State Board for Educator Certification
Discussion and Action Session Agenda
April 3, 2009 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 9:11 a.m. on Friday, April 3, 2009 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. Pogue, Ms. Bridges, Mr. Shirley, Ms. Johnson, Ms. Acuff, and Ms. Carter

Absent: Ms. Baszile, Ms. Barnes and Mr. Trevino

2. Public Testimony

All testimony on agenda items will be heard prior to the item.

CONSENT AGENDA

3. Approval of February 6, 2009 Board Meeting Minutes

4. Approval of Meeting Dates of 2010

. **Motion and Vote:**

Motion was made by Ms. Pogue to approve the consent agenda as presented. Second was made by Ms. Johnson and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

5. Consideration of and Opportunity for Approval of the Plan to Meet State Certification Requirements for Languages Other Than English (LOTE) Latin EC-12, and the Family and Consumer Science Examinations

Dr. Lopez requested the Board approve the use of Educational Testing Service's (ETS) existing examinations for Latin EC-12 and Family and Consumer Science. Dr. Lopez informed the Board that the Board has approved the Latin EC-12 standards. Dr. Lopez also informed the Board that the current Family and Consumer Science examination administered by the National Association of Family Consumer Science does not align with standards; however, the ETS exam same does.

Motion and Vote:

Motion was made by Ms. Pogue to approve the plan to meet state certification requirements for Languages Other Than English (LOTE) Latin EC-12, and the Family

and Consumer Science Examinations as presented. *Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.*

6. Opportunity to Set the Passing Standard for the TExES Bilingual Target Language Proficiency Test – Spanish (BTLPT) Early Childhood-12 Certification Examination

Dr. Lopez informed the Board that this exam replaces the Texas Oral Proficiency Test (TOPT). Dr. Lopez advised the Board that there was a standard's setting committee meeting and the committee agreed on a cut score of 114. Dr. Lopez informed the Board that staff recommends the Board approve the cut score of 114 for the examination.

Motion and Vote:

Motion was made by Ms. Carter to approve the passing standard for the TExES Bilingual Target Language Proficiency Test – Spanish (BTLPT) Early Childhood-12 certification examination as recommended. Second was made by Mr. Shirley and the Board voted unanimously in favor of the motion.

7. Adoption of Proposed Revisions to 19 TAC Chapter 230, Professional Educator Preparation and Certification

Ms. Cardenas informed the Board that there were two recommended changes since the Board approved the revisions for filing as proposed with the *Texas Register* at the February meeting. In §230.432, Graduates of Approved Professional Educator Preparation Programs, language has been added that specifies the Board has approval authority for educator preparation programs and in §230.504, Specific Requirements for Initial Emergency Permits, language has been added that specifies 24 semester credit hours must be in the subject area taught.

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 230, Professional Educator Preparation and Certification, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Ms. Johnson and the Board voted unanimously in favor of the motion.

8. Adoption of Proposed New 19 TAC Chapter 231, Assignment of Public School Personnel, §231.1, Criteria for Assignment of Public School Personnel

Ms. Cardenas informed the Board that no changes were recommended since the Board approved the new section for filing as proposed with the *Texas Register* at the February meeting.

Motion and Vote:

Motion was made by Mr. Shirley to approve for adoption, subject to State Board of Education review, proposed new 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. Johnson and the Board voted unanimously in favor of the motion.

9. **Adoption of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.2, Generalist; 233.4, Mathematics; Science; 233.6, Bilingual Education; 233.7, English as a Second Language; 233.12, Career and Technical Education (Certificates not requiring experience and preparation in a skill area); and 233.14, Career and Technical Education (Certificates requiring experience and preparation in a skill area)**

Ms. Cardenas informed the Board that no changes were recommended since the Board approved the amendments for filing as proposed with the *Texas Register* at the February meeting.

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 233, Categories of Classroom Teaching Certificates, §§233.2, Generalist; 233.4, Mathematics; Science; 233.6, Bilingual Education; 233.7, English as a Second Language; 233.12, Career and Technical Education (Certificates not requiring experience and preparation in a skill area); and 233.14, Career and Technical Education (Certificates requiring experience and preparation in a skill area), with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.

