

**STATE BOARD FOR EDUCATOR CERTIFICATION**  
**DISCUSSION AND ACTION SESSION AGENDA**  
**June 18, 2010 @ 9:00 a.m.**  
**Minutes**

The Board will meet in open session and after determining the presence of a quorum, deliberate and possibly take formal action, including emergency action, on the following agenda items:

**1. Call to Order**

The State Board for Educator Certification convened its meeting at 9:00 a.m. on Friday, June 18, 2010 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

Present: Dr. Cain, Dr. Glynn, Mr. Booker, Ms. Baszile, Ms. Pogue, Ms. Bridges, Ms. Robison, Dr. Simpson, Dr. Culwell, Ms. Bricker, Mr. Trevino, Mr. Allard, Dr. Barnes and Mr. Morris.

Absent: Ms. Druessedow

**2. Public Testimony**

**CONSENT AGENDA**

- 3. Approval of April 9, 2010 Board Meeting Minutes**
- 4. Approval of Meeting Dates for 2011**

**Motion and Vote:**

*Motion was made Ms. Pogue to approve the April 9, 2010 minutes and the meeting dates for 2011. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**DISCUSSION AND ACTION**

- 5. Adoption of Proposed Amendment to 19 TAC Chapter 231, Assignment of Public School Personnel, §231.1, Criteria for Assignment of Public School Personnel**

Testimony on Item 5 was provided by:

Pat Shirley-Becker, Texas State Florists' Association  
 Allen Kaminski, Sealy ISD and Vocational Agriculture Teachers Association of Texas  
 Dr. Sandra West, Science Teachers Association  
 Barney McClure, Agriculture Science Teacher, Cleburne ISD  
 Linda Holcombe, Texas Industrial Vocational Association  
 Gary Cunningham, Career and Technical Education Welding Teacher  
 Terry Green, Family and Consumer Sciences Teachers Association of Texas  
 Ralph Long, Texas Speech Communication Association & Collin College  
 Dr. Lynne Cagle Cox

Ms. Gutierrez informed the Board that the proposed amendment would update the figure in 19 TAC §231.1(e) as a result of recent revisions to the Texas Essential Knowledge and Skills (TEKS) and course offerings for career and technical education (CTE) mandated by House Bill (HB) 3485, 80th Texas Legislature, 2007; and that the proposed amendment would also include technical changes that would clarify and update other content areas.

Ms. Gutierrez introduced Anita Givens, associate commissioner for Standards and Programs, Monica Martinez, director of Curriculum, and Scott Lewis, state program director of Applications, Interventions, and Validations; DIRC/TQ Liaison Unit for No Child Left Behind Program Coordination.

Mr. Trevino requested clarification on the CTE movement and the reason for this movement.

Ms. Givens informed the Board that this direction merges the real world expectations of the students when they leave high school with the academic background received in core courses and the hands-on experience received in CTE courses.

Ms. Pogue questioned if there would be a shortage of mathematics and science teachers if this were not implemented, and what kind of measure is in place to ensure that the training and the staff development are going to guarantee students are receiving the best education, whether it is with certified mathematics/science teachers or with CTE teachers.

Ms. Givens responded that the Texas Education Agency (TEA) staff are developing a professional development component and built into the component is accountability. Ms. Givens stated that teachers will be able to demonstrate what they have learned, which is what the professional development component was designed to do. She also informed the Board that teachers will not receive credit for professional development by simply sitting and listening, but by participating and demonstrating that they have learned the knowledge and skills that are part of the professional development component. Ms. Givens advised the Board that the students will apply themselves to be successful in their end of course (EOC) examinations so they will be able to take the fourth-year CTE course. She stated that this gives flexibility for the school districts, but it also gives the students the opportunity to pursue mathematics and science in a way that is meaningful to them because they can see the career path. Ms. Givens informed the Board that the EOC examinations will be measurement tools for those courses that are prior to the fourth-year course.

