

Item 15:

Consider and Take Appropriate Action on Written Delegation of Settlement Authority for Educator Discipline Cases to the Commissioner of Education

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) the opportunity to delegate its authority to informally dispose of contested cases involving educator discipline to the Commissioner of Education.

STATUTORY AUTHORITY: Texas Education Code (TEC) § 21.035;

EFFECTIVE DATE: Upon Board Approval

PREVIOUS BOARD ACTION:

BACKGROUND INFORMATION AND SIGNIFICANT ISSUES: Prior to January 2015, TEA staff had informally disposed of contested cases involving educator discipline on the SBEC's behalf. In March 2015, in the wake of concerns regarding its statutory authority to delegate settlements to TEA staff, the SBEC began reviewing and voting on all agreed settlement orders in contested cases involving educator certification.

On September 1, 2015, H.B. 2205, 84th Texas Legislature, regular session, became effective, giving the SBEC express statutory authority under TEC § 21.035 to make a written delegation of authority to the Commissioner of Education or the Texas Education Agency to informally dispose of a contested case involving educator certification.

On March 27, 2015, the SBEC established a Committee on Educator Discipline (Committee), and on August 7, 2015, the SBEC charged the Committee with creating more specific penalty guidelines for TEA staff to follow in settling or prosecuting educator discipline cases. The Committee met on October 15, 2015 and developed recommendations for penalty guidance. The proposed amendments to the Disciplinary Policy and to 19 TAC §§249.5 and 249.17, elsewhere on this meeting's agenda, reflect the recommendations of the Committee on how to improve, clarify, and implement the SBEC's rules regarding penalties for certified educators subject to discipline.

PUBLIC AND STUDENT BENEFIT: Ensure that educators subject to discipline are appropriately sanctioned to protect the safety and welfare of Texas school children and school personnel, while improving the efficiency and speed of resolving contested cases that involve educator certification.

MOTION FOR CONSIDERATION:

Approve the Resolution delegating to the Commissioner of Education the authority of the SBEC to informally dispose of contested cases involving educator certification.

Staff Member Responsible: Laura Moriaty, Director
Legal Services for Educator Leadership and Quality

Attachment: I. Resolution of the State Board for Educator Certification

ATTACHMENT IResolution of the State Board for Educator Certification

The State Board of Educator Certification (SBEC) met on December 11, 2015 and approved the following delegation of authority:

WHEREAS the SBEC is charged with regulating and overseeing all aspects of standards of conduct of public school educators,

WHEREAS the Texas Legislature, through H.B. 2205, 84th Texas Legislature, regular session, permitted the SBEC to delegate its authority to the Commissioner of Education or the Texas Education Agency to informally dispose of a contested case involving educator certification,

WHEREAS the SBEC has undertaken the rule making process to set forth its requirements with respect to sanctions in educator discipline cases;

WHEREAS consideration of agreed orders informally disposing of contested cases requires significant time and attention to review facts and negotiate terms;

WHEREAS the SBEC has historically relied on TEA staff to informally dispose of contested cases relating to educator certification on its behalf, prior to the issuance of a Proposal for Decision from the State Office of Administrative Hearings;

WHEREAS the SBEC wishes to rely on TEA staff and the Commissioner's expertise to negotiate and settle contested cases relating to educator certification, within the parameters set forth by SBEC rules and policies;

WHEREAS for the SBEC to fully consider and make decisions on matters that relate to its core mission and that are of a substantial and continuing value to the licensure and regulation of educators in Texas, it is desirable that the Board delegate to the Commissioner of Education the authority to settle and otherwise informally dispose of contested cases relating to educator certification; and

WHEREAS it is desirable that such authority be formally delegated to the Commissioner of Education;

Now, therefore, be it:

RESOLVED that the SBEC hereby delegates to the Commissioner of Education the authority of the SBEC to informally dispose of contested cases involving educator certification, prior to the issuance of a Proposal for Decision by the State Office of Administrative Hearings, as permitted by Texas Education Code §21.035, subject to SBEC rules and policies that concern contested cases related to educator certification.