

Text of Proposed Amendments to 19 TAC

Chapter 247. Educators' Code of Ethics

§247.1. Purpose and Scope : Definitions .

- (a) In compliance with the Texas Education Code, §21.041(b)(8), the State Board for Educator Certification (SBEC) [~~the board~~] adopts an Educators' Code of Ethics [~~educators' code of ethics~~] as set forth in §247.2 of this title (relating to Code of Ethics and Standard Practices for Texas Educators). The SBEC [~~board~~] may amend the ethics code in the same manner as any other formal rule. [~~The board is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.~~]
- (b) The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty and good moral character. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community. This chapter shall apply to educators and candidates for certification.
- (c) The SBEC is solely responsible for enforcing the Educators' Code of Ethics for purposes related to certification disciplinary proceedings. The Educators' Code of Ethics is enforced through the disciplinary procedure set forth in Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) pursuant to the purposes stated therein.
- (d) As provided in §249.5 of this title (relating to Purpose), the primary goals the SBEC seeks to achieve in educator disciplinary matters are:
- (1) to protect the safety and welfare of Texas schoolchildren and school personnel;
 - (2) to ensure educators and applicants are morally fit and worthy to instruct or to supervise the youth of the state; and
 - (3) to fairly and efficiently resolve educator disciplinary proceedings at the least expense possible to the parties and the state.
- (e) The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Abuse--Includes the following acts or omissions:
 - (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
 - (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.
 - (2) Applicant--A party seeking any of the following from the Texas Education Agency staff or the State Board for Educator Certification: issuance of a certificate (including issuance of a new

certificate following revocation, cancellation, or surrender of a previously issued certificate); renewal of a certificate; or reinstatement of a suspended certificate.

- (3) Code of Ethics--The Code of Ethics and Standards of Practices for Texas Educators, pursuant to this chapter.
- (4) Complaint--A written statement submitted to the Texas Education Agency staff that contains essential facts alleging improper conduct by an educator, applicant, or examinee, and provides grounds for sanctions.
- (5) Contested case--A proceeding under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) in which the legal rights, duties, and privileges of a party are to be determined by the State Board for Educator Certification after an opportunity for an adjudicative hearing.
- (6) Disciplinary proceedings--Contested case proceedings before the Texas Education Agency staff, the State Office of Administrative Hearings, and the State Board for Educator Certification that commence when a request for hearing is timely filed under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases).
- (7) Educator--A person who is required to hold a certificate issued under the Texas Education Code, Chapter 21, Subchapter B.
- (8) Endanger--Exposure of a student or minor to **unjustified [the]** risk of injury or to injury that jeopardizes the physical health or safety of the student or minor without regard to whether there has been an actual injury to the student or minor.
- (9) Good moral character--The virtues of a person as evidenced, at a minimum, by his or her not having committed crimes relating directly to the duties and responsibilities of the education profession as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal Convictions for a Certificate under Texas Occupations Code, Chapter 53) or acts involving moral turpitude.
- (10) Intentionally--An educator acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.
- (11) Knowingly--An educator acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that the conduct is reasonably certain to cause the result.
- (12) Minor--A person under 18 years of age.
- (13) Moral turpitude--Improper conduct including, but not limited to, the following: dishonesty; fraud; deceit; theft; misrepresentation; deliberate violence; base, vile, or depraved acts that are intended to arouse or to gratify the sexual desire of the actor; drug or alcohol related offenses as described in §249.16(b) of this title (relating to Eligibility of Persons with Criminal Convictions for a Certificate under Texas Occupations Code, Chapter 53); or acts constituting abuse or neglect under the Texas Family Code, §261.001.
- (14) Neglect--The placing or leaving of a student or minor in a situation where the student or minor would be exposed to a substantial risk of physical or mental harm.
- ~~(15) Negligence--Failure to exercise the degree of care that a reasonably prudent person would exercise under the same or similar circumstances.~~
- (15) ~~(16)~~ Recklessly--An educator acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the results of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur.

~~(16)~~ ~~(17)~~ Sanction--

- ~~(A)~~ a disciplinary action by the State Board for Educator Certification, including a restriction, reprimand, suspension, surrender, or revocation of a certificate; or
- ~~(B)~~ a reasonable and lawful punitive measure imposed by the administrative law judge or presiding officer against a party, representative, or other participant involved in a disciplinary proceeding, hearing, or other matter under Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases).

~~(17)~~ ~~(18)~~ State Board for Educator Certification--The State Board for Educator Certification acting through its voting members in a decision-making capacity.

~~(18)~~ ~~(19)~~ State Board for Educator Certification member(s)--One or more of the members of the State Board for Educator Certification, appointed and qualified under the Texas Education Code, §21.033.