Dr. Culwell requested a timeline on the professional development component and requested clarification on the component. Dr. Culwell also questioned if there would be any competency requirements in regards to the content that will have to be mastered. Ms. Givens informed the Board that the TEA staff will be developing the component over the coming year and that it will be available to teachers beginning the summer of 2011. Ms. Givens also informed the Board that the professional development planning groups consist of CTE experts, core experts, and representatives from professional organizations and that they will identify the elements the professional development component must cover so the particular needs for a particular course are addressed. She stated that the professional development component will be available online, which will allow every teacher the opportunity to take advantage of the training and meet the professional development requirements. Ms. Givens also stated that staff will be able to document completion. Ms. Givens informed the Board that the advisory groups will also give recommendations on how to set up content mastery.

Ms. Bricker expressed her concern on speakers' testimony stating the need for more training. Ms. Pogue suggested that the TEA staff address the speakers' concerns. Ms. Givens informed the Board that when the TEA staff analyzed what was the appropriate level of additional professional development for each area, staff also reviewed what training most teachers already had. She also informed the Board that for the professional development being offered, no single teacher will need to take all of it, but there will be parts that will address the particular needs of the teacher. Ms. Givens stated that the TEA staff would have to determine what the benefits would be of requiring the component for everyone versus requiring it for those who are missing some of the elements. She also added that districts would analyze the capability and the qualifications of each teacher before they place them in an assignment. Ms. Givens informed the Board that the TEA staff determined that this is an appropriate recommendation for where to start.

Ms. Bricker asked if it would be possible to get a progress report or update in one year. Ms. Givens informed the Board that in a year TEA staff will be able to supply a progress report to the Board of all the professional development that is available; however, it will be two years before teachers will have had the opportunity to participate in the development. She also stated that TEA staff will work closely with the field and if it is determined that something should be done differently TEA staff will bring it back to the Board. Ms. Bricker requested that the speakers' points be documented in the progress report. Mr. Booker advised the Board that a student performance measure will take more than two years, and that TEA staff have spent a great deal of time weighing all concerns, not just the value of what teachers are providing, but also giving the school districts the opportunity to make a choice.

Dr. Barnes requested clarification on comments from public testimony to determine if some of the certification assignments are new. Mr. Allen informed the Board that all of the CTE courses are basically new for the coming school year.

Ms. Robison expressed concerns on speakers' comments and asked if they had been considered. Mr. Allen informed the Board that public comments received have been responded to and given to the Board. He also informed the Board that one change regarding the lifetime nutrition and wellness assignment was recommended as a result of a public comment received. Ms. Robison expressed concerns regarding a teacher being in a classroom for two years before taking professional development if that teacher is not performing well.

Ms. Givens informed the Board that the professional development training will be offered by a wide variety of entities, universities, technical schools, professional organizations, and education service centers to leverage all that expertise in delivering the training.

**Motion and Vote:**

*Motion was made by Mr. Culwell to approve for adoption, subject to State Board of Education review, the proposed amendment to 19 TAC Chapter 231, Assignment of Public School Personnel, §231.1, Criteria for Assignment of Public School Personnel, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**6. Adoption of Proposed Revisions to 19 TAC Chapter 250, Agency Administration**

Mr. Allen informed the Board that the proposed revisions are necessary because most of the chapter is no longer relevant since it provided for procedures for the State Board for Educator Certification (SBEC) when it was a separate agency. He stated that the

administrative functions are now handled by the Texas Education Agency (TEA). Mr. Allen also informed the Board that the proposed revisions would update the purchasing, contracts, and rulemaking petition procedures to reflect the current organization of the Board and the relationship with the TEA.

**Motion and Vote:**

*Motion was made by Ms. Pogue to approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 250, Agency Administration, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.*

**7. Proposed Revisions to 19 TAC Chapter 244, Certificate of Completion of Training for Appraisers**

Dr. Lopez informed the Board that the commissioner's rules have recently been updated; therefore, it is necessary to update the rules in 19 TAC Chapter 244 to align with those rules. Dr. Lopez informed the Board that 19 TAC §244.2, Conditions for Issuing a Certificate of Completion of Training for Appraisers of Teachers, would be amended to adopt the certification, qualifications, and required training for appraisers of educators under the Professional Development and Appraisal System (PDAS), established by commissioner's rules in 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal. Dr. Lopez also informed the Board that 19 TAC §244.3, Training for Appraisers in Districts using Locally-Developed Teacher Appraisal Systems, would be amended to clarify that the school district-developed appraisal system should identify appraiser qualifications and proficiencies to evaluate educators.

