

Text of Proposed Amendments to 19 TAC

Chapter 249. Disciplinary Proceedings, Sanctions, and Contested Cases

Subchapter E. Posthearing Matters

§249.39. Final Decisions and Orders.

- (a) The chair having certified a quorum present at a ~~[regularly scheduled]~~ State Board for Educator Certification (SBEC) meeting, a majority vote of the voting members present shall be required to make a final decision on a proposal for decision, an agreed order, or request for issuance of a default judgment, unless provided otherwise by this chapter.
- (b) A copy of the SBEC's decision or order shall be delivered by ~~[hand or]~~ certified mail to the parties or to their authorized representatives, as appropriate, and by facsimile or email to the State Office of Administrative Hearings (SOAH) if SOAH has issued a proposal for decision in the case ~~[State Office of Administrative Hearings by facsimile or email]~~.
- (c) All final decisions and orders of the SBEC under this chapter shall be in writing and signed by the chair or other board officer on behalf of the majority as provided by this chapter, board operating policies and procedures, and applicable law, unless members of the majority adopting the decision or order exercise their discretion to sign the decision or order. A final decision or order shall include findings of fact and conclusions of law separately stated. The findings of fact or conclusions of law may be adopted by reference to another document.
- (d) The SBEC may adopt an order modifying findings of fact or conclusions of law in a proposal for decision submitted by the administrative law judge (ALJ) in accordance with the Texas Government Code, Chapter 2001. ~~[If the SBEC adopts an order that differs from an ALJ's proposal for decision, the SBEC's final decision or order shall show how the proposal was changed and state the specific reason and legal basis for a change. If the SBEC changes a proposal for decision because no evidence in the record supports the ALJ's finding of fact or conclusion of law, then the SBEC may cite the record as a whole for such a change.]~~ The SBEC may remand the matter back to the ALJ with specific instructions for the ALJ to determine an essential finding of fact or to apply the correct burden or standard of proof.