commission may award a grant only to an entity who meets the established eligibility requirements of the proposed grant and who has been selected in accordance with the established selection criteria.

(f) The commission's approval of an award shall not obligate the commission to make any additional, supplemental, or other awards.

(g) All grant funding decisions made by the commission are final and are not subject to appeal.

(h) The commission shall issue the award after the grant agreement is fully executed by the grant recipient and the commission.

§321.11. Amount of Grant Award; Payment Procedures.

(a) The amount of a grant award is determined solely by the commission.

(b) The commission is not obligated to fund a grant at the amount requested by the grant applicant.

(c) Payments to grant recipients shall be in accordance with:

(1) all allowable cost standards and payment-related requirements of the TxGMS if the recipient is a local government, a Texas state agency, or an Indian Tribal Government; and

(2) any special payment-related requirements or procedures contained in the signed grant contract.

§321.12. Reporting.

(a) Grant recipients shall submit to the commission periodic reports for each funded project for the duration of the grant agreement. The frequency, format, and requirements of the reports shall be determined at the discretion of the commission and specified in the grant agreement.

(b) The commission, in its sole discretion and at any time, upon reasonable notice, may request any additional data and reporting information the commission deems necessary to substantiate that a grant recipient:

(1) is using grant funds for their intended purpose; and

(2) has complied with the terms, conditions, and requirements of the grant agreement.

§321.13. Records Retention.

(a) A grantee must maintain all financial records, supporting documents, and all other records pertinent to an award for at least five years following the submission of a final report.

(b) If any litigation, claim, or audit is started, or any open records request is received, before the expiration of the five-year records retention period, a grantee must retain the records related to the litigation, claim, audit, or open records request until the completion of the litigation, claim, audit, or open records request and resolution of all issues that arise from it or until the end of the regular five-year records retention period, whichever is later.

(c) A grantee may retain records in an electronic format.

§321.14. Request for Records; Audit.

(a) At any time during the grant agreement and for a period of five years after the project has been completed, the commission or its designee may, upon reasonable notice and in writing, request any records from, or audit the books and records of, a grant recipient to verify the grant recipient has complied with the terms, conditions, and requirements of the grant agreement and this chapter. Grant recipients shall provide the requested records or information to the commission on or before the thirtieth day after the commission makes a written request for such records.

(b) The commission or its designee may, before the end of the five-year records retention period set forth in §321.13 of this chapter (relating to Records Retention), audit a grantee to ensure that grant funds are used for the intended purpose of the reimbursement award and that the grantee has complied with the terms, conditions, and requirements set forth in §321.13 of this chapter.

§321.15. Noncompliance; Failure to Perform.

(a) A grant recipient shall forfeit up to the amount of the grant funds received, or return previously awarded funds, if the commission, in its sole discretion, determines the grant recipient has failed to perform, in material respect, the obligations established in the grant agreement. The commission may make such a determination at any time during the grant agreement. The commission, in its sole discretion, shall determine the amount forfeited.

(b) A failure to perform resulting in forfeiture of grant funds may be cause for the commission to bar an applicant from future consideration for grant funds under this program.

§321.16. Direct Award.

Notwithstanding any provision in this chapter, the commission may issue a direct award grant to an entity allowed by law if:

(1) the grant recipient has entered into an agreement with the consortium under procedures established in Section 482.608(a)(3)(C), Texas Government Code, and:

(A) the purpose of the grant is to enable the consortium to undertake its duties established under Chapter 482, Texas Government Code; and

(B) the commission and grant recipient enter a grant agreement(s);

(2) the board determines that circumstances related to a direct award grant request cannot follow standard application processes because it would result in an entity failing to meet a deadline or similar milestone, and:

(A) without grant funds, the potential grantee could not successfully undertake the project to which the request relates;

(B) failure to undertake the project to which the request relates would result in the loss of a significant commercial, civil, or military related opportunity for advancing the space, aeronautics, or aviation industries in the state;

(C) the commission and grant recipient enter a grant agreement that places sufficient controls on the transaction to ensure the public purpose of the grant is carried out; and

(D) awarding a direct grant is in the best interest of the state; or

(3) the board determines a direct award grant is necessary for a potential grantee to respond to a matter of national security, defined by the intelligence community or the national defense strategy, as well as a natural disaster or public health crisis and states of emergency and, as soon as practicable, the commission and grant recipient enter a grant agreement that places sufficient controls on the transaction to ensure the public purpose of the grant is carried out.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

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Norman Garza

Executive Director

Texas Space Commission

Earliest possible date of adoption: November 17, 2024

For further information, please call: (512) 463-8575

◆ ◆ ◆  
**TITLE 16. ECONOMIC REGULATION**

**PART 2. PUBLIC UTILITY  
COMMISSION OF TEXAS**



CHAPTER 24. SUBSTANTIVE RULES  
APPLICABLE TO WATER AND SEWER  
SERVICE PROVIDERS  
SUBCHAPTER H. CERTIFICATES OF  
CONVENIENCE AND NECESSITY

16 TAC §24.233

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §24.233 relating to Contents of Certificate of Convenience and Necessity Applications. The proposed amendments will implement Texas Water Code §§ 13.244 and 13.246 as revised by Senate Bill 893 during the Texas 88th Regular Legislative Session. The amendments grant the Executive Director authority to make minor corrections to water and sewer certificates of convenience and necessity without observing formal amendment procedures.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rules, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Iliana De La Fuente, Attorney, Rules and Projects, determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local

government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. De La Fuente has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be reducing the time and administrative burdens associated with making minor corrections to water and sewer CCNs. There will be no probable economic cost to persons required to comply with the rules under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 7, 2024. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 7, 2024. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 57059.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

The commission also requests comments on the following question:

Under TWC § 13.244(e)(4), the executive director may make a correction under this rule "to correct another similar non-substantive error or matter if authorized by the utility commission by rule." Are there any additional types of errors or matters that the commission should authorize the executive director to correct under the proposed rule?

Statutory Authority

The amendments are proposed under Texas Water Code (TWC) §13.041, which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction. The amended rules are also proposed under TWC §13.244 and 13.246 as amended by SB 893 (88th regular session), which provide the commission executive director to make minor corrections to water and sewer CCNs.

Cross Reference to Statute: TWC §§13.041, 13.244, and 13.246.

§24.233. *Contents of Certificate of Convenience and Necessity Applications.*

(a) Application. To obtain or amend a certificate of convenience and necessity (CCN), a person, public water or sewer utility, water supply or sewer service corporation, affected county as defined in §24.3(4) of this title (relating to Definitions of Terms), county, district, or municipality must [shall] file an application for a new CCN or a CCN amendment. Applications must contain the following materials, unless otherwise specified in the application form:

(1) - (13) (No change.)

(14) for an application for a new water CCN or a CCN amendment that will require the construction of a new public drinking water system or facilities to provide retail water utility service, a copy of:

(A) the approval letter for the plans and specifications issued by the TCEQ for the public drinking water system or facilities. Proof that the applicant has submitted plans and specifications for the proposed drinking water system is sufficient for a determination of administrative completeness. The applicant must [shall] notify the commission within ten days upon receipt of any TCEQ disapproval letter. If the applicant receives a TCEQ disapproval letter, the application for a new water CCN or a CCN amendment may be subject to dismissal without prejudice. Any approval letter for the proposed public drinking water system or facilities must be filed with the commission before the issuance of a new CCN or a CCN amendment. Failure to provide such approvals within a reasonable amount of time after the application is found administratively complete may result in dismissal of the application without prejudice. Plans and specifications are only required if the proposed change in the existing capacity is required by TCEQ rules;

(B) - (C) (No change.)

(15) for an application for a new sewer CCN or CCN amendment that will require the construction of a new sewer system or new facilities to provide retail sewer utility service, a copy of:

(A) a wastewater permit or proof that a wastewater permit application for the additional facility has been filed with the TCEQ. Proof that the applicant has submitted an application for a wastewater permit is sufficient for a determination of administrative completeness. The applicant must [shall] notify the commission within ten days upon receipt of any TCEQ disapproval letter. If the applicant receives a TCEQ disapproval letter, the application for a new sewer CCN or CCN amendment may be subject to dismissal without prejudice. Any approval letter for the permit application must be filed with the commission before the issuance of a new CCN or a CCN amendment. Failure to provide such approvals within a reasonable amount of time after the application is found administratively complete may result in the dismissal of the application without prejudice. Plans and specifications are only required if the proposed change in the existing capacity is required by TCEQ rules.

