STATE BOARD FOR EDUCATOR CERTIFICATION
DISCUSSION AND ACTION SESSION AGENDA
October 8, 2010 at 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 9:05 a.m. on Friday, October 8, 2010 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

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

Absent: Ms. Bricker, Ms. Robison, Ms. Druesedow, Ms. Bridges, and Mr. Trevino.

2. Public Testimony

CONSENT AGENDA

3. Approval of August 13, 2010 Board Meeting Minutes

Motion and Vote*:*

Motion was made by Dr. Culwell to approve the August 13, 2010 minutes. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

4. Adoption of Proposed Amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §§228.2, Definitions; 228.35, Preparation Program Coursework and/or Training; and 228.60, Implementation Date

Dr. Lopez informed the Board that the proposed amendments would clarify requirements for educator preparation program coursework, student teaching, clinical teaching, field-based experiences, field supervision, and the use of videos not produced in Texas. Dr. Lopez also informed the Board that the Texas Education Agency (TEA) is presently working with Troops to Teachers to ensure military personnel and families have the opportunity to complete field-based experience, internship, student teaching, clinical teaching, and/or practicum at a Department of Defense Education Activity (DoDEA) school to become teachers.

Motion and Vote:

Motion was made by Ms. Pogue to approve for adoption, subject to State Board of Education review, the proposed amendments to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §§228.2, Definitions; 228.35, Preparation Program Coursework and/or Training; and 228.60, Implementation Date, 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.

5. Adoption of 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

Public Testimony was provided by:

Jefferson Brim III, Brim, Arnett, Robinett, Conners & McCormick P.C.
Julie Leahy, Texas Classroom Teachers Association
Dr. Paul Henley, Texas State Teachers Association
Patty Quinzi, Texas American Federation of Teachers
Monty Exter, Association of Texas Professional Educators

Ms. Allen, Deputy General Counsel, informed the Board that changes are recommended to the proposed amendments with the intent of clarifying, adding specificity, and addressing current ethical issues. Ms. Allen also informed the Board that the intent of the Code of Ethics is to implement the Board's policy to protect students and minors. Ms. Allen added that licensing sanctions cannot occur under either 19 TAC Chapter 247 or Chapter 249 without going through TEA staff review, a state office of administrative contested case hearing, and review by the State Board for Educator Certification.

Ms. Allen provided a brief history of the Educators' Code of Ethics. Ms. Allen informed the Board that the 2002 non-binding referendum process is not provided for in statute or in Board rule and does not create a requirement that the current Board engage in the same process. Ms. Allen also informed the Board that any action concerning the referendum issue would need to be presented at a future meeting since the referendum issue is not an agenda item. Ms. Allen further advised that the Board would have to direct staff to place the referendum issue as a discussion item on the agenda for the next meeting in February 2011.

The Board discussed various concerns and issues.

Mr. Allard expressed concerns on how individual school districts would use the Code of Ethics. Mr. Allard also expressed concerns that educators were not being informed of the proposed changes.

Dr. Barnes suggested that a referendum might give notice to the education profession of the proposed changes. Dr. Barnes also suggested using Project Share to notify educators.

Dr. Simpson expressed concerns that there may not be ownership and that there are still wording issues. Dr. Simpson also stated that more time and more input may be needed.

Dr. Barnes requested clarification on a public comment regarding 19 TAC §247.2(3)(B), Standard 3.2. Mr. Allen, Assistant Counsel, stated that the objection noted in public comment was due to the use of the word "negligently" and that in the proposed substitute rule text the word "negligently" would be deleted.

Dr. Barnes also requested clarification on a public comment stating that the Board cannot legally adopt rules. Ms. Allen informed the Board that TEA staff disagrees with the comment because the rule review process is in place.

Ms. Pogue requested that staff address the use of the word "excessive" regarding social media. Mr. Allen stated that in the proposed substitute rule text the word "excessive" in Standard 3.9 would be deleted.

Ms. Allen reviewed the information distributed to the Board that showed recommended changes as a result of comments received, as well as a summary of comments that did not result in proposed changes.

Dr. Glynn advised the Board that the majority of complaints regarding code of ethics come from parents and that the complaints usually are against administrators. Dr. Glynn stressed the importance of the teacher associations communicating with the educators and administrators.

Motion and Vote:

Motion was made by Ms. Pogue to approve for adoption, subject to State Board of Education review, the proposed amendments to 19 TAC Chapter 247, Educators' Code of Ethics, as amended, and the proposed amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter A, General Provisions, §249.3, Definitions, as amended, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Dr. Culwell. The motion carried, with Mr. Allard voting against.