10. **Adoption of Proposed Amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, §249.16, Eligibility of Persons with Criminal Convictions for a Certificate under Articles 6252-13c and 6252-13d, Revised Civil Statutes, including technical edits to 19 TAC §249.3, Definitions, §249.15, Disciplinary Action by State Board for Educator Certification, and §232.830, Requirements for Certificate Renewal**

Mr. Allen informed the Board that no changes were recommended since the Board approved the amendments for filing as proposed with the *Texas Register* at the February meeting.

Ms. Carter stated that a DUI is not a felony as listed in the item and suggested that the language be removed. After a review by Mr. Allen and Joan Allen, Deputy General Counsel for the Texas Education Agency, Mr. Allen informed the Board that a DUI is not a felony, and that the proposed language in §249.16(b)(7) “or driving under the influence of drugs or alcohol” should be removed.

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 249, Disciplinary Proceedings, Sanctions, and Contested Cases, §249.3, Definitions; §249.15, Disciplinary Action by State Board for Educator Certification; and §249.16, Eligibility of Persons with Criminal Convictions for a Certificate under Articles 6252-13c and 6252-13d, Revised Civil Statutes, as amended, and 19 TAC Chapter 232, General Certification Provisions, §232.830, Requirements for Certificate Renewal, with an

effective date of 20 days after filing as adopted with the Texas Register. Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.

11. Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates

Mr. Allen reviewed the substitute language and informed the Board that the proposed amendment eliminates the Board's discretion in allowing a probationary certificate to be issued without a baccalaureate degree if the probationary certificate requires such a degree. Mr. Allen also noted that the proposed amendment grants an additional year's extension of a probationary certificate to an educator whose contract is terminated before the end of a school year due to a reduction in force by a school district.

Motion and Vote:

Motion was made by Ms. Carter to approve the proposed amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates, as amended, for filing as proposed with the Texas Register. Second was made by Mr. Shirley 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, and §233.15, Languages Other Than English

Ms. Cardenas informed the Board that there are four proposed new languages other than English (LOTE) certificates: French, German, and Spanish to be issued no earlier than November 1, 2009, and Latin to be issued no earlier than January 1, 2010.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.1,General Authority, and §233.15, Languages Other Than English, for filing as proposed with the Texas Register. Second was made by Ms. Pogue and the Board voted unanimously in favor of the motion.

13. Proposed Revisions to 19 TAC Chapter 241, Principal Certificate

Public Testimony was provided by the following on Item 13:

Jan Friese, Texas Counseling Association

Dr. Cain requested that Ms. Cardenas review the requirements for addressing public testimony. Ms. Cardenas informed the Board that the recommended revisions resulted from the February 26 stakeholders' meeting. Ms. Cardenas also informed the Board that the revisions incorporated language for the guidance and counseling programs and services. Ms. Cardenas advised the Board that adding the language "appropriate to the position held" in §241.15(d)(5), as recommended by the Texas Counseling Association (TCA), could easily be done. Ms. Cardenas informed the Board that the proposed

principal certification rules will also apply to assistant principals, and that the degree must have been granted from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting agency recognized by the Texas Higher Education Coordinating Board.

The Board expressed concerns that other organizations may request adding language to fit their specific needs if all of TCA's revisions were included. The Board also discussed the minimum two-year teaching experience requirement to become a principal.

Ms. Cardenas informed the Board that staff recommends language remain as proposed since these are the standards, and if the standards are changed it will require a revision of the certification tests and the Professional Development Appraisal System (PDAS).

Dr. Glynn advised the Board that this is a principal certificate, not a counselor certificate, and the two-year requirement aligns with several other states. Dr. Glynn informed the Board that if language is changed, more stakeholders' meetings would need to be held. In addition, Dr. Glynn noted that school districts that do not use PDAS will have to change their appraisal systems.