(B) - (C) (No change.)

(16) (No change.)

(b) If the requested area overlaps the boundaries of a district, and the district does not intervene in the docket by the intervention deadline after notice of the application is given, the commission will [shall] determine that the district is consenting to the applicant's request to provide service in the requested area.

(c) - (e) (No change.)

(f) Executive corrections. The executive director may make a correction to a CCN, at the discretion of the executive director or at the request of the CCN holder.

(1) An executive correction may be issued under this subsection only:

(A) to correct a clerical or typographical error;

(B) to correct a mapping error in a CCN:

(i) to reflect the metes and bounds of the certificated area on the map approved in a final order in a prior proceeding; or

(ii) to correct a typographical or grammatical error on the map approved in a final order in a prior proceeding.

(C) to change the name of an incorporated CCN holder on a CCN if:

(i) an amendment to the to the CCN holder's articles of incorporation or certificate of formation is filed with the secretary of state that only changes the name of the CCN holder; and

(ii) the CCN holder provides documentation from the secretary of state that the amendment only changed the name of the CCN holder.

(2) Commission staff will open a dedicated project for processing executive corrections under this subsection. Unless directed otherwise by commission staff on behalf of the executive director, all filings related to executive corrections must be made in this dedicated project.

(3) Request. A CCN holder may request the executive director make a correction under this subsection by filing a request for executive correction. The request must provide any information required for the executive director to determine whether to make the requested correction, including:

(A) a precise description of the requested correction;

(B) an explanation of the correction, including any applicable supporting documentation;

(C) a justification for making the correction by executive action rather than other available proceedings; and

(D) for a request to correct a mapping error under paragraph (1)(B) of this subsection:

(i) a list of any persons or entities whose retail service may be directly affected by the correction; and

(ii) a written agreement between the CCN holder any other retail water or sewer service provider whose service area is directly affected by the correction.

(4) Notice. For a request to correct a mapping error under paragraph (1)(B) of this subsection, commission staff will review the request and provide the CCN holder with a notice document. The CCN holder must provide the notice to any water or sewer service customers whose retail service is directly affected by the proposed correction. After providing notice, the CCN holder must file an affidavit specifying every person and entity to whom notice was provided and the date the notice was provided.

(5) Executive review. The executive director will issue an order granting, granting in part, or denying the requested executive correction.

(A) The executive director has discretion to determine whether to make an executive correction under this subsection. In evaluating whether to make an executive correction, the executive director

will consider whether the requested correction is supported by appropriate documentation, whether it is appropriate to bypass any proceedings that would otherwise be required to make the requested correction, and any other factor deemed relevant by the executive director.

(B) The executive director must not make an executive correction to address a mapping error under paragraph (1)(B) of this subsection unless the CCN holder:

(i) files a written agreement between the CCN holder and any other retail water or sewer service provider whose service area is directly affected by the correction; and

(ii) provides notice of the correction to any water or sewer service customers whose retail service is directly affected by the correction.

(C) The executive director, or commission staff on behalf of the executive director, may request any additional information from the CCN holder necessary to determine whether to issue an executive correction under this subsection.

(D) The executive director's order may require commission staff or the CCN holder to take any actions or make any additional filings necessary to appropriately update the commission's records to accurately reflect the correction.

(E) If the executive director issues an executive correction, commission staff must notify the CCN holder that the correction has been made.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 3, 2024.

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Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7244



## **TITLE 19. EDUCATION**

### **PART 2. TEXAS EDUCATION AGENCY**

#### **CHAPTER 97. PLANNING AND ACCOUNTABILITY**

##### **SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING**

###### **19 TAC §97.1003**

The Texas Education Agency (TEA) proposes an amendment to §97.1003, concerning local accountability systems. The proposed amendment would modify the timeline for submission of a local accountability plan to TEA.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 97.1003 defines the requirements school districts and open-enrollment charter schools must meet if they choose to create a local accountability plan to assign an overall performance rating for a campus.

The proposed amendment to §97.1003 would amend subsection (f)(3) by specifying that a local accountability plan, including its components, domains, and overall scaled scores and ratings, must be submitted to TEA on a timeline determined by the commissioner. This amended subsection would remove the first week of July as the deadline. This change would allow TEA to publish timelines that best fit the needs of districts and charter schools.

**FISCAL IMPACT:** Marian Schutte, deputy associate commissioner for authorizing and policy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** 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 Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** 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 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, limit, 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:** Ms. Schutte has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be allowing TEA to publish submission timelines that best fit the needs of districts and charter schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no new data and reporting impact. Data reporting currently required by the rule would remain unchanged.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA 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 begins October 18, 2024, and ends November 18, 2024. A request for a public hearing on the proposal submit-

ted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 18, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code, §39.0544, which requires the commissioner to adopt rules regarding the local assignment of campus performance ratings by school districts and open-enrollment charter schools.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §39.0544.

*§97.1003. Local Accountability System.*

(a) The local accountability system standards established by the commissioner of education under Texas Education Code (TEC), §39.0544, shall be used by school districts to develop a plan to locally evaluate the performance of their campuses. For the purpose of this section, the term school district includes open-enrollment charter schools.

(b) A local accountability plan created by a school district must include domain performance ratings assigned by the commissioner under TEC, §39.054, and performance ratings based on locally developed domains or sets of accountability measures.

(1) A locally developed domain or set of accountability measures is referred to as a plan component. Plan components must describe each item and the reason for its inclusion in the plan. A school district must assign each component to one of the following five domains: academics, culture and climate, extra- and co-curricular, future-ready learning, and locally determined. The weight of all plan components must equal 100%.

(2) Each campus with an approved school district plan is eligible to receive local accountability rating. A campus with an overall state accountability rating of C or higher based on ratings derived from student performance at the campus is eligible to combine an overall local accountability rating with the overall state accountability rating to determine the combined rating.

(3) For the purposes of assigning state accountability ratings, a campus that does not serve any grade level for which a State of Texas Assessments of Academic Readiness (STAAR®) examination is administered is paired with a campus in its school district that serves grade levels for which STAAR® examinations are administered. A campus not rated under the state accountability system is not eligible to combine state and local ratings. Local accountability data for a campus without state ratings may be displayed on Texas Education Agency (TEA), school district, and campus websites but will not be combined with state accountability data. The state accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System) provides information about campus ratings and eligibility for applicable years.

(4) A school district must create its local accountability plan based on school type. The four school types are elementary school, middle school, high school, and Kindergarten-Grade 12. The plan must include all campuses within a school type. The school district may also request to identify an additional school group within a school type for which to customize its local accountability plan. Otherwise, all campuses within a school type must be evaluated on a common set of components determined by the school district. A school district may also

request to identify a campus rated under alternative education accountability provisions as a unique school type.

(c) A school district may assign weights to each plan component described in subsection (b)(1) of this section, as determined by the district, provided that the plan components must in the aggregate account for no more than 50% of the combined overall performance rating. A local accountability plan may include no fewer than two and no more than ten components weighted between 5% and 60%.

(d) Each plan component must contain levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels that are aligned to a letter grade of A, B, C, D, or F.

(1) In order to provide for the assignment of a letter grade of A, B, C, D, or F, a school district must use data collected by the district to calculate the current baseline average. The baseline data calculated by the school district is used to set standards for each level by setting the average at a C, or mid-level, with the higher A and B grades designating levels considered to be exceptional and good, respectively, and the lower D and F grades designating levels considered to need improvement and be unacceptable, respectively.

(2) A school district may choose to include a single component with a weight not exceeding 10% with the levels of differentiation based on the face value of the average performance level rather than the average performance level, or baseline, being set at the C or mid-level value.

(3) In the case of components where current baseline levels are not used to set the campus rating scale to a C or mid-level value, TEA may require the school district to re-evaluate the inclusion of the component on an annual basis.

(e) Each plan component measure must meet standards for reliability and validity.

