STATE BOARD FOR EDUCATOR CERTIFICATION DISCUSSION AND ACTION SESSION AGENDA

June 17, 2011 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 17 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

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

Absent: Ms. Pogue

Dr. Cain introduced the Board's new members, Kathryn Everest and Suzanne McCall and recognized re-appointed members, Dr. Curtis Culwell, Ms. Christie Pogue and Dr. Grant Simpson.

2. Public Testimony

CONSENT AGENDA

- 3. Approval of April 8, 2011 Board Meeting Minutes
- 4. Approval of 2012 Board Meeting Dates

Motion and Vote:

Motion was made by Ms. Bricker to approve the April 8, 2011 minutes, and the 2012 Board meeting dates. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

5. Adoption of Review of 19 TAC Chapter 249, <u>Disciplinary Proceedings, Sanctions</u>, and Contested Cases

Mr. Allen informed the Board that this item is presented for the purpose of concluding the review of 19 TAC Chapter 249, <u>Disciplinary Proceedings</u>, <u>Sanctions</u>, <u>and Contested</u> Cases.

Ms. Bricker asked if a system is in place that would prevent a student/candidate from going through an entire program and finding a position only to find there is a criminal history that will prevent the student/candidate from being hired.

Mr. Allen reminded the Board that 19 TAC Chapter 227, Subchapter B, allows a person entering an educator preparation program to request a preliminary review of his or her criminal history. Mr. Allen informed the Board that as of September 1, 2011, everyone employed in a school will have had the mandatory criminal history review completed.

Motion and Vote:

Motion was made by Dr. Culwell to adopt the review of 19 TAC Chapter 249, <u>Disciplinary Proceedings</u>, <u>Sanctions</u>, <u>and Contested Cases</u>. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

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

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

• North American College – Traditional Certification Program

Motion and Vote:

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

7. Consideration of and Opportunity to Approve New Classes of Certificates for Educator Preparation Programs Currently Rated "Accredited"

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

- Region XIX Education Service Center, School Librarian
- Texas A&M University at San Antonio, Reading Specialist EC-12
- University of Texas-Arlington, School Counselor

Ms. Everest expressed concern about the University of Texas-Arlington's twenty-four hour certification only school counselor program. She also expressed a concern that students/candidates will receive certification and won't be able to obtain jobs because their school board policies require a different kind of certification.

Dr. Lopez stated that the program has 225 clock hours of training and 160 hour practicum and the program meets and exceeds counselor standards set in rule in the Texas Administrative Code. Dr. Smisko added that there are standards already adopted by the Board and if a program meets these standards, the Board may approve the program. She advised the Board that if the Board wants to increase those standards, that should be submitted through an agenda item. Dr. Lopez informed the Board that staff will review the rules for the counselor in the four year review process and recommendations can be made at that time.

Motion and Vote:

Motion was made by Ms. Bricker to approve the new classes of certificates for educator preparation programs currently rated "accredited". Second was made by Mr. Allard. Motion carried with Ms. Everest and Mr. Allard voting against.

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. Dover provided the Board a brief explanation on the process on Defaults and Proposals for Decision cases.

Ms. Dover provided information on the following cases:

I. Defaults

1) Docket No. 0936-EC-1210, <u>State Board for Educator Certification v. Rhonda Kay</u> Baker; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 3 year suspension.

2) Docket No. 0845-EC-1210, <u>State Board for Educator Certification v. Phillip Joseph Deluna</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 4 year suspension.

3) Docket No. 0842-EC-1110, <u>State Board for Educator Certification v. Norris Gene Hart;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 3 year suspension.

4) Docket No. 0847-EC-1210, <u>State Board for Educator Certification v. Dori Ann Harrod;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 3 year suspension.

5) Docket No. 0846-EC-1210, <u>State Board for Educator Certification v. Penny Yvonne Lewis</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

6) Docket No. 3133-EC-0211, <u>State Board for Educator Certification v. Cruz Lechuga;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation. Change: Case pulled from agenda

7) Docket No. 3132-EC-0211, <u>State Board for Educator Certification v. Wilfred Criswell</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

8) Docket No. 3123-EC-1210, <u>State Board for Educator Certification v. Maribel M.</u> <u>Coronado</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 2 year suspension.

9) Docket No. 3129-EC-0211, <u>State Board for Educator Certification v. Torrius Devaun Fisher</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

10) Docket No. 3130-EC-0211, <u>State Board for Educator Certification v. LaToya Annette Thomas</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

11) Docket No. 4091-EC-0311, <u>State Board for Educator Certification v. Bruce W. Smith;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 10 year suspension.

12) Docket No. 4090-EC-0311, <u>State Board for Educator Certification v. Carl D. Purnell;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

13) Docket No. 4088-EC-0211, <u>State Board for Educator Certification v. Delphina</u> *Pickerill*; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 5 year suspension.

14) Docket No. 4092-EC-0311, <u>State Board for Educator Certification v. Lee Ann Powell;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 10 year suspension.

