STATE BOARD FOR EDUCATOR CERTIFICATION
DISCUSSION AND ACTION SESSION AGENDA
August 12, 2011 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 9:00 a.m. on Friday, August 12, 2011 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

Present: Dr. Cain, Ms. Pogue, Ms. Bricker, Mr. Trevino, Ms. McCall, Ms. Everest, Ms. Druesedow, Dr. Culwell, Mr. Allard, Dr. Barnes

Dr. Simpson arrived at 9:05 a.m. Ms. Bridges arrived at 9:16 a.m.

Absent: Ms. Robison

2. Recognition and Presentation

Dr. Cain recognized former Board member, Ben Morris, and expressed the Board's appreciation for his service to the Board in 2009-2011.

3. Public Testimony

Consent Agenda

4. Approval of June 17, 2011 Board Meeting Minutes

5. Approval of Revised 2012 Board Meeting Date

Motion and Vote*:*

Motion was made by Dr. Culwell to approve the Consent Agenda. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

Dr. Smisko reviewed the agenda.

6. Election of Board Chairperson

Motion and Vote:

Motion was made by Ms. Bricker to nominate Dr. Bonny Cain. Second was made by Ms. Druesedow. No other nominations were received and the Board voted unanimously in favor of the election of Dr. Cain.

7. **Election of Board Vice-Chairperson**

Motion and Vote:

Motion was made by Mr. Allard to nominate Ms. Christie Pogue. Second was made by Ms. Bricker. No other nominations were received and the Board voted unanimously in favor of the election of Ms. Pogue.

8. **Election of Board Secretary**

Motion and Vote:

Motion was made by Ms. Everest to nominate Ms. Laurie Bricker. Second was made by Mr. Allard. No other nominations were received and the Board voted unanimously in favor of the election of Ms. Bricker.

9. **Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and 19 TAC Chapter 247, Educators' Code of Ethics, §247.1, Purpose and Scope; Definitions**

Public Testimony was provided by:

Julie Leahy, Texas Classroom Teachers Association (TCTA)

Mr. Allen reminded the Board that there is substitute rule text that includes changes related to legislation passed during the 82nd Texas Legislature, 2011. Mr. Allen reviewed some of the major changes to the rules and informed the Board that most changes were made for the purpose of clarification of defining terms and to make the rules internally consistent.

Mr. Allen informed the Board that the code of criminal procedures was amended to require law enforcement to notify a school if a student has a reported criminal history of certain offenses, and that the superintendent or principal has a duty to notify all staff who have responsibility to that student. Mr. Allen also addressed public testimony regarding the proposed requirement that a school district must complete an investigation even if an educator resigns before the investigation is completed. Mr. Allen stated that the reporting requirement would only apply when a person resigns and the school has determined that there were reasonable grounds to support a termination of that individual.

Ms. Everest expressed concern regarding the definition of deferred adjudication. Mr. Allen explained that a distinction is made between a conviction, which does establish the conduct, and deferred adjudication. Mr. Allen stated that the proposed definition would provide that deferred adjudication can be used as some evidence that the person has committed the conduct.

Dr. Culwell expressed concern that in some instances school districts may delay taking final action on an investigation until the districts know what action is taken by the SBEC. Mr. Allen stated that there is a difference in certification decisions made by the SBEC and employment decisions made by the school district.

Ms. Pogue expressed concern regarding the lack of awareness by school boards of the notification requirements. Ms. Pogue and Ms. Bricker suggested that Texas Education

Agency staff work with various organizations such as the Texas Association of School Boards (TASB) to familiarize school boards with the SBEC rules and procedures. Mr. Allen informed the Board that under the Texas Education Code, the State Board of Education (SBOE) is required to provide a training course for school district boards of trustees regarding all the various laws that apply. Ms. Bricker questioned if the SBEC could require a hiring district to check with another district before hiring personnel. Mr. Allen responded that the virtual certificate can be checked to determine if an investigative notice has been placed on the certificate of an educator who is alleged to have committed offenses involving children.