(1) In terms of specific measures, tests, or ratings, a measure is considered reliable if it delivers consistent results across administrations.

(2) In terms of specific measures, tests, or ratings, a measure is considered valid if the resulting outcome represents what the test is designed to measure.

(3) Reliability and validity are closely related, and both must be evident for a measure, test, or rating to be included as component outcomes in a local accountability system plan.

(f) Calculations for each plan component and overall performance ratings must be capable of being audited by a third party.

(1) A school district must use a one-to-one correspondence when converting campus grades based on plan component measures to a standard scale of 30-100 where A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59.

(2) Categorical data, or data not on a continuous scale, must be converted to the standard scale of A=90-100, B=80-89, C=70-79, D=60-69, and F=30-59 by assigning the maximum value for each scaled score interval with the corresponding category used in the campus rating scale.

(3) A school district is required to submit a local accountability plan that includes components, domains [component, domain], and overall scaled scores and ratings to TEA on a timeline determined by the commissioner [by the first week of July of the applicable accountability year].

(4) All scaled scores and letter grades submitted by a school district are subject to audit. Any data discrepancies or any indication that data have been compromised may result in verification and audit of school district and campus data used to assign local accountability ratings. The audit process may include requests for data used for campus-level calculation of component and domain scaled scores.

(5) On an annual basis, TEA will randomly select school districts for local accountability audits, and, for each such audit, TEA will randomly select components for review. Selected school districts must submit the requested data for review within the timeframe specified. A school district must maintain documentation of its local accountability plan, along with all associated data used to assign campus ratings, for two years after the end of the plan implementation period.

(6) Responsibility for the accuracy and quality of data used to determine local accountability ratings rests with each school district. Superintendent certification of data accuracy during the ratings submission process shall include an assurance that calculations have been verified to ensure that all data were included as appropriate for all components.

(7) An appeal of a local accountability rating may be submitted by the superintendent or chief operating officer once ratings are released. The local accountability appeals timeline follows the appeal deadline dates and processes as described in the state accountability manual adopted under §97.1001 of this title for the applicable year.

(g) A school district must produce a campus score card and make available on the district website an explanation of the methodology used to assign local accountability performance ratings. The campus score card shall include, at a minimum, the scaled score and rating for each component and domain along with the overall rating. A link to the local accountability ratings posted by the school district must be provided to TEA and may be included on the agency-developed school report card.

(h) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.057(d) and (e).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



## PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

### CHAPTER 228. REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§228.2, 228.6, 228.33, 228.67, 228.73, and 228.103, concerning requirements for educator preparation programs (EPPs). The proposed amendments would further clarify requirements and

definitions as applicable to support EPPs and candidates in the successful implementation of these rules.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 TAC Chapter 228, Requirements for Educator Preparation Programs, establish the requirements for EPPs in the preparation of candidates for Texas educator certification.

As a follow-up to the July 2024 SBEC meeting discussion on proposed changes to the new Chapter 228 rules, Texas Education Agency (TEA) staff completed additional work on draft proposed rule changes and conducted a stakeholder meeting on August 9, 2024. The information from the August stakeholder meeting informed the final version of proposed rules to be presented for the Board's review and action at the September SBEC meeting.

The following is a description of the proposed changes for Chapter 228.

#### Subchapter A. General Guidance

##### §228.2. Definitions.

The proposed new definition of extracurricular activities would mirror language of the definition of this term established in 19 TAC Chapter 76, Extracurricular Activities, Subchapter AA, Commissioner's Rules. In addition, defining the term in this manner will provide EPPs and candidates with additional clarity and support around the types of activities that should be considered acceptable to meet preparation program requirements.

The proposed new definition of Legacy Chapter 228 rules would provide a reference to the EPP rules that were in effect on August 31, 2024, and ensure that EPPs and candidates have a place to anchor their use of those rules as they support candidates who began their preparation prior to September 1, 2024, through the rest of the preparation and certification process.

The proposed amendment to the definition of school day would acknowledge that school days may be extended for some subject areas that have duties outside of the regular school day and would strike the reference to clinical teaching and allow guidance on meeting those requirements to be addressed in §228.67, Clinical Teaching.

Some definitions in this section would be renumbered due to the addition of two new definitions in proposed §228.2(26) and §228.2(37).

##### §228.6. Implementation Date.

The proposed amendment to §228.6, Implementation Date, would create new paragraphs (1) and (2) to more formally codify the implementation structures understood in the field. These additions to the rules would provide clarification and consistency to support EPPs with candidates admitted prior to September 1, 2024.

Proposed new §228.6(1)(A) would reinforce the expectation for candidates who have not started their clinical experience prior to September 1, 2024, to comply with the current rules in Chapter 228, Subchapter E, Educator Candidate Experiences.

Proposed new §228.6(1)(B) would establish a clear deadline to ensure that EPPs and candidates completing requirements under the Legacy Chapter 228 rules do so by August 31, 2026.

Proposed new §228.6(2) would reinforce for EPPs and candidates that anyone admitted into an EPP on or after September 1, 2024, is subject to all requirements in this chapter.

#### Subchapter D. Required Educator Coursework and Training

§228.33. Preparation Program Coursework and/or Training for All Certification Classes.

A technical edit to §228.33(d)(3) would strike the outdated rule reference that was repealed in February 2024 and replace with an updated reference to the alternative rules, Part 1, Chapter 2, Subchapter J, Rule §2.204 (relating to Approval of Distance Education Courses and Programs for Public Institutions).

Subchapter E. Educator Candidate Experiences

§228.67. Clinical Teaching.

A technical edit to §228.67(a) would change the introductory rule text from "A candidate for initial certification" to "A candidate seeking initial certification" for clarity.

The proposed amendment to §228.67(b)(1) would change the time spent in the subject area of the certificate sought from 4 hours per day to a total of 280 hours across the clinical teaching experience and provide flexibility for candidates to complete the remaining 210 clinical teaching hours in other aspects of an educator's duties.

The proposed amendment to §228.67(b)(3) would add "medical" and strike "illness" to more broadly represent things that could impact a candidate's ability to complete the required total number of clinical teaching hours.

The proposed amendment to §228.67(c) would change the time spent in the subject area of an additional certificate area sought by the candidate that cannot be taught concurrently with the primary certificate area sought from 5 hours per week to a total of 70 hours during the clinical teaching experience, providing flexibility to candidates and EPPs to structure the clinical teaching experience as needed and still comply with requirements.

§228.73. Internship.

The proposed amendment to §228.73(h) would further clarify that subsection (g)(2)-(6) outlines the applicable options under which an EPP should cease with providing additional support to a candidate and proceed with the required steps to deactivate the candidate's intern or probationary certificate.

Subchapter F. Support for Candidates During Required Clinical Experiences

§228.103. Formal Observations for Candidates in Residency Assignments.

The proposed change to §228.103(a) would clarify that an EPP must provide the first formal observation with the first six weeks of all residency assignments. TEA staff is seeking the Board's support in approving this change to restore the original intent of the requirements for formal observations specific to candidates in residency assignments.

**FISCAL IMPACT:** Jessica McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years the proposal is in effect, there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** 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:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communi-

ties; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002 is required.

**COST INCREASE TO REGULATED PERSONS:** 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:** 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:** 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 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, limit, 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:** Ms. McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years the proposal is in effect, the public benefit anticipated would be clear and better organized rules regarding EPPs. Overall, the proposal will ensure increased responsiveness to candidate needs, and the overall elevation of the quality of educator preparation influenced by the proposal will have a lasting, positive impact on education and the preparation and retention of qualified educators in every classroom. There is no anticipated cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no additional data and reporting impact.

**ENVIRONMENTAL IMPACT STATEMENT:** The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** 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 begins October 18, 2024, and ends November 18, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will also take registered oral and written comments on the proposal during the December 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

## SUBCHAPTER A. GENERAL GUIDANCE

### 19 TAC §228.2, §228.6

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education (TEC), §21.003(a), which 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, which authorizes the State Board for Educator Certification (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), which 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)(2)-(4), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to propose rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive

certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to propose rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to propose rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

§228.2. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (25) (No change.)