**Motion and Vote:**

*Motion was made by Ms. Baszile to approve the proposed revisions to 19 TAC Chapter 244, Certificate of Completion of Training for Appraisers, for filing as proposed with the Texas Register. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.*

**8. Proposed Amendments to 19 TAC Chapter 247, Educators' Code of Ethics, and 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions**

This item was pulled from the agenda.

**9. Proposed New 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter B, Preliminary Evaluation of Certification Eligibility, and Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter N, Certificate Issuance Procedures, §230.436, Schedule of Fees for Certification Services**

Mr. Phillips informed the Board that this item is in response to House Bill (HB) 963, 81st Texas Legislature, 2009, which requires state licensing agencies to adopt rules necessary to administer requests for preliminary criminal history evaluations and would also provide for a nonrefundable fee for a request for the evaluation. Mr. Phillips informed the Board that the proposed rule action would allow an individual to voluntarily request an evaluation of a criminal history before entering an educator preparation program. He stated that the Texas Education Agency (TEA) staff would perform an evaluation, within 90 days, based solely on the information provided by the individual. Mr. Phillips advised

the Board that the TEA staff cannot guarantee the individual a job, even if the preliminary criminal history evaluation indicates that the individual could be certified; that is a school district's decision.

Mr. Phillips confirmed that an individual can submit more than one request for a preliminary criminal history evaluation.

**Motion and Vote:**

*Motion was made by Ms. Pogue to approve proposed new 19 TAC Chapter 227, Provisions for Educator Preparation Candidates, Subchapter B, Preliminary Evaluation of Certification Eligibility, and the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter N, Certificate Issuance Procedures, §230.436, Schedule of Fees for Certification Services, for filing as proposed with the Texas Register. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.*

**10. Consideration of Petition for Adoption of Rule Change Concerning 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter P, Requirements for Standard Certificates and Specialized Assignments or Programs, §230.483, Specific Requirements for Standard Career and Technical Education Certificates Based on Experience and Preparation**

Testimony on Item 16 was provided by Silvia Guillory, Petitioner.

Ms. Guillory requested an amendment to the current licensure requirement for a Health Science Technology Education: Grades 8-12 certificate that would require current licensure only for those who teach the higher-level classes that certify students and allow health care professionals with either a current license or a prior license, with a letter of good standing with the licensing agency, to teach the non-certifying classes.

Ms. Gutierrez informed the Board that the Texas Education Agency (TEA) staff recommend that the Board deny the petition based on the fact that although a health science technology educator does not need to actively practice a health profession to teach the subject, it is very important that current licensure as a health professions practitioner be considered the best assurance that the teacher is knowledgeable of current health science technology issues.

Ms. Martinez, director of Curriculum, informed the Board that the TEA staff have reviewed the petition and determined that at this time the rules in place are appropriate.

**Motion and Vote:**

*Motion was made by Dr. Culwell to deny the petition to replace the requirement of current licensure, certification, or registration by a nationally recognized accrediting agency as a health professions practitioner for the Health Science Technology Education: Grades 8-12 certificate. Second was made by Ms. Pogue. Voting for the motion: Dr. Cain, Ms. Baszile, Ms. Pogue, Ms. Bridges, Ms. Robison, Dr. Culwell, Ms. Bricker, Mr. Trevino, and Mr. Morris. Voting against the motion: Mr. Allard. Motion carried.*

**11. Proposed Amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter N, Certificate Issuance Procedures, §230.437, Issuance of Additional Certificates Based on Examination, and Subchapter P, Requirements for Standard Certificates and Specialized Assignments or Programs, §230.483, Specific Requirements for Standard Career and Technical Education**

**Certificates Based on Experience and Preparation; and 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.14, Career and Technical Education (Certificates requiring experience and preparation in a skill area)**

Ms. Gutierrez informed the Board that this item is brought to them because the Texas Education Agency staff received a request from an individual seeking to become certified in Marketing Education: Grades 8-12. Mr. Allen informed the Board that this certification requires two years of wage-earning experience approved by an educator preparation program and also requires passing a content certification examination. Mr. Allen stated that the individual, already certified as a teacher, had two years work experience and wanted to take the content certification examination; however, he could not because the rules currently do not allow the issuance of any certificate that requires work experience. Mr. Allen informed the Board that the proposal would allow an educator preparation program or a certified school administrator to verify the work experience. Following verification, the individual would be eligible for certification by examination.

