

STATE BOARD FOR EDUCATOR CERTIFICATION BOARD MEETING AGENDA

**May 3, 2013
Minutes**

The Board will meet in open session and after determining the presence of a quorum, deliberate and possibly take 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, May 3, 2013 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas

Present: Dr. Cain, Mr. Berry, Ms. Bricker, Ms. Bridges, Ms. Robison, Ms. Everest, Dr. Simpson, Dr. Lored, Dr. Buckingham and Mr. Allard

Absent: Ms. Druessedow, Ms. McCall, Ms. Pogue and Dr. Culwell

2. Associate Commissioner's Comments Regarding the SBEC Agenda

Ms. Moore introduced staff changes and informed the Board that Maggie Heermans was retiring.

3. Public Comment

The Board will allocate up to thirty (30) minutes at the beginning of each regularly scheduled meeting of the Board for public comment on any SBEC-related matter.

4. Approval of February 8, 2013 Board Meeting Minutes

5. Approval of April 5, 2013 Work Session Minutes

Motion and Vote:

Motion was made by Ms. Robison to approve the February 8, 2013 board meeting minutes and the April 5, 2013, work session minutes, as recorded. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

6. Default Cases

Ms. Dover provided information on the cases, and informed the Board the staff recommendation on Case #4 should be a mandatory permanent revocation and Case #10 should read permanent revocation.

A. No Answer Defaults

- 1) Docket No. 6040-EC-1012, Texas Education Agency, Educator Certification and Standards Division v. Albert Marquez; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 2) Docket No. 0970-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. Carolyn Marie Wilson; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 3) Docket No. 0968-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Marcie Zacharia Runte; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 5 years Suspension and successful completion of Alcohol Awareness Program

- 4) Docket No. 0967-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Barret E. Neal; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 5) Docket No. 0966-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Tatiana Puentes; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 6) Docket No. 0732-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. Gary Todd Cole; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 7) Docket No. 0733-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. David Paul Knox; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

Motion and Vote:

Motion was made by Dr. Buckingham to grant staff's Request for the Issuance of Default Judgment and enter a Final Order of a permanent revocation instead of staff's recommendation of revocation. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

- 8) Docket No. 0729-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Ana Maria Ackerman; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 9) Docket No. 3175-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Donald Glenn Fossick; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

Motion and Vote:

Motion was made by Dr. Buckingham to grant staff's Request for the Issuance of Default Judgment and enter a Final Order of permanent revocation instead of staff's recommendation of revocation. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

- 10) Docket No. 3177-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Antonio Amador; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

Motion was made by Dr. Buckingham to grant staff's Request for the Issuance of Default Judgment and enter a Final Order Consistent with staff's corrected recommendation of permanent revocation. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

- 11) Docket No. 3178-EC-1112, Texas Education Agency, Educator Certification and Standards Division v. Randy W. Creager; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 12) Docket No. 0731-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. Rosemaria Barnett; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 13) Docket No. 0734-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. Amy Ann Subia; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 14) Docket No. 4141-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Monica Raasch Jones; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 15) Docket No. 4139-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Coy Laury; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 16) Docket No. 4140-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Holly Williford; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 2 years Suspension

- 17) Docket No. 4138-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Natalie Nicol Edwards; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 18) Docket No. 0972-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Michael Rushing; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 4 years Suspension

- 19) Docket No. 0977-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Jenny Pineda; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 20) Docket No. 0976-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Patricia J. Coone; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 21) Docket No. 0973-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Kevin C. Stolte; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 22) Docket No. 0739-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Ozmel G. Tovias; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 23) Docket No. 0736-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Jeanea Hill-Butler; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 24) Docket No. 0741-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Amanda Kaye Guidry; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 25) Docket No. 0738-EC-0113, Texas Education Agency, Educator Certification and Standards Division v. Siu Fung Yeung; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 26) Docket No. 3180-EC-1212, Texas Education Agency, Educator Certification and Standards Division v. Criselda Martinez; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

B. No Show Defaults

- 27) Docket No. 701-12-6916.EC, Texas Education Agency, Educator Certification and Standards Division v. Jerry R. Young, Sr.; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 2 years Suspension and successful completion of Substance Abuse Training

Motion and Vote:

Motion was made by Ms. Everest to approve the consent agenda as presented and accept staff's Request for the Issuance of Default Judgments and enter Final Orders consistent with staff's recommendations. Second was made by Ms. Bricker.

Ms. Everest made an amendment to the motion to remove cases 7, 9, and 10 from the consent agenda for separate motions. Ms. Bricker seconded the amendment and the Board voted unanimously in favor the motion.

7. Proposed Revisions to Board Mission Statement, Core Principles and Goals

Ms. Allen, Deputy General Counsel, and Mr. Allen, General Counsel for SBEC reviewed proposed changes to the board core principles and goals.

*Ms. Bricker suggested revising the third goal to read “..the **Texas** Higher Education Coordinating Board..”*

Motion and Vote:

Motion was made by Ms. Bricker to accept the proposed revisions to Board Mission Statement, Core Principles and Goals as amended. Second was made by Ms. Everest and the Board voted unanimously in favor of the motion.