(26) Extracurricular activities--Activities sponsored by the University Interscholastic League (UIL), the school district board of trustees, or an organization sanctioned by resolution of the board of trustees as specified in Chapter 76, Subchapter AA, of Part 2 of this title (relating to Commissioner's Rules).

(27) [(26)] Field-based experiences--Introductory experiences for a classroom teacher certification candidate, incorporated with preparation coursework that involve, at the minimum, reflective observation of and interaction with Early Childhood-Grade 12 students,

teachers, and faculty/staff members engaging in educational activities in an authentic school setting.

(28) [(27)] Field supervisor--A currently certified educator, who preferably has advanced credentials, hired by the EPP to observe candidates, monitor their performance, and provide constructive feedback to improve their effectiveness as educators.

(29) [(28)] Formal admission--Admission as described in §227.17 of this title (relating to Formal Admission).

(30) [(29)] Head Start Program--The federal program established under the Head Start Act (42 United States Code (USC), §9801 et seq.) and its subsequent amendments.

(31) [(30)] Host teacher--For [for] a teacher resident candidate, an educator who is jointly assigned by the EPP and the campus administrator who supports the candidate through co-teaching and coaching during their teacher residency field placement.

(32) [(31)] Initial certification--The first Texas certificate in a class of certificate issued to an individual based on participation in an approved EPP.

(33) [(32)] Intensive pre-service--An educator assignment supervised by an EPP accredited and approved by the SBEC prior to a candidate meeting the requirements for issuance of intern and probationary certificates.

(34) [(33)] Intern certificate--A type of certificate as specified in §230.36 of this title (relating to Intern Certificates) that is issued to a candidate who has passed all required content pedagogy certification examinations and is completing requirements for initial certification through an approved EPP.

(35) [(34)] Internship--A paid supervised classroom teacher assignment for one full school year at a public school accredited by the TEA or other school approved by the TEA for this purpose that may lead to completion of a standard certificate.

(36) [(35)] Late hire--An individual who is both accepted into an EPP after the 45th day before the first day of instruction and hired for a teaching assignment by a school after the 45th day before the first day of instruction or after the school's academic year has begun.

(37) Legacy Chapter 228 rules--The version of State Board for Educator Certification rules in Chapter 228 that were in effect on August 31, 2024.

(38) [(36)] Long-term substitute--An individual that has served in place of a teacher of record in a classroom for at least 30 consecutive days; also referred to as a permanent substitute.

(39) [(37)] Mentor--For an internship candidate, an educator who is employed as a classroom teacher on the candidate's campus and who is assigned to support the candidate during the internship experience.

(40) [(38)] Pedagogy--The art and science of teaching that incorporates instructional methods that are developed from scientifically based research.

(41) [(39)] Performance task--An assessment in which the teacher candidate applies learning and demonstrates a discrete set of skills, resulting in a tangible product or performance that serves as evidence of learning. The assessment must be evaluated using a standard rubric or set of criteria and must not include multiple-choice questions.

(42) [(40)] Post-baccalaureate program--An EPP, delivered by an accredited IHE and approved by the SBEC to recommend candidates for certification, that is designed for individuals who already hold at least a bachelor's degree and are seeking an additional degree.

(43) [(41)] Practicum--A supervised educator assignment at a public school accredited by the TEA or other school approved by the TEA for this purpose that is in a school setting in the particular class for which a certificate in a class other than classroom teacher is sought.

(44) [(42)] Probationary certificate--A type of certificate as specified in §230.37 of this title (relating to Probationary Certificates) that is issued to a candidate who has passed all required certification examinations and is completing requirements for certification through an approved EPP.

(45) [(43)] Representations--Artifacts and illustrations of instruction used to help teacher candidates see and analyze strong teaching practices. Representations expose teacher candidates to and build understanding of specific criteria of effective teacher practices, as well as deepen their content knowledge for teaching. May include teacher educator modeling, student work, videos and transcripts.

(46) [(44)] Residency--A supervised educator assignment for an entire school year through a partnership between an EPP and a public school accredited by the TEA or other school approved by the TEA for this purpose that may lead to completion of an enhanced standard certificate.

(47) [(45)] School day--Actual school attendance days during the regular academic school year, including a partial day or extended day that students attend school for instructional purposes as adopted by the district or governing body of the school, excluding weekends, holidays, summer school, etc. [~~For the purpose of completing clinical experiences, the school day must be at least four hours, including intermissions and recesses, but not including lunch periods, professional development, or extracurricular activities.~~]

(48) [(46)] School year--The period of time starting with the first instructional day for students through the last instructional day for students as identified on the calendar of the campus or district for the school year in which the candidate is completing the clinical experience.

(49) [(47)] Site supervisor--For a practicum candidate, an educator who is assigned collaboratively by the campus or district administrator and the EPP and who supports the candidate during the practicum experience.

(50) [(48)] Standard certificate--A type of certificate issued to an individual who has met all requirements for a given class of certification, as specified in §230.33 of this title.

(51) [(49)] Students with disabilities--A student who is eligible to participate in a school district's special education program under Texas Education Code, §29.003, is covered by Section 504, Rehabilitation Act of 1973 (29 USC Section 794), or is covered by the Individuals with Disabilities Education Act (20 USC Section 1400 et seq.).

(52) [(50)] Substitute teacher--An individual who [~~that~~] serves in place of a teacher of record in a classroom in an accredited public or private school.

(53) [(51)] Teacher of record--An educator who is employed by a school or district and who teaches in an academic instructional setting or a career and technical instructional setting not less than an average of four hours each day and is responsible for evaluating student achievement and assigning grades.

(54) [(52)] Texas Education Agency staff--Staff of the TEA assigned by the commissioner of education to perform the SBEC's administrative functions and services.



(55) [(53)] Texas Essential Knowledge and Skills (TEKS)-The Kindergarten-Grade 12 state curriculum in Texas adopted by the State Board of Education and used as the foundation of all state certification examinations.

§228.6. *Implementation Date.*

The provisions of this chapter are effective September 1, 2024, unless otherwise specified in rule.

(1) At the determination of the educator preparation program (EPP), candidates admitted into an EPP prior to September 1, 2024, are eligible to finish preparation program requirements under the Legacy Chapter 228 rules or may complete requirements under the new rules and credit requirements completed under the Legacy Chapter 228 rules.

(A) Regardless of the preparation program requirements approved by an EPP via provisions in paragraph (1) of this subsection, for the purposes of formal observations, clinical experiences in Subchapter E of this chapter (relating to Educator Candidate Clinical Experiences), that begin on or after September 1, 2024, must meet the frequency and duration requirements in §§228.103(b)(1) of this title (relating to Formal Observations for Candidates in Residency Assignments), 228.105(b) of this title (relating to Formal Observations for All Candidates for Initial Classroom Teacher Certification), 228.105(c)(1) of this title, 228.107(b) of this title (relating to Formal Observations for Candidates in Clinical Teaching Assignments), 228.107(d) of this title, 228.109(b)(1) of this title (relating to Formal Observations for Candidates in Internship Assignments), 228.109(b)(2) of this title, 228.109(c)(1) of this title, 228.109(c)(2) of this title, and 228.111 of this title (relating to Formal Observations for Candidates Employed as Educational Aides).

(B) Candidates must complete all requirements under Legacy Chapter 228 rules by August 31, 2026.

(2) Candidates admitted into an EPP on or after September 1, 2024, are subject to all requirements in this chapter.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: November 17, 2024

For further information, please call: (512) 475-1497



## SUBCHAPTER D. REQUIRED EDUCATOR COURSEWORK AND TRAINING

### 19 TAC §228.33

STATUTORY AUTHORITY. The amendment is proposed under Texas Education (TEC), §21.003(a), which 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, which authorizes the State Board for Educator Certification (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), which 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)(2)-(4), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to propose rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in

an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to propose rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to propose rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

§228.33. *Preparation Program Coursework and/or Training for All Certification Classes.*

(a) - (c) (No change.)