15) Docket No. 3135-EC-0311, <u>State Board for Educator Certification v. Olga Escobedo</u> Strom; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

Docket No. 3136-EC-0311, <u>State Board for Educator Certification v. Oran H. Martin</u>;
 Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation.

17) Docket No. 3137-EC-0311, <u>State Board for Educator Certification v. Chester Anton Barnes</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

18) Docket No. 1049-EC-0311, <u>State Board for Educator Certification v. Mary Jane Marroquin-Goss</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 5 year suspension.

19) Docket No. 1051-EC-0311, <u>State Board for Educator Certification v. Kalyn Meschwitz;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 5 year suspension.

20) Docket No. 1050-EC-0311, <u>State Board for Educator Certification v. Rhonda K. Odneal;</u> Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 3 year suspension.

21) Docket No. 1056-EC-0311, <u>State Board for Educator Certification v. Armando M. Palacios</u>; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year suspension.

Motion and Vote:

Motion was made Mr. Allard to grant staff's requests for the issuance of the default judgments and enter orders consistent with staff's recommendations. Motion was seconded by Dr. Culwell and the Board voted unanimously in favor of the motion.

II. Proposals for Decision

22)Docket No. 701-10-5651.EC, <u>State Board for Educator Certification v. Samuel L. Sherber, Jr.</u>; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Inscribed Reprimand.

Samuel L. Sherber, Sr. spoke on behalf of Samuel L. Sherber, Jr. Ms. Dover reviewed and presented information on the case.

23) Docket No. 701-10-4136.EC, <u>State Board for Educator Certification v. Jennie a/k/a</u>
<u>Maria Owens;</u> Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Revocation.

Jennie Owens spoke on her own behalf. Ms. Dover reviewed and presented information on the case.

III. Rehearing

24) Docket No. 701-10-0335.EC, <u>State Board for Educator Certification v. Richard Medill;</u> Action to be taken: Consideration of Motion for Rehearing.

Staff recommendation: Grant the Motion for Rehearing and that the Board enter an Order that no action be taken, consistent with the Proposal for Decision.

Ms. Dover reviewed and provided information on the case.

IV. Appeals

- 1) <u>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.</u>
- Andra Barton v. Texas Education Agency, Educator Certification and Standards <u>Division, Robert Scott, Commissioner of Education and the State Board for Educator</u> <u>Certification</u>; Cause No. D-1-GN-10-002986, In the 261st Judicial District Court of Travis County, Texas.
- Andrew Moreno v. Texas Education Agency, Educator Certification and Standards <u>Division</u>; Cause No. D-1GN-10-001274, In the 250th Judicial District Court of Travis County, Texas.
- 4) <u>Karen Mavvaji v. The State Board for Educator Certification</u>; Cause No. D-1-GN-08-000625, In the 345th Judicial District Court of Travis County, Texas.
- 5) <u>Don Madden v. The State Board for Educator Certification</u>; Cause No. D-1-GN-10-003843, In the 250th Judicial District Court of Travis County, Texas.
- 6) <u>Sonia Sanchez v. Texas Education Agency Educator Certification and Standards Division</u>; Cause No. D-1-GN-10-003868, In the 345th 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.

- <u>Leah Mullins, Don Madden, and David Jeffers v. The State Board for Educator Certification</u>, Cause No. D1-GN-08-00979, In the 345th Judicial District Court of Travis County, Texas.
- Dr. Cain adjourned to Executive Session at 10:35 a.m.
- Dr. Cain reconvened at 11:10 a.m.
- 9. 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.

22) Docket No. 701-10-5651.EC, <u>State Board for Educator Certification v. Samuel L. Sherber, Jr.</u>; 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. Allard that the Board take no action against Mr. Sherber's certificate and dismiss the case. Motion was seconded by Dr. Culwell. The motion carried with Mr. Trevino and Ms. Bridges abstaining and Ms. Druesedow voting against.

23) Docket No. 701-10-4136.EC, <u>State Board for Educator Certification v. Jennie a/k/a Maria Owens</u>; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Staff recommendation: Revocation.

Motion and Vote:

Motion was made by Ms. Druesedow that the Board adopt Findings of Fact Nos. 1 through 11 and Conclusions of Law Nos. 1 through 7 in the Proposal for Decision as if fully set out herein; and that the Board amend Conclusion of Law No. 8 as follows:

8. Based upon the considerations set forth in 19 Texas Administrative Code (TAC) §249.17(c) and the ethics of leadership expected of principals to "model and promote the highest standard of conduct, ethical principles and integrity in decision making, actions and behaviors" as set forth in 19 TAC §241.15(b)(1), the Board should revoke Respondent's Texas educator certificate.

The above amendment is warranted because the State Board for Educator Certification is vested with authority to determine the appropriate sanction based on Board policy and rules. 19 TAC §249.15. This principle is recited in Texas State Board of Dental Examiners v. Brown, 281 S.W. 3rd 692 (Tex.App.-Corpus Christi 2009) (pet. denied). Due to Respondent's years of experience in education, her leadership role as a principal, and the importance of maintaining the security and integrity of the state assessment process, the Board has determined that revocation is the appropriate sanction in this case. Based on the foregoing, Ms. Druesedow moved that the Board revoke Respondent's educator certification.