8. Proposed Revisions to Board Operating Policies and Procedures (BOPP)

Ms. Allen and Mr. Allen reviewed the proposed revisions to the Board Operating Policies and Procedures (BOPP).

Ms. Bricker suggested that in III.D(4) be changed to read, "Make all Requests to Staff for information." Ms. Bricker also suggested that on 10(c)," single individual" be removed.

Motion and Vote:

Motion was made by Ms. Bricker to change III.D(4), page 6, Board Member Participation, to read "Make all requests for information through the board chairperson and/or Associate Commissioner, or during a board meeting." Second was made by Ms. Everest.

Ms. Bricker removed her motion and requested that this portion of the BOPP be brought back at the August meeting.

Motion and Vote:

Motion was made by Ms. Bricker in IV.A(c), page 10, that oral argument not be limited to a single individual. Second was made by Ms. Bridges. Voting for the motion: Ms. Bricker, Ms. Bridges and Mr. Allard. Voting against the motion: Ms. Robison, Ms. Everest, Dr. Buckingham, and Dr. Cain. Motion failed.

Motion and Vote:

Motion was made by Dr. Buckingham to approve proposed revisions to IV.A, 10, pages 9-10, as recommended by staff. Second was made by Mr. Allard. Motion carried with Ms. Bricker and Ms. Bricker voting against the motion. Motion carried.

Motion and Vote:

Motion was made by Ms. Bricker to approve proposed repeal of IV(4),page 8, Disciplinary Cases Appeals. Second was made by Ms. Bridges. Ms. Bricker removed her motion and requested that this portion of the item be brought back at the August meeting.

9. Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases

Mr. Allen stated that the proposed amendments to 19 TAC Chapter 249 are technical amendments that deal with educator sanctions relating to violations of confidential test security of state assessments. Mr. Allen informed the Board that the proposed amendments would replace a cross reference to a State Board of Education rule relating to procedures regarding test security that has been repealed and adopted as rule in the 2013 Test Security Supplement. Ms. Bricker requested clarification regarding additional

amendments to 19 TAC Chapter 249. Mr. Allen informed the Board that the amendments would revise the definition of "serious state assessment testing violation" and make the terminology consistent.

Motion and Vote:

Motion was made by Dr. Buckingham to approve the proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, to be published as proposed with the Texas Register. Second was made by Ms. Everest and the Board voted unanimously in favor of the motion.

10. Adoption of Proposed Repeal of 19 TAC Chapter 231, Assignment of Public School Personnel, and Proposed New 19 TAC Chapter 231, Requirements for Public School Personnel Assignments

Public Testimony was provided by:

Dr. Sandra West, Science Teachers Association of Texas

Mr. Allen informed the Board that the proposed rule actions would be necessary as a result of the reorganization of the assignment chart codified in current 19 TAC Chapter 231. Mr. Allen added that since the agenda was printed numerous comments were received regarding assignment requirements for speech therapists. Mr. Allen reviewed the substitute rule text drafted in response to public comments and informed the Board that staff recommends removing 19 TAC §231.623(c)(2) that would require individuals who hold a Speech and Hearing Therapy or a Speech and Language Therapy certificate to have a master's degree by September 1, 2013.

Ms. Everest expressed concern with not locating a reference to the Vocational Counselor certificate and requested that all counseling services be listed in one location. Ms. Everest requested staff review the Licensed Professional Counselor (LPC) to determine if it is a part of 19 TAC Chapter 231 or will the LPC certificate be included in the future.

Ms. Bricker questioned if the Board has any jurisdiction or authority with school social workers. She requested that staff conduct research to determine why the school social worker assignment would not be included since more schools are hiring school social workers instead of school counselors.

Ms. Robison questioned if proposed new 19 TAC Chapter 231 addresses the concerns regarding the generalist certificate. Ms. Marilyn Cook reviewed the redevelopment of content examinations and informed the Board that when implemented in 2014, the individual must pass all four domains on the Generalist: Grades 4-8 examination.

Motion and Vote:

Motion was made by Dr. Buckingham to approve for adoption, subject to State Board of Education review, the proposed repeal of 19 TAC Chapter 231, Assignment of Public School Personnel, with an effective date of 20 days after filing the adoption notice with the Texas Register. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

Motion and Vote:

Motion was made by Dr. Buckingham to approve for adoption, subject to State Board of Education review, proposed new 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, with changes, with an effective date of 20 days after filing the adoption notice with the Texas Register. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

11. Consideration of and Opportunity to Approve A New Class of Certificate

Region 5 Education Service Center, Principal Certificate

Motion and Vote:

Motion was made by Ms. Bricker to approve the new class of certificate. Second was made by Dr. Buckingham and the Board voted unanimously in favor of the motion.

12. 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. On June 18, 2009, the Board adopted Educator Certification Disciplinary Policy Guidelines in order to articulate and provide notice of its guiding policy considerations in educator discipline matters. The Guidelines, which appear under Item 12 of this agenda, were published in the Texas Register on August 7, 2009.