Mr. Trevino questioned what would happen if a superintendent does not comply with the reporting provisions. Mr. Allen informed the Board that the proposed amendment would provide that a superintendent may be subject to certificate sanctions for failure to provide reports as required.

Dr. Barnes expressed concern regarding the warning letter and suggested changing the title of the letter.

Motion and Vote:

Motion was made by Ms. Pogue to approve the proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, as amended, and 19 TAC Chapter 247, Educators' Code of Ethics, §247.1, Purpose and Scope; Definitions, for filing as proposed with the Texas Register. Second was made by Ms. Bricker. The motion carried, with Mr. Trevino abstaining.

10. Adoption of Review of 19 TAC Chapter 230, Professional Educator Preparation and Certification

Dr. Smisko informed the Board that this item is presented for the purpose of concluding the review of 19 TAC Chapter 230, Professional Educator Preparation and Certification.

Motion and Vote:

Motion was made by Mr. Allard to adopt the review of 19 TAC Chapter 230, Professional Educator Preparation and Certification. Second was made by Ms. Pogue, and the Board voted unanimously in favor of the motion.

11. Adoption of Review of 19 TAC Chapter 232, General Certification Provisions

Dr. Smisko informed the Board that this item is presented for the purpose of concluding the review of 19 TAC Chapter 232, General Certification Provisions.

Motion and Vote*:*

Motion was made by Ms. Bricker to adopt the review of 19 TAC Chapter 232, General Certification Provisions. Second was made by Mr. Allard, and the Board voted unanimously in favor of the motion.

12. Adoption of Review of 19 TAC Chapter 233, Categories of Classroom Teaching Certificates

Dr. Smisko informed the Board that this item is presented for the purpose of concluding the review of 19 TAC Chapter 233, Categories of Classroom Teaching Certificates.

Motion and Vote:

Motion was made by Ms. Pogue to adopt the review of 19 TAC Chapter 233, Categories of Classroom Teaching Certificates. Second was made by Mr. Allard, and the Board voted unanimously in favor of the motion.

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

Dr. Lopez requested the Board approve the new members and the ongoing committee. As requested by Ms. Druesedow, Dr. Lopez explained the nomination and selection process for members.

Motion and Vote:

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

14. Consideration of and Opportunity to Approve the Additional Classes of Certificates

Dr. Lopez introduced two new classes of certificates for Board approval and advised the Board that staff recommends the approval of the new classes of certificates.

Region 4 Education Service Center: Counselor
Dallas Baptist University: Education Diagnostician

Dr. Linda Combs from Region 4 reviewed the program's use of field supervisors at the request of Ms. Druesedow.

Motion and Vote:

Motion was made by Dr. Culwell to approve the additional classes of certificates. Second was made by Ms. Pogue. Motion carried with Ms. Everest voting against the motion.

15. Consideration of and Opportunity to Approve the Passing Standard on the Texas Examinations for Master Teachers (TExMAT): Master Science Teacher EC-6

Mr. Carmody informed the Board a new certification examination, Master Science Teacher EC-6 has been created. He stated that Texas had administered the Master Science Teacher EC-4 examination; however, the elementary certificates now encompass Early Childhood through sixth grade and this examination was developed to

reflect the change of levels. Mr. Carmody informed the Board that the committee of certified educators convened to recommend the passing standard.

Motion and Vote:

Motion was made by Ms. Pogue to approve the passing standard on the Texas Examinations for Master Teachers (TExMAT): Master Science Teacher EC-6. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

16. 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. Dover provided information on the Default Cases.

A. *Contested Cases*

I. Defaults

1) Docket No. 1048-EC-0311, *State Board for Educator Certification v. Edith April Johnson;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

2) Docket No. 4095-EC-0411, *State Board for Educator Certification v. Ingrid A. Cortez;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 3 year suspension.

