

**Item 9:**  
**Consider and Take Appropriate Action on Proposed  
Amendment to 19 TAC Chapter 250, Administration,  
Subchapter B, Rulemaking Procedures, §250.20, Petition for  
Adoption of Rules or Rule Changes**

**DISCUSSION AND ACTION**

**SUMMARY:** This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss and propose an amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes. The proposed amendment would implement legislation from the 84th Texas Legislative Session, 2015, to update the petition form for adoption of rules or rule changes to require the petitioner to indicate that the petitioner meets one of the four definitions of an *interested person*.

**STATUTORY AUTHORITY:** The statutory authority for 19 TAC Chapter 250, Subchapter B, §250.20, is the Texas Education Code (TEC), §21.035 and §21.041(b)(1), and Texas Government Code, §2001.021, as amended by House Bill 763, 84th Texas Legislature, 2015.

TEC, §21.035, requires the Texas Education Agency (TEA) to provide the SBEC's administrative functions and services.

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

Texas Government Code, §2001.021, authorizes a state agency to prescribe by rule the form for a petition and the procedure for the submission, consideration, and disposition.

**EFFECTIVE DATE:** If approved for filing as proposed in March 2018 and if adopted, subject to State Board of Education (SBOE) review, at the May 2018 SBEC meeting, the proposed effective date of the proposed amendment to 19 TAC §250.20 would be July 19, 2018 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is also based on the SBEC and SBOE meeting schedules.

**PREVIOUS BOARD ACTION:** The SBEC adopted §250.20 effective August 19, 2010, and amended the section effective October 27, 2014.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 250.20, Petition for Adoption of Rules or Rule Changes, provides the process for interested persons to petition the SBEC for changes to rules, in accordance with the Texas Government Code, §2001.021.

House Bill 763, 84th Texas Legislature, 2015, amended the Texas Government Code, §2001.021, to define the term *interested person* for the purposes of petitioning a rule change. The statute states that an *interested person* must be one of the following: (1) a resident of

Texas; (2) a business entity located in Texas; (3) a governmental subdivision located in Texas; or (4) a public or private organization located in Texas that is not a state agency.

The proposed amendment to Figure: 19 TAC §250.20(a) in Attachment II would implement House Bill 763 to update the petition form in rule to add the four definitions of an *interested person* and require the petitioner to indicate all the definitions that apply.

**FISCAL IMPACT:** The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to entities required to comply with the proposed amendment. In addition, there is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.002. The proposed amendment 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.

**GOVERNMENT GROWTH IMPACT:** The TEA staff has determined that although the proposed amendment could potentially have a government growth impact pursuant to Texas Government Code, §2001.0221, that impact is created by the statutory requirement and not the agency regulation. The proposed amendment to 19 TAC §250.20 may limit the number of individuals because it implements a state law which specifies who can petition for a rule change by more narrowly defining an *interested person*. The proposed amendment would implement state law by including those definitions in the petition form adopted in rule.

**PUBLIC AND STUDENT BENEFIT:** The public and student benefit would be aligning the rule with statute by including the four definitions of *interested person* in the petition form.

**PROCEDURAL AND REPORTING IMPLICATIONS:** The proposed amendment would require a petitioner to indicate all the definitions of *interested person* that the petitioner meets.

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

**PUBLIC COMMENTS:** The public comment period on the proposal begins March 30, 2018, and ends April 30, 2018. The SBEC will take registered oral and written comments on this item at the May 18, 2018 meeting in accordance with the SBEC Board operating policies and procedures.

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

Approve the proposed amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes, to be published as proposed in the *Texas Register*.

**Staff Members Responsible:**

Christie Pogue, SBEC Manager, Educator Leadership and Quality  
Cristina De La Fuente-Valadez, Director, Rulemaking

**Attachments:**

- I. Statutory Citations
- II. Text of Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes (including Figure: 19 TAC §250.20(a))

**ATTACHMENT I****Statutory Citations Relating to Proposed Amendment to 19 TAC Chapter 250, Administration, Subchapter B, Rulemaking Procedures, §250.20, Petition for Adoption of Rules or Rule Changes****Texas Education Code, §21.035, Administration by Agency (excerpt):**

- (b) The agency shall provide the board's administrative functions and services.