A. Proposals for Decision

- 28) Docket No. 701-12-6422.EC, Texas Education Agency, Educator Certification and Standards Division v. Michelle D. Silcox; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Inscribed Reprimand

Staff recommendation: 1 year Suspension

Motion and Vote:

Motion was made by Ms. Bricker to accept the Proposal for Decision including Findings of Fact Nos. 1 – 10 and Conclusions of Law Nos. 1 – 6, and the Board modify Conclusion of Law No. 7 as follows:

7. Based on the above-stated findings of fact and conclusions of law, Michelle D. Silcox's educator certification should be suspended for one year.

This modification is permissible pursuant to Texas Government Code Section 2001.058(e) and is necessary because the ALJ's sanction recommendation is

not consistent with prior administrative decisions and Board Orders. It is standard SBEC practice that an educator who abandons his/her contract is suspended for one year, absent mitigating circumstances. As there are no mitigating circumstances in this case, a one year suspension is the appropriate sanction in this case. Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.

- 29) Docket No. 701-12-6232.EC, Texas Education Agency, Educator Certification and Standards Division v. Jeff Nine; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Inscribed Reprimand

Staff Recommendation: 2 years Suspension

Ms. Leslie McCollom spoke Mr. Nine's behalf. Ms. Dover provided information on the case.

Dr. Cain adjourned to Executive Session at 11:28 a.m.

Dr. Cain reconvened at 11:59 a.m.

B. Motions for Rehearing – overruled by operation of law (information item)

- 30) Docket No. 701-12-5314.EC, Texas Education Agency, Educator Certification and Standards Division v. Carla A. Westbrook-Spaniel;
- 31) Docket No. 701-12-5757.EC, Texas Education Agency, Educator Certification and Standards Division v. Ray Edward Tamez; and
- 32) Docket No. 701-12-4836.EC, Texas Education Agency, Educator Certification and Standards Division v. Joel A. Williams, Jr.

C. Appeals

- 1) Don Madden v. State Board for Educator Certification; Cause No. 03-11-00584-CV, In the Court of Appeals for the Third District of Travis County, Texas.
- 2) Robert Lange v. State Board for Educator Certification; Cause No. D-1-GN-11-001843, In the 250th Judicial District Court of Travis County, Texas.
- 3) State Board for Educator Certification v. Erasmo Montalvo; Cause No. 03-12-00723-CV, In the Court of Appeals for the Third District of Travis County, Texas.
- 4) Erasmo Montalvo v. State Board for Educator Certification; Cause No. D-1-GN-12-002991, In the 200th Judicial District Court of Travis County, Texas.

D. 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. Texas Education Agency, Educator Certification and Standards Division, Cause No. D1-GN-08-00979, In the 345th Judicial District Court of Travis County, Texas.

13. 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.

- 29) Docket No. 701-12-6232.EC, Texas Education Agency, Educator Certification and Standards Division v. Jeff Nine; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Inscribed Reprimand

Staff Recommendation: 2 years Suspension

Motion and Vote:

Motion was made by Mr. Allard to accept the Proposal for Decision and Issue a Final Order consistent with ALJ's recommendation of an Inscribed Reprimand. Second was made by Ms. Robison. Voting for the motion: Ms. Bridges, Ms. Robison, Ms. Everest, Dr. Buckingham, Mr. Allard. Voting against the motion: Ms. Bridges, Dr. Cain. Motion carried.

14. Review of 19 TAC Chapter 239, Student Services Certificates

Public Testimony was provided by:
Rohanna Sykes, Texas Counseling Association

Mr. Allen informed the Board that this item is presented for the purpose of opening the rule review of 19 TAC Chapter 239, Student Services Certificates.

15. Review of 19 TAC Chapter 244, Certificate of Completion of Training for Appraisers

Mr. Allen informed the Board that this item is presented for the purpose of opening the rule review of 19 TAC Chapter 244, Certificate of Completion of Training for Appraisers.

16. Review of 19 TAC Chapter 245, Certification of Educators from Other Countries

Mr. Allen informed the Board that this item is presented for the purpose of opening the rule review of 19 TAC Chapter 245, Certification of Educators from Other Countries.

17. Board Operating Policies and Procedures (BOPP)

18. 2011-2014 Rule Review Plan for State Board for Educator Certification Rules

19. Requests from Board Members for Future Agenda Items

Dr. Simpson requested an analysis on the shortage areas and non-certified teachers in the classroom.

Ms. Everest requested a side-by-side comparison of the Texas Education Code, Texas Administrative Code, and Competencies for the student services certificates. She also requested that staff provide information regarding standards required at an institution of higher education for certification versus certification only.

Ms. Bricker requested updates regarding SBEC policy opportunities.

20. Adjournment

Dr. Cain adjourned the meeting at 12:35 p.m.

The Board may meet in closed executive session regarding any item on the agenda, if authorized under the Texas Open Meetings Act, Texas Government Code §551.071 et.seq., including §551.071 to seek legal advice from legal counsel. The Board may vote on one or more agenda items, in whole or in part, as part of one motion or board action.