3) Docket No. 4084-EC-0111, *State Board for Educator Certification v. Jonathan Lopez-Hoffman;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 2 year suspension.

4) Docket No. 0851-EC-0511, *State Board for Educator Certification v. Beverly Jenkins;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

5) Docket No. 0850-EC-0511, *State Board for Educator Certification v. Thomas Blake Martin;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

6) Docket No. 0852-EC-0511, *State Board for Educator Certification v. Farrah Tannehill;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

7) Docket No. 5006-EC-0511, *State Board for Educator Certification v. Yussy Flores;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

8) Docket No. 3145-EC-0511, State *Board for Educator Certification v. Christina Blick*; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

9) Docket No. 3144-EC-0511, *State Board for Educator Certification v. Anthony Snoddy, Jr.*, Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

10) Docket No. 3138-EC-0411, *State Board for Educator Certification v. Stewart Smiley;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 5 year suspension.

11) Docket No. 4097-EC-0411, *State Board for Educator Certification v. Paul D. Morrow;* Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

12) Docket No. 4098-EC-0411, *State Board for Educator Certification v. Jackie E. Mead*; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 2 year suspension.

Motion and Vote:

Motion was made by Ms. Bricker to grant staff's request for the Issuance of Default Judgments and enter orders consistent with staff's recommendations on each of the above cases. Motion was seconded by Ms. Bridges and the Board voted unanimously in favor of the motion.

Ms. Dover provided information on the Proposal for Decision.

II. Proposals for Decision

13) Docket No. 701-10-5652.EC, State Board for Educator Certification v. Enrique Luna; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: 4 year suspension.

III. Rehearing - None

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) *Andra Barton v. State Board for Educator Certification, Appellate Case Number 03-11-0397-CV, In the Court of Appeals for the Third District of Texas at Austin, Texas.*

3) *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.*

4) *Karen Mavvaji v. The State Board for Educator Certification; Cause No. D-1-GN-08-000625, In the 345th Judicial District Court of Travis County, Texas.*

5) *Don Madden v. The State Board for Educator Certification; Cause No. D-1-GN-10-003843, In the 250th Judicial District Court of Travis County, Texas.*

6) *Sonia Sanchez v. Texas Education Agency Educator Certification and Standards Division; Cause No. D-1-GN-10-003868, In the 345th Judicial District Court of Travis County, Texas.*

7) *Robert D. Lange v. State Board for Educator Certification; Cause No. D-1-GN-11-001843, In the 250th Judicial District Court of Travis County, Texas.*

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 345th Judicial District Court of Travis County, Texas.*

Dr. Cain adjourned to Executive Session at 10:46 a.m.
Dr. Cain reconvened at 11:07 a.m.

17. 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.

13) Docket No. 701-10-5652.EC, State Board for Educator Certification v. Enrique Luna; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order

Motion and Vote:

Motion was made by Ms. Bricker to adopt the Findings of Fact and Conclusions of Law in the Proposal for Decision as if fully set out herein with the exception of Conclusions of Law 8. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied. The Board increases the sanction recommended by the ALJ to REVOCATION because of the critical importance of the integrity of educators, because of the critical importance of the education of all children and the relationship of the outcome of testing as linked to the effectiveness of children's education. This change is supported by Findings of Fact, particularly Findings Nos. 41-45 and Conclusions of Law Nos. 4-7.

Motion was seconded by Ms. Pogue. Motion carried with Mr. Trevino voting against the motion.

INFORMATION ONLY

18. Board Operating Policies and Procedures (BOPP)

19. 2011-2014 Rule Review Plan for State Board for Educator Certification Rules

DISCUSSION AND ACTION

20. Requests from Board Members for Future Board Items

Ms. Bricker requested the staff research and propose a new policy that would require all candidates and applicants for teaching or paraprofessional certification to disclose all criminal history to ensure that after having completing certification, their certification will not be challenged.

21. Adjournment

Dr. Cain adjourned the meeting at 11.18 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.