Motion and Vote:

Motion was made by Ms. Johnson to approve the proposed revisions to 19 TAC Chapter 241, Principal Certificate, for filing as proposed with the Texas Register. Motion failed due to lack of second.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed revisions to 19 TAC Chapter 241, Principal Certificate, to include all language as recommended by the Texas Counseling Association, for filing as proposed with the Texas Register. Second was made by Ms. Acuff. Mr. Shirley withdrew the motion; Ms. Acuff withdrew the second.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed revisions to 19 TAC Chapter 241, Principal Certificate, as amended, for filing as proposed with the Texas Register. Second was made by Ms. Pogue and the Board voted unanimously in favor of the motion.

14. Adoption of Review of 19 TAC Chapter 241, Principal Certificate

Ms. Cardenas informed the Board that because the Board has taken action to approve revisions to Chapter 241 for filing as proposed, this adoption concludes the review of Chapter 241.

Motion and Vote:

Motion was made by Mr. Shirley to adopt the review of 19 TAC Chapter 241, Principal Certificate. Second was made by Ms. Johnson and the Board voted unanimously in favor of the motion.

15. Proposed Revisions to 19 TAC Chapter 242, Superintendent Certificate

Public Testimony was provided by the following on Item 15:

Jan Friese, Texas Counseling Association

Ms. Cardenas informed the Board that the recommended revisions resulted from the February 26 stakeholders' meeting. Ms. Cardenas reviewed the proposed revisions, which address the role of the superintendent, professional development, and positions the holder of the superintendent certificate may serve. Ms. Cardenas informed the Board that language has been added to specify that a master's degree would be required and the degree must be from an accredited institution of higher education recognized by the Texas Higher Education Coordinating Board. Ms. Cardenas informed the Board that the revisions incorporated language for the guidance and counseling programs and services.

Dr. Glynn informed the Board that every principal and superintendent from out of state must take the appropriate examination to become certified in Texas, and the provision gives them one year from the date they apply to take the examination. Dr. Glynn also informed the Board if an individual has taken an examination in another state that has gone through a comparability study and is as rigorous as the Texas examination, the individual will automatically receive the certificate.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed revisions to 19 TAC Chapter 242, Superintendent Certificate, as amended, for filing as proposed with the Texas Register. Second was made by Ms. Pogue and the Board voted unanimously in favor of the motion.

16. Adoption of Review of 19 TAC Chapter 242, Superintendent Certificate

Ms. Cardenas informed the Board that because the Board has taken action to approve revisions to Chapter 242 for filing as proposed, this adoption concludes the review of Chapter 242.

Motion and Vote:

Motion was made by Mr. Shirley to adopt the review of 19 TAC Chapter 242, Superintendent Certificate. Second was made by Ms. Pogue and the Board voted unanimously in favor of the motion.

17. Proposed Amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition

Mr. Allen reviewed the proposed amendment, which addresses three issues: 1) includes all reporting requirements under the Texas Education Code, §21.006; 2) specifies that more detail be given in a superintendent's report regarding educator misconduct; and 3)

requires a school district to request that the Texas Education Agency (TEA) pursue sanctions against an educator who has abandoned his or her contract.

Motion and Vote:

Motion was made by Ms. Pogue to approve the proposed amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition, for filing as proposed with the Texas Register. Second was made by Mr. Shirley and the Board voted unanimously in favor of the motion.

18. Litigation Settlement Options in Pending or Contemplated Litigation, Disciplinary

A. Settlement Options for Pending or Contemplated Litigation

The Board may discuss options to settle pending or contemplated litigation.

Ms. Dover provided information on defaults and proposal for decisions and recommended that the Board grant all motions for default.

B. Disciplinary Cases

I. Defaults

Motion and Vote:

Motion was made by Ms. Pogue that the Board grant staff's request for the issuance of default judgments on all cases (except 3 and 4) and enter orders consistent with staff's recommendations. Motion was seconded by Mr. Shirley and the Board voted unanimously for the motion.

1) Docket No. 6001-EC-0508 *State Board for Educator Certification v. Ronald Joseph Trebing*; Action to be taken: Consideration of Issuance of Default Judgment.

2) Docket No. 2059-EC-1208 *State Board for Educator Certification v. Barry Partain;* Action to be taken: Consideration of Issuance of Default Judgment.

3) Docket No. 2037-EC-0708 *State Board for Educator Certification v. Ethel S. Dzierzanowski;* Action to be taken: Consideration of Issuance of Default Judgment.