~~(19)~~ ~~(20)~~ Student--A person enrolled in a primary or secondary school, whether public, private, or charter, regardless of the person's age, or a person 18 years of age or younger who is eligible to be enrolled in a primary or secondary school, whether public, private, or charter.

~~(20)~~ ~~(21)~~ Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the State Board for Educator Certification's administrative functions and services.

~~(21)~~ ~~(22)~~ Worthy to instruct or to supervise the youth of this state--Presence of those moral, mental, and psychological qualities that are required to enable an educator to render the service essential to the accomplishment of the goals and mission of the State Board for Educator Certification policy and this chapter. "Unworthy to instruct" serves as a basis for sanctions under §249.15(b)(2) of this title (relating to Disciplinary Action by State Board for Educator Certification) and is not limited to specific criminal convictions.

~~(e)~~ The words, terms, and phrases listed in §249.3 of this title (relating to Definitions), when used in this chapter, shall have the meanings listed in §249.3 of this title, unless the context clearly indicates otherwise.]

§247.2. Code of Ethics and Standard Practices for Texas Educators.

~~(a)~~ Statement of Purpose. The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community.]

~~(b)~~ Enforceable Standards.

(1) Professional Ethical Conduct, Practices and Performance.

- (A) Standard 1.1. The educator shall not intentionally, knowingly, or recklessly engage in deceptive practices regarding official policies of the school district, ~~or~~ educational institution, educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process.
- (B) Standard 1.2. The educator shall not knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.
- (C) Standard 1.3. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

- (D) Standard 1.4. The educator shall not use institutional or professional privileges for personal or partisan advantage.
 - (E) Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents of students , or other persons or organizations in recognition or appreciation of service.
 - (F) Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.
 - (G) Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other [applicable] state and federal laws.
 - (H) Standard 1.8. The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.
 - (I) Standard 1.9. The educator shall not make threats of violence against school district employees, school board members, students, or parents of students.
 - (J) Standard 1.10. ~~The~~ [As defined in §249.3 of this title (relating to Definitions), the] educator shall be of good moral character and ~~be~~ [demonstrate that he or she is] [fit and] worthy to instruct or supervise the youth of this state.
 - (K) Standard 1.11. The educator shall not ~~intentionally or knowingly~~ [purposefully] misrepresent [the circumstances of] his or her [prior] employment history , criminal history, and/or disciplinary record when applying for subsequent employment.
 - (L) Standard 1.12. The educator shall refrain from the illegal use or distribution of controlled substances and/or abuse of prescription drugs and toxic inhalants.
 - (M) Standard 1.13. The educator shall not consume alcoholic beverages on school property or during school activities when students are present.
- (2) Ethical Conduct Toward Professional Colleagues.
- (A) Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
 - (B) Standard 2.2. The educator shall not harm others by knowingly [or recklessly] making false statements about a colleague or the school system.
 - (C) Standard 2.3. The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.
 - (D) Standard 2.4. The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.
 - (E) Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender [sex] , disability, [or] family status , or sexual orientation .
 - (F) Standard 2.6. The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.
 - (G) Standard 2.7. The educator shall not retaliate against any individual who has filed a complaint with the SBEC or who provides information for a disciplinary investigation or proceeding under this chapter.
- (3) Ethical Conduct Toward Students.
- (A) Standard 3.1. The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.

- (B) Standard 3.2. The educator shall not intentionally, knowingly, ~~or~~ recklessly [~~or~~ negligently] treat a student or minor in a manner that adversely affects or endangers the [student's] learning, physical health, mental health, or safety of the student or minor .
- (C) Standard 3.3. The educator shall not intentionally, [~~deliberately or~~ knowingly, ~~or~~ recklessly misrepresent facts regarding a student.
- (D) Standard 3.4. The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, gender [~~sex~~] , disability, national origin, religion, [~~or~~] family status , or sexual orientation .
- (E) Standard 3.5. The educator shall not intentionally, knowingly, or recklessly engage in physical mistreatment , neglect, or abuse of a student or minor .
- (F) Standard 3.6. The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student or minor .
- (G) Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any person under 21 years of age unless the educator is a parent or guardian of that child [student or minor] or knowingly allow any person under 21 years of age unless the educator is a parent or guardian of that child [student or minor] to consume alcohol or illegal/unauthorized drugs in the presence of the educator.
- (H) Standard 3.8. The educator shall maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard .
- (I) Standard 3.9. The educator shall refrain from [~~excessive and/or~~] inappropriate communication with a student or minor, including, but not limited to, electronic communication such as cell phone, text messaging, email, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is [~~excessive or~~] inappropriate include, but are not limited to:
- (i) the nature, purpose, timing, and amount of the communication;
 - (ii) the subject matter of the communication;
 - (iii) whether the communication was made openly or the educator attempted to conceal the communication;
 - (iv) whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;
 - (v) whether the communication was sexually explicit; and
 - (vi) whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.