**Motion and Vote:**

*Motion was made by Ms. Pogue to approve the proposed amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter N, Certificate Issuance Procedures, §230.437, Issuance of Additional Certificates Based on Examination, and Subchapter P, Requirements for Standard Certificates and Specialized Assignments or Programs, §230.483, Specific Requirements for Standard Career and Technical Education Certificates Based on Experience and Preparation; and 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.14, Career and Technical Education (Certificates requiring experience and preparation in a skill area), for filing as proposed with the Texas Register. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**12. Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.1, General Authority; 233.2, Generalist; 233.3, English Language Arts and Reading; Social Studies; 233.4, Mathematics; Science; 233.12, Career and Technical Education (Certificates not requiring experience and preparation in a skill area); and 233.15, Languages Other Than English**

Ms. Gutierrez informed the Board that the proposed amendments would remove expired provisions, add a new certificate for Speech: Grades 7-12, and expand the certificates issued for languages other than English (LOTE) by adding four new certificates for Hindi, Italian, Turkish, and Urdu in Early Childhood-Grade 12.

Dr. Barnes requested verification on the deletion of Integrated Physics and Chemistry in 19 TAC §233.4(i). Mr. Booker informed the Board that staff would review and address the issue at the August 2010 meeting.

**Motion and Vote:**

*Motion was made by Mr. Trevino to approve the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.1, General Authority; 233.2, Generalist; 233.3, English Language Arts and Reading; Social Studies; 233.4, Mathematics; Science; 233.12, Career and Technical Education (Certificates not requiring experience and preparation in a skill area); and 233.15, Languages Other Than English, for filing as proposed with the Texas Register. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.*

**13. Consideration of and Opportunity to Approve Passing Standards on the Texas Examinations of Educator Standards (TExES): Speech 7-12 and Languages Other Than English (LOTE)-Latin EC-12**

Mr. Carmody informed the Board that with the Board's previous approval the staff has delivered two new examinations for LOTE–Latin EC-12 and a new speech examination to cover the Speech 7-12 certificate. He also informed the Board that committees of stakeholders were convened to recommend a passing standard for each test.

**Motion and Vote:**

*Motion was made by Ms. Robison to approve passing standards on the Texas Examinations of Educator Standards (TExES): Speech 7-12 and Languages Other Than English (LOTE)-Latin EC-12. Second was made by Dr. Culwell and the Board voted unanimously in favor of the motion.*

**14. Consideration of and Opportunity to Approve a Plan for the Use of the American Council on the Teaching of Foreign Languages (ACTFL) Examinations for Language Proficiency in Hindi, Italian, Turkish, and Urdu**

Mr. Carmody informed the Board that staff is now using the American Council on the Teaching of Foreign Language (ACTFL) examinations for some of the lesser spoken languages and requested the Board's approval to use the ACTFL examinations for Hindi, Italian, Turkish and Urdu. He also stated that once the Board approves the use of these examinations, staff will convene committees to recommend a passing standard for each test and bring that passing standard back to the Board at a future meeting.

**Motion and Vote:**

*Motion was made by Mr. Allard to approve a plan for the use of the American Council on the Teaching of Foreign Languages (ACTFL) Examinations for Language Proficiency in Hindi, Italian, Turkish, and Urdu. Second was made by Ms. Pogue and the Board voted unanimously in favor of the motion.*

**15. Consideration of and Opportunity to Approve a New Educator Preparation Program**

Dr. Lopez introduced and reviewed one program for Board approval and advised the Board that staff recommends the approval of the new educator preparation program.

- eTeach N Texas, (Sherman, TX) - Teacher Alternative Certification Program

Ms. Bricker asked staff if there were other similar programs, with certification mostly through distance education. Dr. Lopez informed the Board that there are several programs moving in this direction, combining both face-to-face and online training. She also informed the Board that the course aligns with the North American Council for Online Learning (NACOL) standards to ensure that the distance learning is appropriate for every candidate.