(d) Coursework and training that is offered online must meet criteria set for accreditation, quality assurance, and/or compliance with one or more of the following:

(1) Accreditation or Certification by the Distance Education Accrediting Commission;

(2) Program Design and Teaching Support Certification by Quality Matters;

(3) Part 1, Chapter 2, Subchapter J, Rule §2.204 of this title (relating to Approval of Distance Education Courses and Programs for Public Institutions); or [Part 1, Chapter 4, Subchapter P, of this title (relating to Approval of Distance Education Courses and Programs for Public Institutions); or]

(4) Part 1, Chapter 7, of this title (relating to Degree Granting Colleges and Universities Other than Texas Public Institutions).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1497



## SUBCHAPTER E. EDUCATOR CANDIDATE CLINICAL EXPERIENCES

### 19 TAC §228.67, §228.73

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education (TEC), §21.003(a), which 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, which authorizes the State Board for Educator Certification (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), which 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)(2)-(4), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to propose rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about

EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to propose rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to propose rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences;

and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

§228.67. *Clinical Teaching.*

(a) A candidate seeking ~~for~~ initial certification as a classroom teacher must have a clinical teaching assignment for each subject area in which the candidate is seeking certification.

(b) The required duration of a clinical teaching assignment shall be a minimum of 490 hours [that is not less than an average of 4 hours each day in the subject area and grade level of certification sought, including planning periods but not including lunch periods]. For the purposes of satisfying this requirement, the following provisions apply.

(1) At least 280 clinical teaching hours must be completed in the subject area and grade level of the certification sought, under the supervision of a cooperating teacher as specified in §228.91 of this title (relating to Mentors, Cooperating Teachers, Host Teachers, and Site Supervisors), including planning periods.

(2) The remaining clinical teaching hours may be accrued through additional instructional hours during the school day, Texas Essential Knowledge and Skills-based extracurricular activities that directly relate to the grade-level and subject area of the certification sought, and professional development hours that occur within the assignment start and end date. The candidate must be under the supervision of a certified educator for the remaining required hours of clinical teaching.

(3) The minimum required clinical teaching hours may be reduced to no less than 455 hours if the candidate is absent from the clinical teaching assignment due to a documented instance of parental leave, military leave, medical, [illness,] or bereavement.

(c) For certification in more than one subject area that cannot be taught concurrently during the same period of the school day as the primary teaching assignment, at least 70 hours [five hours per week] of the clinical teaching requirement in subsection (b)(2) of this section must be completed in each additional subject area if and only if:

(1) the educator preparation program (EPP) is approved to offer preparation in the certification category required for the additional assignment;

(2) the EPP provides ongoing support for each assignment as prescribed in Subchapter F of this chapter (relating to Support for Candidates During Required Clinical Experiences);

(3) the EPP provides coursework and training for each assignment to adequately prepare the candidate to be effective in the classroom; and

(4) the campus administrator agrees to assign a qualified cooperating teacher appropriate to each assignment.

(d) - (g) (No change.)

§228.73. *Internship.*

(a) - (f) (No change.)

(g) An EPP must provide ongoing support to a candidate as described in Subchapter F of this chapter (relating to Support for Candidates During Required Clinical Experiences) for the full term of the initial and any additional internship, unless, prior to the expiration of that term:

- (1) a standard certificate is issued to the candidate during any additional internship under an intern or probationary certificate;
- (2) the candidate resigns, is non-renewed, or is terminated by the school or district;
- (3) the candidate is discharged or is released from the EPP;
- (4) the candidate withdraws from the EPP;
- (5) the candidate is a late hire and fails to meet the pre-internship requirements within 90 business days of assignment in accordance with §228.55 of this title (relating to Late Hire Candidates); or
- (6) the internship assignment does not meet the requirements described in this subchapter.

(h) If the candidate leaves the internship assignment for any of the reasons identified in subsection (g)(2)-(6) of this section:

- (1) the EPP, the campus or district personnel, and the candidate must inform each other within one calendar week of the candidate's last day in the assignment; and
- (2) the TEA must receive the certificate deactivation request with all related documentation from the EPP within two calendar weeks of the candidate's last day of the assignment in a format determined by the TEA.

(i) - (k) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.  
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Cristina De La Fuente-Valadez  
Director, Rulemaking  
State Board for Educator Certification  
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For further information, please call: (512) 475-1497



## SUBCHAPTER F. SUPPORT FOR CANDIDATES DURING REQUIRED CLINICAL EXPERIENCES

### 19 TAC §228.103

STATUTORY AUTHORITY. The amendment is proposed under Texas Education (TEC), §21.003(a), which 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, which authorizes the State Board for Educator Certification (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), which 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)(2)-(4), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to propose rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires

the SBEC to propose rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to propose rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

§228.103. *Formal Observations for Candidates in Residency Assignments.*

(a) An educator preparation program (EPP) must provide the first formal observation within the first six ~~four~~ weeks of all residency assignments.

(b) For a residency described in §228.65 of this title (relating to Residency):

(1) an EPP must provide a minimum of two formal observations of 45 minutes each during the first semester of the residency and a minimum of two formal observations of 45 minutes each during the second semester of the residency. All formal observations must include a pre-observation and post-observation conference with the candidate; and

(2) all of the minimum formal observations must be in-person.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

TRD-202404739

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: November 17, 2024

For further information, please call: (512) 475-1497

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## CHAPTER 234. MILITARY SERVICE MEMBERS, MILITARY SPOUSES, AND MILITARY VETERANS

### 19 TAC §§234.1, 234.3, 234.5, 234.7

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§234.1, 234.3, 234.5, and 234.7, concerning military service members, military spouses, and military veterans. The proposed amendments would add language specific to the Servicemembers Civil Relief Act (SCRA), allowing the portability of licenses for active-duty military service members or the spouse of a military service member and would provide technical edits to clarify existing language, alphabetize definitions, and remove duplicative language where necessary. The proposed amendments, if adopted, would expand the number of individuals eligible to become certified educators in Texas.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The SBEC rules in 19 TAC Chapter 234 consolidate all military-related provisions into one chapter for all members of the military community (i.e., military service members, military spouses, and military veterans) and related individuals subject to these provisions through statute (military veterans, peace officers, fire protection personnel, emergency medical services personnel, and qualified instructors for the Community College of the Air Force).

At the July 2024 SBEC meeting, Texas Education Agency (TEA) staff provided SBEC with an overview of the provisions of the chapter as well as proposed technical edits to alphabetize, re-number, and strike duplicative information. TEA staff also discussed the addition of language added to the SCRA by the U.S. Congress to allow service members and the spouses of military service members to use their professional licenses and certificates when they relocate due to military orders.

The following is a description of the proposed amendments.

§234.1. Purpose.

The proposed amendment to 19 TAC §234.1 would incorporate technical edits and add new subsection (c) related to the SCRA to incorporate the federally mandated Veterans Auto and Education Improvement Act of 2022 (H.R. 7939), which allows a military service member or the spouse of a military service member to use their license and certificates in certain circumstances when they relocate to another state due to military orders.

§234.3. Definitions.

The proposed amendment to 19 TAC §234.3 would alphabetize and re-number definitions relevant to effective implementation of this chapter. No changes to the text of the definitions are proposed.

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

The proposed amendment to 19 TAC §234.5 would make the following technical edits for clarification: in subsection (b), would add the phrase "Following completion of the review of credentials,"; would strike the phrase "As soon as practicable after the issuance of a one-year certificate"; would strike the phrase "in writing or by email" to more accurately reflect the current process of placing the results of an educator's credentials review in his or her online certification account for access and review; would add text to include the temporary certificate; and would strike subsection (c) because it is duplicative and re-letter the subsequent subsections.

§234.7. Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.

The proposed amendment to 19 TAC §234.7 would strike subsection (d) since there is not a time limit imposed on any individual related to certificate renewal.

**FISCAL IMPACT:** Jessica McLoughlin, associate commissioner for educator preparation, certification, and enforcement, has determined that for the first five years the proposal is in effect, there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** 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:** 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:** 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:** 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:** 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 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, limit, 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:** Ms. McLoughlin has determined that for the first five years the proposal is in effect, the public benefit anticipated would be clear and better organized rules regarding military service members, military spouses, military veterans, and first responders. There is no an-

anticipated cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no new data and reporting impact.