6. Approval of 2011-2014 Rule Review Plan for State Board for Educator Certification Rules

Mr. Allen informed the Board that the 2007-2010 four-year rule review plan has been completed and that this item provides the Board an opportunity to approve a proposed new four-year review plan for SBEC rules.

Motion and Vote:

Motion was made by Ms. Pogue to approve the proposed 2011-2014 Rule Review Plan for State Board for Educator Certification Rules. Second was made by Dr. Culwell and the Board voted unanimously in favor of the motion.

7. Approval of the Comparability Study of the TExES English as a Second Language Supplemental Examination with Praxis II English to Speakers of Other Languages

Mr. Carmody informed the Board that the results of the comparability study between the Praxis II English to Speakers of Other Languages Examination and the TExES English as a Second Language Supplemental Examination show that the two examinations are comparable and staff request that the Board approve the test-level comparability study.

Motion and Vote:

Motion was made by Dr. Culwell to approve the comparability study of the TExES English as a second language supplemental examination with Praxis II English to speakers of other languages. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

8. 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.

Ms. Allen requested that the Board approve and adopt the recommendations of staff with regard to the default judgments presented.

A. Contested Cases

I. Defaults

1) Docket No. 1002-EC-0510, *State Board for Educator Certification v. Tal Fletcher Belvin*; Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: 1 year suspension.

2) Docket No. 1007-EC-0610, *State Board for Educator Certification v. Amanda R. Gann;* Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

3) Docket No. 1008-EC-0610, *State Board for Educator Certification v. Sandra Padron;* Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

4) Docket No. 1010-EC-0610, *State Board for Educator Certification v. Melba Ann Garcia;* Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

5) Docket No. 1011-EC-0610; *State Board for Educator Certification v. Ona-Maria T. Anderson*; Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

6) Docket No. 4063-EC-0510; *State Board for Educator Certification v. Zenel Kelmendi;* Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

7) Docket No. 4062-EC-0510; *State Board for Educator Certification v. Jennifer M. Griffin*; Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

8) Docket No. 4060-EC-0510; *State Board for Educator Certification v. Jay Summers Casada*; Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

9) Docket No. 0917-EC-0410; *State Board for Educator Certification v. Jorge Alberto Salazar*; Action to be taken: Consideration of Issuance of Default Judgment.

   Staff recommendation: Revocation.

10) Docket No. 0921-EC-0610; *State Board for Educator Certification v. David B. Moss;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: Mandatory permanent revocation.

11) Docket No. 0826-EC-0610; *State Board for Educator Certification v. Maria Romelia Obregon;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 5 year suspension.

12) Docket No. 0823-EC-0510; *State Board for Educator Certification v. Rosa Linda Gonzales;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: Revocation.

13) Docket No. 0821-EC-0510; *State Board for Educator Certification v. Cecilia Smithson;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 2 year suspension.

14) Docket No. 0820-EC-0510; State *Board for Educator Certification v. John Cisneros;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 5 year suspension.

15) Docket No. 2102-EC-0510; *State Board for Educator Certification v. Linda Sanders*; Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: Revocation.

16) Docket No. 2100-EC-0410; *State Board for Educator Certification v. Megan Elizabeth Muncrief;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 2 year suspension.

17) Docket No. 0819-EC-0410; *State Board for Educator Certification v. Todd Eric Rowley*; Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 4 year suspension ending March 11, 2014, with proof of release from probation.

18) Docket No. 0825-EC-0610; *State Board for Educator Certification v. Hailey Hurst;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 1 year suspension.

19) Docket No. 0824-EC-0610; *State Board for Educator Certification v. Johnette Kerker;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 1 year suspension.

20) Docket No. 4066-EC-0710; *State Board for Educator Certification v. Imelda Garcia;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 1 year suspension.

21) Docket No. 4061-EC-0510; *State Board for Educator Certification v. Claire Elizabeth Roach;* Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: 3 year suspension with proof of release from probation.

22) Docket No. 1018-EC-0710; *State Board for Educator Certification v. Clint Underwood*; Action to be taken: Consideration of Issuance of Default Judgment.

    Staff recommendation: Revocation.

Motion and Vote:

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

II. Proposals for Decision

23) Docket No. 701-10-0602.EC, *State Board for Educator Certification v. James W. Goode, Jr.;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Inscribed Reprimand.

Elaine Edwards spoke on behalf of James W. Goode, Jr. Mr. Ybarra reviewed and provided information on the case.

24) Docket No. 701-09-5545.EC; *State Board for Educator Certification v. Joan Marie Hightower;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Inscribed Reprimand.

Mr. Ybarra reviewed and provided information on the case.