**Texas Education Code, §21.041, Rules; Fees (excerpts):**

- (b) The board shall propose rules that:
  - (1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

**Texas Government Code, §2001.021, Petition for Adoption of Rules:**

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
  - (1) deny the petition in writing, stating its reasons for the denial; or
  - (2) initiate a rulemaking proceeding under this subchapter.
- (d) For the purposes of this section, an interested person must be:
  - (1) a resident of this state;
  - (2) a business entity located in this state;
  - (3) a governmental subdivision located in this state; or
  - (4) a public or private organization located in this state that is not a state agency.

**ATTACHMENT II**  
**Text of Proposed Amendment to 19 TAC**

**Chapter 250. Administration**

**Subchapter B. Rulemaking Procedures**

**§250.20. Petition for Adoption of Rules or Rule Changes.**

- (a) Any interested person as defined in Texas Government Code, §2001.021, may petition for the adoption, amendment, or repeal of a rule of the State Board for Educator Certification (SBEC) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the designated Texas Education Agency (TEA) office. The TEA staff shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.
- Figure: 19 TAC §250.20(a) [~~Figure: 19 TAC §250.20(a)~~]
- (b) In accordance with the Texas Government Code, §2001.021, the TEA staff must respond to the petitioner within 60 calendar days of receipt of the petition.
- (1) Where possible, the recommendation concerning the petition shall be placed on the SBEC agenda, and the SBEC shall act on the petition within the 60-calendar-day time limit.
- (2) Where the time required to review the petition or the scheduling of SBEC meetings will not permit the SBEC to act on the petition within the required 60 calendar days, the TEA staff shall respond to the petitioner within the required 60 calendar days, notifying the petitioner of the date of the SBEC meeting at which the recommendation will be presented to the SBEC for action.
- (c) The SBEC will review the petition and the recommendation and will either direct the TEA staff to begin the rulemaking process or deny the petition, giving reasons for the denial. The TEA staff will notify the petitioner of the SBEC's action related to the petition.
- (d) Without limitation to the reasons for denial in this subsection, the SBEC may deny a petition on the following grounds:
- (1) the SBEC does not have jurisdiction or authority to propose or to adopt the petitioned rule;
- (2) the petitioned rule conflicts with a statute, court decision, another rule proposed or adopted by the SBEC, or other law;
- (3) the SBEC determines that a different proceeding, procedure, or act more appropriately addresses the subject matter of the petition than initiating a rulemaking proceeding; or
- (4) the petitioner is inappropriately using the opportunity to file a rulemaking petition under this section, as evidenced by filing a petition:
- (A) before the fourth anniversary of the SBEC's having previously considered and rejected a similar rule on the same subject matter; or
- (B) to amend a rule proposed or adopted by the SBEC that has not yet become effective.
- (e) If the SBEC initiates rulemaking procedures in response to a petition, the rule text which the SBEC proposes may differ from the rule text proposed by the petitioner.

Figure: 19 TAC §250.20(a)

## STATE BOARD FOR EDUCATOR CERTIFICATION Petition for Adoption of a Rule

The Texas Government Code, §2001.021, provides that any interested person may petition an agency requesting the adoption of a rule.

Petitions should be signed and submitted to:

Office of Educator Leadership and Quality  
Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494

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Name:

Affiliation/Organization (if applicable):

Address:

Telephone:

Date:

Texas Government Code, §2001.021, specifies that an interested person must meet one of the following criteria. Please check all of the following that apply to you.

- resident of Texas
- business entity located in Texas
- governmental subdivision located in Texas
- public or private organization located in Texas that is not a state agency

Proposed rule text (indicate words to be added or deleted from the current text):

Statutory authority for the proposed rule action:

Why is this rule action necessary or desirable?

(If more space is required, attach additional sheets.)

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Petitioner's Signature