**ENVIRONMENTAL IMPACT STATEMENT:** The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** 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 begins October 18, 2024, and ends November 18, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBEC\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_for\\_Educator\\_Certification\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will also take registered oral and written comments on the proposal during the December 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), which requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.0444, which requires the SBEC to propose rules for issuing a temporary certification to teach career and technology education for certain military service members and first responders; TEC, §21.052(b-1), which requires the SBEC to propose rules to establish procedures to establish residency and expedite processing of certification applications submitted by a military veteran or military spouse; TEC, §21.052(c), which states the SBEC can specify the term of a temporary certificate issued under this subsection; TEC, §21.052(d-1), which requires the SBEC to issue a three-year temporary certificate to eligible military spouses of active-duty service members; TEC, §21.052(f), which requires the SBEC to maintain an Internet website that outlines the procedures for military community members to obtain certification in Texas; TEC, §21.052(i), which defines active-duty service, lists the branches of the United States armed forces, and confirms the members of the military community eligible for processes established to certify educators from outside the state; TEC, §21.0525, which requires the SBEC to propose rules for issuing a temporary teaching certificate for certain persons with experience as instructors for the Community College of the Air Force; TEC, §21.054, which requires the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements; and TEC, §21.458(a-2), which specifies that a school district shall assign a mentor teacher to a classroom teacher who has been issued a temporary certificate to teach career and technology education under TEC, §21.0444, for at least two years; and Texas Occupations Code (TOC), §55.001, which defines key terms and identifies the individuals relevant to the processing and support of members of the military

community; TOC, §55.002, which provides clarification and guidelines for implementing fee exemptions for members of the military community; TOC, §55.003, which states military service members are eligible to receive a two-year extension of time to complete requirements for license renewal; TOC, §55.004(a)-(c), which requires state agencies to adopt rules for issuance of licensure to members of the military community and provides alternatives to become eligible for licensure; TOC, §55.004(d), which requires state agencies to adopt rules to allow military service members and military spouses to meet the residency requirements for licensure; TOC, §55.0041, which requires state agencies to establish a process to identify jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state and to verify that the member or spouse is licensed in good standing in such a jurisdiction; TOC, §55.005(a), which requires a state agency that issues a license must do so no later than 30 days following the date that a military service member, military veteran, or military spouse applies for licensure; TOC, §55.006, which requires state agencies to determine renewal requirements for expedited licenses issued to members of the military community; TOC, §55.007, which allows state agencies to credit verified military service, training, or education toward licensing requirements; TOC, §55.008, which requires state agencies to credit verified relevant military service, training, or education relevant to the occupation toward the apprenticeship requirements for licensure; TOC, §55.009, which confirms state agencies that issue licensure shall waive license application and examination fees paid to the state for applicable members of the military community; and TOC, §55.010, which requires state agencies to prominently post notification of licensure provisions for military service members, military veterans, and military spouses on the home page of the agency's website.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.041(b)(2) and (4); 21.044(a); 21.0444, 21.052(b-1), (c), (d-1), (f), and (i); 21.0525, 21.054; and 21.458(a-2), and Texas Occupations Code, §§55.001; 55.002; 55.003; 55.004(a)-(c); 55.004(d), 55.0041, 55.005(a), 55.006; 55.007; 55.008; 55.009; and 55.010.

*§234.1. Purpose.*

(a) The purpose of identifying military service members, military spouses, and military veterans is to establish a process to count applicable military service for timely admission into educator preparation programs, expedite the completion of certification credential reviews, support certification examination and licensure application fee exemptions as applicable, and support certification renewal of members of the military community.

(b) Effective September 1, 2023, in support of House Bill 621 and Senate Bill 544 [legislation] passed by the 88th Texas Legislature, Regular Session, 2023, this chapter has been updated to include military veterans, peace officers, fire protection personnel, emergency medical services personnel, who meet the qualifications outlined in this chapter to be issued a three-year temporary certificate to be placed in a career and technology education assignment, and to include qualified instructors for the Community College of the Air Force to be issued a one-year temporary certificate upon enrollment in a Texas-approved educator preparation program.

(c) Effective January 5, 2023, Title 50--War and National Defense, Chapter 50--Servicemembers Civil Relief, Subchapter VII--Further Relief, was amended to add Section 4025a, which states in any case in which a servicemember or the spouse of a servicemember has a covered license and such servicemember or spouse relocates his or

her residency because of military orders for military service to a location that is not in the jurisdiction of the licensing authority that issued the covered license, such covered license shall be considered valid at a similar scope of practice and in the discipline applied for in the jurisdiction of such new residency for the duration of such military orders. The servicemember's or spouse's covered license or certificate must be in good standing with the licensing authority that issued such professional license or certificate and has been actively used during the two years immediately preceding the relocation. Requirements to have a specific number of years of experience in roles other than classroom teacher do not apply to applicants eligible for certification via provisions of the Servicemembers Civil Relief Act.

(d) [(e)] In the event of conflict with any other rule in the Texas Administrative Code, Title 19, Part 7, this chapter shall supersede with regard to the certification of military service members, military spouses, and military veterans.

*§234.3. Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by the Texas Government Code (TGC), §437.001, or similar military service of another state.

(2) Armed forces of the United States--The army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) Emergency medical services personnel--As defined by Health and Safety Code, §773.003.

(4) Fire protection personnel--As defined by TGC, §419.021.

(5) License--A license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business, occupation, or profession.

(6) [(+)] Military service member--A person who is on active duty.

(7) [(2)] Military spouse--A person who is married to a military service member.

(8) [(3)] Military veteran--A person who has served on active duty and who was discharged or released from active duty.

[(4) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by the Texas Government Code (TGC), §437.001, or similar military service of another state.]

[(5) Armed forces of the United States--The army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.]

[(6) Permanent change of station order--United States armed forces active duty member document ordering a permanent change of station.]

[(7) Texas Education Agency staff--an employee of the Texas Education Agency (TEA) who performs administrative functions on behalf of the State Board for Educator Certification.]

[(8) Review of credentials--the licensure process completed by TEA staff for individuals certified to teach in other states or

countries as specified in Chapter 230, Subchapter H, 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).]

(9) ~~Peace officer--As [as] defined by Texas Code of Criminal Procedure, Article 2.12.~~

~~(10) Permanent change of station order--United States armed forces active duty member document ordering a permanent change of station.~~

~~[(10) Fire protection personnel--as defined by TGC, §419.021.]~~

~~(11) Review of credentials--The licensure process completed by Texas Education Agency (TEA) staff for individuals certified to teach in other states or countries as specified in Chapter 230, Subchapter H, 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).~~

~~[(11) Emergency medical services personnel--as defined by Health and Safety Code, §773.003.]~~

~~[(12) License--a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business, occupation, or profession.]~~

~~(12) [(13)] State agency--A [a] department, board, bureau, commission, committee, division, office, council, or agency of the state.~~

~~(13) Texas Education Agency staff--An employee of TEA who performs administrative functions on behalf of the State Board for Educator Certification.~~

*§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.*

(a) The application for certification of a military service member, military veteran, or military spouse, including an application based upon certification by a jurisdiction other than Texas that has certification requirements substantially similar to the Texas certification requirements, shall be processed within 30 days of receipt of a complete application.

(b) Following completion of the review of credentials, [As soon as practicable after the issuance of a one-year certificate,] Texas Education Agency (TEA) staff shall notify a military service member, a military spouse, and/or [and] a military veteran [; in writing or by email,] of the requirements for obtaining temporary and [a] standard Texas certificates [certificate].

~~[(e) A military spouse who has been issued a one-year certificate prior to September 1, 2017, under the provisions of this chapter, is eligible for two additional years from the date of issuance, not to exceed a total of three years maximum, to align with provisions for a military spouse referenced in subsection (d) of this section.]~~

(c) ~~[(d)]~~ Effective September 1, 2017, a military spouse shall be issued a three-year temporary certificate upon completion of the review of credentials.

(d) ~~[(e)]~~ Effective December 1, 2019, prior to beginning employment, a military spouse must declare his or her intent to teach in Texas with a license issued by another state department of education, by submitting an application and required documents for a review of credentials to the TEA and completing the criminal background check.

TEA staff must provide approval for the military spouse to teach in Texas a maximum of three years with credentials issued by another state.