Motion was seconded by Ms. Bridges. Motion failed.

Motion and Vote:

Motion was made by Ms. Everest that the Board accept the Proposal for Decision and issue a Final Order consistent with the Administrative Law Judge's recommendations. Motion was seconded by Mr. Allard. Motion failed.

Motion and Vote:

Motion was made by Ms. Bricker that the Board adopt Findings of Fact Nos. 1 through 11 and Conclusions of Law Nos. 1 through 7 in the Proposal of Decision as if fully set out herein; and move that the Board amend Conclusion of Law No. 8 as follows:

8. Based up the considerations set forth in 19 TAC §249.17(c) and the ethics of leadership expected of principals to "model and promote the highest standard of conduct, ethical principles and integrity in decision making, actions and behaviors" as set forth in 19 TAC §241.15(b)(1), the Board should revoke Respondent's Texas Educator Certificate.

The above amendment is warranted because the State Board for Educator Certification is vested with authority to determine the appropriate sanction based on Board policy and rules. Respondent's years of experience in education, her leadership role as a principal and the importance of maintaining the security and the integrity of the state assessment process are significant considerations in this case. Based on the foregoing, Ms. Bricker moved that the Board suspend Respondent's educator certification for five years.

Motion was seconded by Mr. Allard. Motion carried.

24) Docket No. 701-10-0335.EC, <u>State Board for Educator Certification v. Richard Medill</u>; Action to be taken: Consideration of Motion for Rehearing.

Staff recommendation: Grant the Motion for Rehearing and that the Board enter an order that no action be taken, consistent with the Proposal for Decision.

Motion and Vote:

Motion was made by Ms. Robison that the Board accept the ALJ's recommendation and enter an order that no action be taken, consistent with the Proposal for Decision. Motion was seconded by Ms. Bricker. Motion carried with Mr. Allard and Mr. Trevino abstaining.

DISCUSSION ONLY

10. Discussion of Proposed Amendments to 19 TAC Chapter 249, <u>Disciplinary Proceedings, Sanctions, and Contested Cases</u>

Mr. Allen informed the Board that the proposed amendments to 19 TAC Chapter 249 would clarify definitions and procedures and also reflect input from stakeholders at a meeting held in May 2011. Mr. Allen also informed the Board this item is for discussion only to provide stakeholders additional time to provide input. Mr. Allen stated that this item will be brought back to the Board in August and in October.

Dr. Barnes expressed concerns on the generalization of "romantic relationship with a student" and the definition of student, which would virtually mean anyone under the age of 19.

Ms. Bricker requested clarification of resignations under probationary contracts and whether the amendments to 19 TAC Chapter 249 would preclude any individual school district's ability to modify a contract of an employee. Mr. Allen stated that the proposed amendments would not change the ability of a school to have flexibility.

Ms. Druesedow requested that "within 30 calendar days" in 19 TAC §249.26(b)(6) be formatted in some manner for emphasis.

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

Dr. Lopez informed the Board that this item presents for discussion the review of 19 TAC Chapter 230. Dr. Lopez added that a stakeholders' meeting on 19 TAC Chapter 230 would be held.

12. Review of 19 TAC Chapter 232, General Certification Provisions

Dr. Lopez informed the Board that this item presents for discussion the review of 19 TAC Chapter 232. Dr. Lopez added that a stakeholders' meeting on 19 TAC Chapter 232 would be held.

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

Public testimony on this item was provided by:

Dr. Kathy Ellins, Program Manager, University of Texas Institute for Geophysics Dr. Kate Miller, Dean, College of Geosciences, Texas A&M University

Dr. Lopez informed the Board that this item presents for discussion the review of 19 TAC Chapter 233. Dr. Lopez added that a stakeholders' meeting on 19 TAC Chapter 233 would be held.

INFORMATION ONLY

14. Staff Report on Implementation of Educator Preparation Programs Sanctions

Dr. Lopez reviewed the material presented to the Board regarding procedures for closing an educator preparation program. She also reviewed the sanction issued to Steps to Teaching and informed the Board that the program will close August 12, 2012. Dr. Lopez informed the Board that staff will monitor the program throughout the year to ensure that the curriculum is in place.

15. Report on Legislative Action in the 82nd Texas Legislative Regular Session, 2011 Affecting the State Board for Educator Certification (SBEC)

Dr. Smisko and Mr. Allen reviewed a brief listing of legislation passed during the regular session that affects SBEC in a direct way.

16. Board Operating Policies and Procedures (BOPP)

17. 2011-2014 Rule Review Plan for State Board for Educator Certification Rules

DISCUSSION AND ACTION

18. Requests and/or Questions from Board Members

Dr. Simpson expressed concern about school districts beginning to put rules and regulations in place which will prevent someone with a criminal history "hit" from completing the observation requirement, and the impact this will have on the field and educator preparation programs. He requested raising awareness on this issue.

Ms. Everest requested that during the rule review process staff review the counselor certification requirements.

19. Adjournment

Dr. Cain adjourned the meeting at 12.15 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.