Motion and Vote:

Motion was made by Ms. Pogue to enter a judgment suspending the respondent's certificate for three years. Motion was seconded by Ms. Johnson.

Amendment to the motion to enter a judgment suspending the respondent's certificate for five years was made by Ms. Carter. Motion was seconded by Ms. Johnson and the Board voted unanimously in favor of the amendment to the motion.

The Board voted unanimously in favor of the motion as amended.

4) Docket No. 2042-EC-0908 *State Board for Educator Certification v. Terry S. Shelton;* Action to be taken: Consideration of Issuance of Default Judgment.

Motion and Vote:

Motion was made by Ms. Pogue to enter a judgment suspending the respondent's certificate for five years. Motion was seconded by Ms. Johnson. Voting against the motion were Ms. Carter and Ms. Acuff. Motion carried.

5) Docket No. 0701-EC-1008 *State Board for Educator Certification v. Deidre C. Scoggins*; Action to be taken: Consideration of Issuance of Default Judgment.

6) Docket No. 0713-EC-1208 *State Board for Educator Certification v. Jorge Estrada Landeros*; Action to be taken: Consideration of Issuance of Default Judgment.

7) Docket No. 3041-EC-1008 *State Board for Educator Certification v. Samuel E. Flores;* Action to be taken: Consideration of Issuance of Default Judgment.

8) Docket No. 3040-EC-1008 *State Board for Educator Certification v. Nathan S. Smith;* Action to be taken: Consideration of Issuance of Default Judgment.

9) Docket No. 3042-EC-1008 *State Board for Educator Certification v. Juan A. Castro*; Action to be taken: Consideration of Issuance of Default Judgment.

10) Docket No. 3043-EC-1008 *State Board for Educator Certification v. Daniel P. Martinez;* Action to be taken: Consideration of Issuance of Default Judgment.

II. Proposal for Decisions

1) Docket No. 701-09-0107.EC *State Board for Educator Certification v. Karen Hightower;* Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Motion and Vote:

Motion was made by Ms. Johnson that the Board accept the request for decision and amend the final order of suspension from two years to three years. Motion was seconded by Ms. Pogue and the Board voted unanimously for the motion.

III. Motion for Rehearing

1) Docket No. 701-07-1438.EC *State Board for Educator Certification v. Jatis McCollister;* Action to be taken: Consideration of Motion for Rehearing.

Motion and Vote:

Motion was made by Ms. Acuff that the Board deny the motion for rehearing of the Board's final decision and order issued February 6, 2009. Motion was seconded by Mr. Shirley and the Board voted unanimously for the motion.

C. 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) *Gilberto Gomez v. State Board for Educator Certification; Cause No. D-1-GN-09-000309, In the 201st Judicial District Court of Travis County, Texas.*

2) *Anthony Allen Jones v. State Board for Educator Certification; Cause No. D-1-6N-08-001975, In the 353rd Judicial District Court of Travis County, Texas.*

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.

INFORMATION ONLY

20. 2007-2010 Rule Review Plan for State Board for Educator Certification Rules

Dr. Cain reviewed the purpose of the rule review plan.

21. October 10, 2008 Board Meeting Minutes

Dr. Cain reviewed the purpose of this item.

22. Request and/or Questions from Board Members

Ms. Pogue discussed abstentions from voting and the possibility of incorporating a policy against abstention into the Board Operating Policies and Procedures (BOPP). Dr. Cain requested that this be placed on the June agenda. Dr. Cain also requested that the BOPP be revised to show a quorum as six members instead of the current eight.

The Board discussed disciplinary cases from Legal Services. Ms. Pogue requested an explanation from Legal Services on who makes recommendations on disciplinary cases.

Dr. Cain adjourned to Executive Session at 11:31
Dr. Cain reconvened at 12:16

Ms. Pogue recommended the Board have a workshop or retreat to review the steps in disciplinary cases. Dr. Cain recommended an Ad Hoc committee be formed for this review. The committee is Ms. Pogue (chair), Ms. Bridges, Ms. Johnson and Ms. Carter.

23. Adjournment

Dr. Cain adjourned the meeting at 12:31 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.