**Motion and Vote:**

*Motion was made by Ms. Bricker to approve the new educator preparation program as recommended. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.*

**16. Consideration of and Opportunity to Approve an Additional Class of Certificate for an Educator Preparation Program Currently Rated Accredited**

Dr. Lopez introduced and reviewed the program seeking approval for an additional class of certificate and advised the Board that staff recommends the approval of the additional class of certificate.

- Concordia University (Austin, TX), Superintendent Certification Program

**Motion and Vote:**

*Motion was made by Ms. Baszile to approve the additional class of certificate for the educator preparation program currently rated accredited as recommended. Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.*

**17. Consideration of and Opportunity to Approve New Members of the Educator Standards Advisory Committee**

Ms. Lopez presented to the Board the list of proposed committee members and requested the Board approve the new members. She informed the Board that at Board's recommendation, human resources personnel and principals were included.

**Motion and Vote:**

*Motion was made by Ms. Pogue to approve the new members of the Educator Standards Advisory Committee as recommended. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.*

**18. Litigation Settlement Options in Pending or Contemplated Litigation, Disciplinary Cases, and Pending Litigation**

*The Board may meet in closed Executive Session, pursuant to section 551.071(2) and/or 551.071(1), of the Texas Government Code, to seek legal advice regarding pending or contemplated litigation or settlement of same, and contested cases related to educator discipline and other matters arising under 19 Texas Administrative Code Chapter 249. Pursuant to section 551.102 of the Texas Government Code, any final action on matters discussed in Executive Session must be made in an open meeting.*

Merle Dover, Associate Deputy Counsel, provided information for default causes. Dr. Simpson requested verification on number 9 and the recommendation of a ten year suspension. Ms. Dover informed the Board that this is the suspension recommended by the Administrative Law Judge and staff's current practice is to match the suspension given by the court.

*A. Contested Cases**I. Defaults*

- 1) Docket No. 6054-EC-0110 State Board for Educator Certification v. David Nielsen;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 2) Docket No. 6058-EC-0210 State Board for Educator Certification v. Orelia Munoz;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 3) Docket No. 6041-EC-0909 State Board for Educator Certification v. Daniel Clay;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 4) Docket No. 3103-EC-0110 State Board for Educator Certification v. Kathy Dickerson;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 5) Docket No. 2087-EC-1009 State Board for Educator Certification v. Debra Denise Jones;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Two year suspension

- 6) Docket No. 2093-EC-0110 State Board for Educator Certification v. Enrique Garza;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 7) Docket No. 0908-EC-0210 State Board for Educator Certification v. Elisa Garza;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: One year suspension

- 8) Docket No. 2070-EC-0609 State Board for Educator Certification v. Dee Anna Arredando;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Two year suspension

- 9) Docket No. 0808-EC-0809 State Board for Educator Certification v. Domitilo Hernandez, Jr.;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Ten year suspension

- 10) Docket No. 2094-EC-0210 State Board for Educator Certification v. Rita Cummings;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 11) Docket No. 0910-EC-0310 State Board for Educator Certification v. Jeffrey Aquillon;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 12) Docket No. 0813-EC-0210 State Board for Educator Certification v. Jarvis Pack;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: One year suspension

- 13) Docket No. 0912-EC-0310 State Board for Educator Certification v. Marshall Shane Hicks;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 14) Docket No. 0911-EC-0310 State Board for Educator Certification v. David W. Hauser;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 15) Docket No. 0909-EC-0210 State Board for Educator Certification v. Gregory N. McSwain;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 16) Docket No. 5002-EC-0310 State Board for Educator Certification v. Burton John Neesvig;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: One year suspension

- 17) Docket No. 3104-EC-0110 State Board for Educator Certification v. Edward Avila;  
Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

**Motion and Vote:**

*Motion was made by Mr. Morris to grant staff's request for the issuance of default judgments and enter an order consistent with staff's recommendation on each of the above cases. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.*