~~(e) [(f)]~~ Effective December 1, 2023, a military service member shall be issued a three-year temporary certificate upon completion of the review of credentials, or, prior to beginning employment, a military service member must declare his or her intent to teach in Texas with a license issued by another state department of education, by submitting an application and required documents for a review of credentials to the TEA and completing the criminal background check. TEA staff must provide approval for the military service member to teach in Texas a maximum of three years with credentials issued by another state.

(f) ~~[(g)]~~ A military service member, a military veteran, or a military spouse shall be entitled to credit verified military service, training, clinical and professional experience, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification. TEA staff and educator preparation programs (EPPs) shall use information from the U.S. Department of Veterans Affairs or other reliable sources to assist in crediting applicable military service, training, or education to certification requirements.

(g) ~~[(h)]~~ A military service member pursuing certification in career and technical education must meet requirements for the certificate, but for career and technical education certificate areas requiring experience and licensure, the military service member shall be entitled to substitute military experience in the trade for the required license or professional credential for the specific trade.

(h) ~~[(i)]~~ A military service member, military spouse, and military veteran shall complete educator examination requirements for certificate issuance as outlined in Texas Education Code, Chapter 21, Subchapter B, and rules in the Texas Administrative Code, Title 19, Part 7, or 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).

(i) ~~[(j)]~~ A military service member and a military veteran are exempt from certification application fees that are paid to the state that lead to initial certification. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.

(j) ~~[(k)]~~ A military service member and a military veteran are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, one-year certificate, or out-of-state standard certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.

(k) ~~[(l)]~~ A military spouse is exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, three-year temporary certificate, or out-of-state standard certificate. This member of the military community is exempt from paying the portion of the examination registration fee that is paid to the TEA.

(l) ~~[(m)]~~ As applicable to meet residency requirements and establish acceptable identification for military-related fee exemption and other provisions, a military service member, military spouse, or military veteran can submit a copy of the permanent change of station order for the military service member, military spouse, or military veteran.

*§234.7. Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.*



(a) Military service members, military spouses, and military veterans who hold a standard certificate(s) are responsible for certificate renewal and continuing professional education requirements pursuant to Chapter 232 of this title (relating to General Certification Provisions), except where specified in this chapter.

(b) A military service member shall be exempted from any fee or penalty for failing to timely renew his or her Texas educator certificate if the delay occurred because the educator was serving as a military service member.

(c) A military service member is entitled to two years of additional time to complete all continuing education requirements and any other requirements relating to the renewal of his or her Texas educator certificate.

~~{(d) The standard Texas certificate of a military service member, military spouse, or military veteran may be renewed if that certificate has expired within five years preceding the Texas application date.}~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1497



## **TITLE 22. EXAMINING BOARDS**

### **PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS**

#### **CHAPTER 1. ARCHITECTS**

##### **SUBCHAPTER C. EXAMINATION**

###### **22 TAC §1.41**

The Texas Board of Architectural Examiners ("Board") proposes the amendment of part 1, chapter 1, subchapter C, 22 Texas Administrative Code §1.41, relating to Requirements.

###### **SUBJECT MATERIAL STATEMENT**

This proposed rulemaking action would provide an earlier opportunity to begin taking the Architect Registration Examination (ARE). The ARE is a six-division exam used to assess knowledge and skills regarding the practice of architecture. The ARE is prepared and scored by the National Council of Architectural Registration Boards (NCARB) and is required by all U.S. jurisdictions as a step on the path to earning an architectural registration.

The current rule §1.41 requires completion of "at least six (6) months of full-time experience working under the direct supervision of a licensed architect," in order to be approved to take the ARE. The proposed rule §1.41 removes this requirement. By removing the experience requirement prior to testing, proposed rule §1.41 would streamline the examination process and reduce impediments to registration. Note that this proposed rule

change would not impact the requirement under §1.41 that an applicant must demonstrate completion of the Architectural Experience Program (a 3,740-hour experience program administered by NCARB) prior to becoming registered. Rather, the proposed rule would allow applicants the flexibility to begin testing prior to collecting working experience.

This proposed amendment was spurred by a recently adopted NCARB resolution to amend its Model Law and Regulations. Under that resolution, the model law would allow applicants to begin testing with only a high school degree or equivalent. The Board is unable to fully implement NCARB's new policy because its enabling statute requires applicants to have graduated from a recognized university or college of architecture approved by the Board prior to approval for testing. However, the Board has greater discretion to determine the appropriate level of experience that is required prior to testing and is therefore proposing this rule to allow applicants an earlier start in the examination process.

###### **EXPLANATION OF ACTION**

Accordingly, the Board proposes eliminating the experience requirement prior to testing. Proposed rule §1.41 would give architect candidates an earlier opportunity and greater flexibility to take an exam section when they feel most prepared.

###### **FISCAL NOTE**

Pim Mayo, General Counsel, has determined that for the first five-year period the amended rule is in effect, the amendments will have no significant adverse fiscal impact upon state government, local government, or the Texas Board of Architectural Examiners.

###### **GOVERNMENT GROWTH IMPACT STATEMENT**

During the first five years the proposed rule would be in effect, no government program would be created or eliminated. The adoption of the proposed rule would not result in the creation or elimination of employee positions. Implementation of the proposed rule is not expected to require an increase or decrease in legislative appropriations to the agency. The proposed rule is not likely to increase fees paid to the Board. The proposed rule would not result in the adoption of new regulations. Rather, the proposed rule amends existing regulations, in a manner that imposes a decreased burden on examination candidates by allowing testing to begin without six months of experience. The proposed rule would not increase the number of individuals subject to the rule's applicability. The proposed rule is not expected to have any impact on the state's economy.

###### **PUBLIC BENEFIT/COST OF COMPLIANCE**

For the first five-year period the amended rule is in effect, the public benefit of the proposed rule includes reducing barriers to entry and maintaining national registration standards in Texas. Additionally, candidates for registration would benefit from starting the ARE process earlier, without any impact on the validity of the examination to measure the knowledge necessary to practice as an architect.

Compliance with the proposed amendment is not expected to result in economic costs to persons who are required to comply with the rule.

###### **FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES**

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, microbusinesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

#### TAKINGS IMPACT ASSESSMENT

The agency has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The agency has determined that the proposed rule will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

As a self-directed semi-independent agency, Government Code §2001.0045 does not apply to rules adopted by the Board.

#### PUBLIC COMMENT

Comments on the proposed rule may be submitted to Pim Mayo, General Counsel, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

#### STATUTORY AUTHORITY

The amendment of §1.41 is proposed under Tex. Occ. Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture; and Tex. Occ. Code §1051.705, which authorizes the Board to adopt an experience requirement for eligibility to take the registration examination for architects.

#### CROSS REFERENCE TO STATUTE

The proposed amendment does not affect any other statute.

#### §1.41. Requirements.

(a) (No change.)

(b) The Board may approve an Applicant to take the ARE only after the Applicant has completed the educational requirements for architectural registration by examination in Texas, [has completed at least six (6) months of full-time experience working under the direct supervision of a licensed architect,] has enrolled in the Architectural Experience Program (AXP) by establishing a council record with NCARB, and has submitted the required application materials.

(c) - (e) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Pim Mayo

General Counsel

Texas Board of Architectural Examiners

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For further information, please call: (512) 305-9040



## CHAPTER 3. LANDSCAPE ARCHITECTS SUBCHAPTER C. EXAMINATION

### 22 TAC §3.41

The Texas Board of Architectural Examiners ("Board") proposes the amendment of 22 Texas Administrative Code, part 1, chapter 3, subchapter C, §3.41, relating to Requirements.

#### SUBJECT MATERIAL STATEMENT

This proposed rulemaking action would provide an earlier opportunity to begin taking the Landscape Architect Registration Examination (LARE). The LARE is a four-part examination designed to determine whether applicants for landscape architectural registration possess sufficient knowledge, skills, and abilities to provide services without endangering the health, safety and welfare of the public. The LARE is prepared and scored by the Council of Landscape Architectural Registration Boards (CLARB).