25) Docket No. 701-10-3978.EC; *State Board for Educator Certification v. Guadalupe G. Atkinson;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order:

Staff recommendation: Revocation

Mr. Ybarra reviewed and provided information on the case.

Dr. Cain adjourned to Executive Session at 11:01 a.m.

Dr. Cain reconvened at 11:14 a.m.

9. Action on Items Discussed in Executive Session

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.

II. Proposals for Decision

23) Docket No. 701-10-0602.EC, *State Board for Educator Certification v. James W. Goode, Jr.;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Inscribed Reprimand.

Motion and Vote:

Motion was made by Dr. Culwell that the Board adopt Findings of Fact #1 through #10 and Conclusions of Law #1 through #7 in the Proposal for Decision, and that the Board amend Conclusion of Law #8, as follows:
8. Based on the foregoing Findings of Fact and Conclusions of Law, Respondent should receive an inscribed reprimand. Texas educators, in maintaining the dignity of the profession, are required to respect and obey the law, exercise good judgment, demonstrate personal integrity, and exemplify honesty. Texas educators must clearly understand the boundaries of the educator-student relationship that they are trusted not to cross.
Respondent's conduct, as outlined herein, displays that he does not exemplify the character required by the Texas Administrative Code, and therefore, the State Board for Educator Certification has the authority to sanction him for his misconduct.
Motion was seconded by Mr. Morris and the Board voted unanimously in favor of the motion

24) Docket No. 701-09-5545.EC; *State Board for Educator Certification v. Joan Marie Hightower;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Inscribed Reprimand.

Motion and Vote:

Motion was made by Mr. Morris that the Board adopt Findings of Fact #1 through #22 and Conclusions of Law #1 through #8 in the Proposal for Decision, that the Board amend Conclusion of Law #9, as follows:.
9. Based on the Findings of Fact and taking into account the factors set forth in 19 TEX. ADMIN. CODE §249.17(c), an inscribed reprimand of Respondent's educator certification is the most appropriate sanction. Texas educators, in maintaining the dignity of the profession, are required to respect and obey the law, exercise good judgment, demonstrate personal integrity, and exemplify honesty.
Respondent's conduct, as outlined herein, displays that she does not exemplify the character required by the Texas Administrative Code, and therefore, the State Board for Educator Certification has the authority to sanction her for his misconduct.
Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

25) Docket No. 701-10-3978.EC; *State Board for Educator Certification v. Guadalupe G. Atkinson;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order:

Motion and Vote:

Motion was made by Mr. Allard that the Board accept the Proposal for Decision and Issue a Final Order consistent with the ALJ's recommendation to revoke Guadalupe Atkinson's educator certificates. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion

III. Motion for Rehearing

26) Docket No. 701-09-3352-EC; *State Board for Educator Certification v. Donald J. Madden*; Action to be taken: Consideration of Motion for Rehearing.

27) Docket No. 701-09-3906-EC; *State Board for Educator Certification v. Sonia Sanchez;* Action to be taken: Consideration of Motion for Rehearing.

IV. Appeals

1) *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.*

2) *Anthony Allen Jones v. State Board for Educator Certification; Cause No. 03-09-00223-CV; In the Third District Court of Appeals at Austin, Texas.*

3) *Andra Barton v. Texas Education Agency, Educator Certification and Standards Division, Robert Scott, Commissioner of Education and the State Board for Educator Certification; Cause No. D-1-GN-10-002986, In the 261st Judicial District Court of Travis County, Texas.*

4) *Andrew Moreno v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1GN-10-001274, In the 250th Judicial District Court of Travis County, Texas.*

INFORMATION ONLY

10. Board Operating Policies and Procedures (BOPP)

DISCUSSION AND ACTION

11. Requests and/or Questions from Board Members

Dr. Cain informed the Board that the January 7, 2011 retreat has been postponed.

Ms. Pogue questioned if the Board's legislative committee would meet to review legislative priorities before the legislative session convenes. Dr. Glynn suggested waiting until hearings are held, as this would give staff a better idea whether it would be helpful to approach the Senate Committee on Education or the House Committee on Public Education.

Ms. Baszile requested the status of the Code of Ethics committee. Mr. Allen informed the Board that the Code of Ethics committee is no longer required.

Dr. Barnes referred to the advisory committee minutes distributed to the Board and asked for clarification on the standards setting in October. Dr. Lopez informed the Board that on October 26-27, 2010 principals and the advisory committee will meet to review the principal survey and recommend the standards setting. Dr. Lopez informed the Board

that the recommendation will come to the Board for its approval at the February 4, 2011 meeting.

12. Adjournment

Dr. Cain adjourned the meeting at 11:25 a.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.