**Dr. Cain adjourned to Executive Session at 10:55 a.m.**

**Dr. Cain reconvened at 11:28 a.m.**

**19. Action on Items Discussed in Executive Session**

*Pursuant to section 551.102 of the Texas Government Code, any deliberation and final action on matters discussed in Executive Session must be made in an Open Meeting. For any final action that the Board discussed in Executive Session, the Board will deliberate and take its action in Open Session.*

**II. Proposals for Decision**

- 18) Docket No. 701-09-0850.EC State Board for Educator Certification v. Christina Garza; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Accept ALJ's recommendation to revoke

**Motion and Vote:**

*Motion was made by Ms. Baszile that the Board accept the Proposal for Decision and issue a final order consistent with the ALJ's recommendation to revoke Respondent's educator certificate. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.*

- 19) Docket No. 701-09-2532.EC State Board for Educator Certification v. Andra Barton; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Accept ALJ's recommendation of Inscribed Reprimand

Kevin Lungwitz from Lungwitz & Lungwitz, P.C. spoke on behalf of Andra Barton. Ms. Dover reviewed and provided information on the case and reviewed the various sanction options available to the Board.

**Motion and Vote:**

*Motion was made by Mr. Allard to reject the ALJ's recommendation and dismiss this case in its entirety. Second was made by Ms. Robison. Voting for the motion: Mr. Allard, Ms. Bridges and Ms. Robison. Voting against the motion: Ms. Baszile, Ms. Pogue, Dr. Culwell, Ms. Bricker, Mr. Trevino and Mr. Morris. Motion failed.*

*Motion was made by Mr. Allard to reject the ALJ's recommendation of inscribed reprimand and change to noninscribed reprimand. Motion was seconded by Ms. Bricker and the Board voted unanimously in favor of the motion.*

*Dr. Simpson and Dr. Culwell left the meeting.*

- 20) Docket No. 701-10-1805.EC Monica Dawn Floyed v. State Board for Educator Certification; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Reject ALJ's recommendation and deny certification

James Fallon from Foreman, Lewis and Hutchinson, spoke on behalf of Monica Dawn Floyed. Ms. Dover reviewed and provided information on the case. The Board discussed the five year waiting period after certification is denied. Ms. Dover reviewed sanctions and/or restrictions options available.

**Motion and Vote:**

*Motion was made by Mr. Allard to accept ALJ's recommendation and grant Petitioner's application for educator certification. Motion was seconded by Ms. Bricker. Voting for the motion: Mr. Allard, Ms. Bricker, Mr. Trevino, and Ms. Robison. Voting against the motion: Ms. Pogue, Ms. Baszile, Mr. Morris, Ms. Bridges and Dr. Cain. Motion failed.*

**Motion and Vote:**

*Motion was made by Ms. Pogue to abate taking any action and agree to re-hear the case at the February 4, 2011 meeting. Motion was seconded by Ms. Baszile. Voting for the motion: Ms. Pogue, Ms. Baszile, Ms. Bridges, Mr. Morris and Dr. Cain. Voting against the motion: Ms. Robison, Ms. Bricker, Mr. Allard and Mr. Trevino. Motion carried.*

- 21) Docket No. 701-09-1491.EC Juan Sergio Rios v. State Board for Educator Certification; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Reject ALJ's recommendation and deny certification

**Motion and Vote:**

*Motion was made by Mr. Trevino to accept the ALJ's recommendation and grant the petitioner's application for educator certification. Motion failed due to lack of a second.*

**Motion and Vote:**

*Motion was made by Mr. Allard to adopt the following inclusions of law: No. 8, the Petitioner is unworthy to instruct or supervise the youth of this state and No. 9, the Board should deny Petitioner's application for a teaching certificate, and the Board make these modifications pursuant to Texas Governmental Code 2001.05(e). The above modifications are necessary because the Administrative Law Judge did not properly apply SBEC rules and policies and did not give proper weight to the seriousness of Mr. Rios' crimes as mandated by 19 TAC 249.17(c). Move that the Board order the denial of Mr. Rios' application for certification because due to the seriousness of Mr. Rios' crimes, five intentional violent felonies, Mr. Rios is unworthy to instruct the youth of Texas. The Board must ensure the safety and welfare of Texas school children and not enough time has passed since the conclusion of Petitioner's term of community supervision to convince the Board that Petitioner is sufficiently rehabilitated. Further, educators are expected to serve as role models to Texas school children. Based on the foregoing move that the Board deny the*