The current rule §3.41 requires completion of "at least six (6) months of full-time experience working under the direct supervision of a licensed architect," in order to be approved to take the ARE. The proposed rule §3.41 removes this requirement. By removing the experience requirement prior to testing, proposed rule §3.41 would streamline the examination process and reduce impediments to registration. Note that this proposed rule change would not impact the requirement under §3.191 that an applicant must complete at least 3,640 hours of acceptable experience prior to becoming registered. Rather, the proposed rule allows applicants the flexibility to begin testing prior to collecting working experience.

This proposed amendment would align Texas with the majority of CLARB jurisdictions. The national trend is to eliminate experience requirements prior to testing, and Texas is one of only seven states that requires experience before beginning testing. The Board has discretion to determining the appropriate level of experience that is required prior to testing.

#### EXPLANATION OF ACTION

Accordingly, the Board proposes eliminating the experience requirement prior to testing. Proposed rule §3.41 would give landscape architect candidates an earlier opportunity and greater flexibility to take an exam section when they feel most prepared.

#### FISCAL NOTE

Pim Mayo, General Counsel, has determined that for the first five-year period the amended rule is in effect, the amendments will have no significant adverse fiscal impact upon state government, local government, or the Texas Board of Architectural Examiners.

#### GOVERNMENT GROWTH IMPACT STATEMENT

During the first five years the proposed rules would be in effect, no government program would be created or eliminated. The adoption of the proposed rule would not result in the creation or elimination of employee positions. Implementation of the pro-

posed rule is not expected to require an increase or decrease in legislative appropriations to the agency. The proposed rule is not likely to increase fees paid to the Board. The proposed rule would not result in the adoption of new regulations. Rather, the proposed rule amends existing regulations, in a manner that imposes a decreased burden on examination candidates by allowing testing to begin without six months of experience. The proposed rules would not increase the number of individuals subject to the rule's applicability. The proposed rules are not expected to have any impact on the state's economy.

#### PUBLIC BENEFIT/COST OF COMPLIANCE

For the first five-year period the amended rule is in effect, the public benefit of the proposed rules includes reducing barriers to entry and maintaining national registration standards in Texas. Additionally, candidates for registration would benefit from starting the LARE process earlier, without any impact on the validity of the examination to measure the knowledge necessary to practice as a landscape architect.

Compliance with the proposed amendment is not expected to result in economic costs to persons who are required to comply with the rule.

#### FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, microbusinesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

#### TAKINGS IMPACT ASSESSMENT

The agency has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The agency has determined that the proposed rules will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

As a self-directed semi-independent agency, Government Code §2001.0045 does not apply to rules adopted by the Board.

#### PUBLIC COMMENT

Comments on the proposed rules may be submitted to Pim Mayo, General Counsel, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

#### STATUTORY AUTHORITY

The amendment of §3.41 is proposed under Tex. Occ. Code §1051.202, which authorizes the Board to adopt reasonable

rules as necessary to regulate the practice of landscape architecture; and Tex. Occ. Code §1052.154 which authorizes the Board to adopt an experience requirement for eligibility to take the registration examination for landscape architects.

#### CROSS REFERENCE TO STATUTE

The proposed amendment does not affect any other statute.

#### §3.41. Requirements.

(a) (No change.)

(b) The Board may approve an Applicant to take the LARE only after the Applicant has completed the educational requirements for landscape architectural registration by examination in Texas, [has completed at least six (6) months of full-time experience working under the direct supervision of a licensed landscape architect,] and has submitted the required application materials.

(c) - (e) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 7, 2024.

TRD-202404743

Pim Mayo

General Counsel

Texas Board of Architectural Examiners

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For further information, please call: (512) 305 9040



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 9. PROPERTY TAX ADMINISTRATION

#### SUBCHAPTER H. TAX RECORD REQUIREMENTS

##### 34 TAC §9.3031

The Comptroller of Public Accounts proposes amendments to §9.3031, concerning rendition forms.

These amendments are to reflect updates to rendition forms and are necessary to implement House Bill 2121, 88th Legislature, R.S., 2023.

The amendments rename the title of model rendition form 50-142 in subsection (d)(2) to General Personal Property Rendition of Taxable Property; form 50-143 in subsection (d)(3) to Rendition of Residential Real Property Inventory; form 50-149 in subsection (d)(6) to Real Property Rendition of Taxable Property; form 50-150 in subsection (d)(7) to Oil and Gas Property Rendition of Taxable Property; form 50-151 in subsection (d)(8) to Mine and Quarry Rendition of Taxable Property.

The amendments also combine former model rendition forms 50-152 (Telephone Company Rendition of Taxable Property), 50-153 (REA-Financed Telephone Company Rendition of Taxable Property), 50-154 (Electric Company and Electric

Cooperative Rendition of Taxable Property), and 50-155 (Gas Distribution Utility Rendition of Taxable Property) into one consolidated model rendition form in subsection (d)(9): 50-152 (Utility Rendition of Taxable Property). The remainder of the amendments to subsection (d) reorganize the model rendition forms in numerical order. The referenced forms have been updated to implement new subsection 22.24(e)(5), Tax Code and may be viewed at <https://comptroller.texas.gov/taxes/property-tax/forms/>.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by conforming the rule to current statute and improving the clarity and implementation of the section. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: [ptad.rulecomments@cpa.texas.gov](mailto:ptad.rulecomments@cpa.texas.gov). The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Tax Code, §5.03 (Powers and Duties Generally), which authorizes the comptroller to adopt rules establishing minimum standards for the administration and operation of an appraisal district.

These amendments implement Tax Code, §22.24 (Rendition and Report Forms).

§9.3031. *Rendition Forms.*

(a) All appraisal offices and all tax offices appraising property for purposes of ad valorem taxation shall prepare and make available at no charge, printed or electronic forms for the rendering of property.

(b) A person rendering property shall use the model form adopted by the Comptroller of Public Accounts or a form containing information which is in substantial compliance with the model form if approved by the comptroller.

(c) Nothing in this section shall be construed to prohibit the combination of the information contained on two or more model forms into a single form in order to use a single form to achieve substantial compliance with two or more model forms.

(d) The comptroller's model forms applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division. The model rendition forms are:

(1) General Real Property Rendition of Taxable Property (Form 50-141);

(2) General Personal Property Rendition of Taxable Property [~~Non Incominng Producing~~] (Form 50-142);

(3) Rendition of Residential Real Property Inventory (Form 50-143) [~~Report of Leased Space for Storage of Personal Property (Form 50-148)~~];

(4) Business Personal Property Rendition of Taxable Property (Form 50-144) [~~Industrial Real Property Rendition of Taxable Property (Form 50-149)~~];

(5) Report of Leased Space for Storage of Personal Property (Form 50-148) [~~Oil and Gas Lease Rendition of Taxable Property (Form 50-150)~~];

(6) Real Property Rendition of Taxable Property (Form 50-149) [~~Mine and Quarry Real Property Rendition of Taxable Property (Form 50-151)~~];

(7) Oil and Gas Property Rendition of Taxable Property (Form 50-150) [~~Telephone Company Rendition of Taxable Property (Form 50-152)~~];

(8) Mine and Quarry Rendition of Taxable Property (Form 50-151) [~~REA-Financed Telephone Company Rendition of Taxable Property (Form 50-153)~~];

(9) Utility Rendition of Taxable Property (Form 50-152) [~~Electric Company and Electric Cooperative Rendition of Taxable Property (Form 50-154)~~];

(10) Railroad Rendition of Taxable Property (Form 50-156) [~~Gas Distribution Utility Rendition of Taxable Property (Form 50-155)~~];

(11) Pipeline and Right-of-Way Rendition of Taxable Property (Form 50-157) [~~Railroad Rendition of Taxable Property (Form 50-156)~~];

(12) Watercraft Rendition of Taxable Property (Form 50-158) [~~Pipeline and Right-of-Way Rendition of Taxable Property (Form 50-157)~~]; and

(13) Aircraft Rendition of Taxable Property (50-159). [~~Business Personal Property Rendition of Taxable Property (Form 50-144)~~];

[[14] ~~Watercraft Rendition of Taxable Property (Form 50-158)~~];

[[15] ~~Aircraft Rendition of Taxable Property (Form 50-159)~~; and]

[[16] ~~Residential Real Property Inventory (Form 50-143)~~];

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TRD-202404700

Victoria North

General Counsel

Comptroller of Public Accounts

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