*Petitioner's application for a teaching certificate. Second was made by Ms. Pogue. Voting for the motion: Ms. Baszile, Ms. Pogue, Ms. Bridges, Ms. Robison, Ms. Bricker, Mr. Allard, Mr. Morris and Dr. Cain. Mr. Trevino abstained. Motion carried.*

### *B. Pending Litigation*

*The Board may discuss any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.*

- 1) Leah Mullins, Don Madden, and David Jeffers v. The State Board for Educator Certification, Cause No. D1-GN-08-00979, In the 345<sup>th</sup> Judicial District Court of Travis County, Texas.*
- 2) Andrew Moreno v. Texas Education Agency, Educator Certification and Standards Division, Cause No. D-1GN-10-001274, In the 250<sup>th</sup> Judicial District Court of Travis County, Texas*
- 3) Ex Parte Katherine Powers, Cause No. E-371-7211, In the 371<sup>st</sup> Judicial District Court of Tarrant County, Texas.*

### **III. Appeals**

- 1) Anthony Allen Jones v. State Board for Educator Certification, Cause No. 03-09-00223-CV, In the Court of Appeals for the Third District of Texas at Austin, Texas.*
- 2) Gilberto Gomez v. Texas Education Agency, Educator Certification and Standards Division, and Robert Scott, Commissioner of Education, in his Official Capacity; Cause No. 03-10-00128-CV, In the Court of Appeals for the Third District of Texas at Austin, Texas.*

### **DISCUSSION ONLY**

#### **20. Opportunity to Discuss 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §228.2, Definitions, and §228.35, Preparation Program Coursework and/or Training**

Testimony on Item 20 was provided by:

Linda Combs, Region 4 Education Service Center  
Meryl Kettler, Texas Troops to Teachers Program

Dr. Lopez advised the Board that two issues have arisen in the implementation of 19 TAC Chapter 228. She informed the Board that the Texas Education Agency staff have received requests from educator preparation programs to allow individuals to complete student teaching in other countries or states, and from Troops to Teachers to allow individuals to complete the required field-based experience out of state or in other countries. Dr. Lopez stated that the second issue involves the use of videos of Texas classrooms for the 15 clock-hours of field-based experience that may be provided electronically. Due to the shortage of authentic videos of Texas classrooms, educator preparation programs have requested that they not be restricted to use Texas videos only, but allow the use of other videos that align with the Texas Essential Knowledge and Skills (TEKS).

The Board agreed that staff should bring back this item with revisions in August 2010.

**21. Opportunity to Discuss Issuance of Probationary Certificates Related to Educator Candidates from University Programs**

Mr. Allen informed the Board probationary certificates have not previously been issued to candidates who have completed a university educator program. Mr. Allen also informed the Board that staff reviewed the rules and this does not require a rule change.

**22. Consideration of Defining the Term “Student” in SBEC Rules**

Mr. Allen informed the Board that as part of the proposed revisions to the 19 TAC Chapter 247, Educators’ Code of Ethics, staff has had one stakeholders’ meeting and will have another stakeholders’ meeting in June. He stated that some of the revisions are part of the definition of the term “student” and currently it will read, “a person 18 years or younger is eligible to be enrolled in a private, primary or secondary school”, or “a person who is actually enrolled in a private or charter school regardless of the age”.

Ms. Pogue requested that the term “student” be clear so it does not exclude a child in a home situation with a parent or relative. Mr. Allen informed the Board that there are provisions in the chapter regarding abuse of children using the term, student or minor.

**INFORMATION ONLY**

**23. 2007-2010 Rule Review Plan for State Board for Educator Certification Rules**

**24. Board Operating Policies and Procedures (BOPP)**

**DISCUSSION AND ACTION**

**25. Requests and/or Questions from Board Members**

Ms. Bricker requested that staff give the Board a presentation/overview and timeline for the implementation of Senate Bill (SB) 174 at the next meeting.

**26. Adjournment**

**Dr. Cain adjourned the meeting at 1:36 p.m.**

**The Board may meet in closed executive session, Texas Government Code, section 551.071 to seek legal advice regarding any item on this agenda.**