

State Board for Educator Certification

Board Meeting Minutes

October 24, 2014 at 9:00 a.m.
1701 N. Congress Ave. Room 1-104

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 any of the following agenda items:

1. Call to Order

The State Board for Educator Certification convened its meeting at 9:02 a.m. on Friday, October 24, 2014, in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

Present: Dr. Cain, Mr. Berry, Mr. Leal, Ms. Bricker, Ms. Bridges, Ms. Robison, Dr. Simpson, Dr. Hull, Dr. Peebles, Dr. Buckingham, Mr. Allard, Ms. McCall, Ms. Druesedow

Absent: Ms. Everest

2. Associate Commissioner's Comments Regarding the SBEC Agenda

Ryan Franklin welcomed new Board member Dr. Rex Peebles from the Texas Higher Education Coordinating Board. There will be a Board workshop in January and a special meeting for cases and a few time sensitive items related to Sunset. Mr. Franklin also noted that item six, related to the Board's Memorandum of Agreement with TEA, is not ready after additional feedback and consideration. Mr. Franklin asked Dr. Cain to remove item six from the agenda in accordance to the Board's operating policies and procedures to have more time to work through the feedback we've received.

3. Public Comment

None

CONSENT AGENDA

4. Approval of August 1, 2014 Board Meeting Minutes

Motion and vote:

Motion was made by Ms. Bricker to approve the consent agenda. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

5. Litigation Settlement Options in Pending or Contemplated Litigation, Disciplinary Cases, and Pending Litigation (10:00 a.m.)

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.

A. Contested Cases

I. No Answer Defaults

- 1) Docket No. 5094-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Justin Curtis Williams; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation
- 2) Docket No. 4190-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Joretta Phillips; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation
- 3) Docket No. 5086-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Tammy Thompson; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation
- 4) Docket No. 5089-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Isaac Cantrell; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation
- 5) Docket No. 5087-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. David Allen Ponce; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation
- 6) Docket No. 3221-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Bethea B. Merritt; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 7) Docket No. 3219-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Rita Maria Vela; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 8) Docket No. 3218-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Sarah Lynn Porter; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 4 year Suspension

- 9) Docket No. 3220-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Kevin Andrew Wheeler; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 10) Docket No. 5092-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Donitta Lynn Williams; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 11) Docket No. 5090-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Jason Anthony Miller; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 12) Docket No. 4191-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Maria Natalia Martinez; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 13) Docket No. 4193-EC-0714, Texas Education Agency, Educator Leadership and Quality Division v. Cherry Fugate-Lange; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: 1 year Suspension

- 14) Docket No. 4189-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Jquanta Collins; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 15) Docket No. 4188-EC-0514, Texas Education Agency, Educator Leadership and Quality Division v. Debra Ann Beisert; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

- 16) Docket No. 3222-EC-0714, Texas Education Agency, Educator Leadership and Quality Division v. Autumn Kee Brown; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Permanent Revocation

- 17) Docket No. 5091-EC-0614, Texas Education Agency, Educator Leadership and Quality Division v. Virginia Dawn Gibson; Action to be taken: Consideration of Issuance of Default Judgment.

Staff recommendation: Revocation

Motion and vote:

Motion was made by Ms. Druesedow to approve staff's request for the issuance of default judgments and enter final orders consistent with staff's recommendations for each of the above numbered cases 1 - 17. Second was made by Dr. Buckingham and the Board voted unanimously in favor of the motion.

II. Proposals for Decision

- 18) Docket No. 701-14-3055.EC, Texas Education Agency, Educator Leadership and Quality Division v. Aaron C. Reeves; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Permanent Revocation

Staff Recommendation: Permanent Revocation

Motion and vote:

Motion was made by Ms. Robison to accept the proposal for decision and issue a final order consistent with the ALJ's recommendation of permanent revocation. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

III. Motion for Rehearing

- 19) Docket No. 5071-EC-0114, Texas Education Agency, Educator Leadership and Quality Division v. Amadeo Alaniz, III; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

Motion for rehearing was overruled by operation of law on September 25, 2014.

IV. Appeals

- 1) State Board for Educator Certification v. Robert D. Lange; Cause No. 03-12-00453-CV, In the Court of Appeals, Third Judicial District, Austin, Texas.
- 2) State Board for Educator Certification v. Erasmo Montalvo; Cause No. 03-13-00370-CV, In the Court of Appeals, Third Judicial District, Austin, Texas.
- 3) State Board for Educator Certification v. Erasmo Montalvo; Cause No. 13-0537, In the Supreme Court, Austin, Texas.
- 4) Barry Ryan Davis v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-12-003413, In the 201st District Court of Travis County, Texas.
- 5) Don Madden v. State Board for Educator Certification; Cause No. 14-0532, In the Supreme Court of 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.

None.

6. Consider and Take Appropriate Action on the Memorandum of Agreement (MOA) Between the State Board for Educator Certification (SBEC) and the Texas Education Agency (TEA)

This item was removed from the agenda.

7. Consider and Take Appropriate Action on Proposed Revisions to Board Operating Policies and Procedures (BOPP)

Mr. Franklin presented the changes to the BOPP that would add procedures regarding the webcasts of SBEC regular and special meetings, whenever feasible.

Ms. Pogue presented the remainder of the changes to the BOPP.

An amendment was made to delete a reference to the Code of Ethics Committee in Section IV, item 10 a (1).

Motion and vote:

Motion was made by Mr. Allard to approve the proposed revisions to the State Board for Educator Certification Board Operating Policies and Procedures with a modification to delete a reference to the Code of Ethics Committee in Section IV, item 10, a(1). Second was made by Ms. McCall and the Board voted unanimously in favor of the motion.

8. Consider and Take Appropriate Action on 2015-2018 Rule Review Plan for State Board for Educator Certification Rules

Ms. Pogue presented the proposed four-year rule review plan for SBEC rules.

Motion and vote:

Motion was made by Ms. Bricker to approve the proposed 2015-2018 Rule Review Plan for State Board for Educator Certification Rules. Second was made by Dr. Buckingham and the Board voted unanimously in favor of the motion.

9. Adoption of Proposed Amendments to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten-Grade 6 Assignments, and Subchapter C, Grades 6-8 Assignments

Ms. Cook presented this item to the Board. The proposed amendments would make changes to the assignment rules, adding new core subjects certificates where appropriate.

Motion and vote:

Motion was made by Ms. Robison to approve for adoption, subject to State Board of Education review, the proposed amendments to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter B, Prekindergarten-Grade 6 Assignments, and Subchapter C, Grades 6-8 Assignments, with an effective date of 20 days after filing the adoption notice with the Texas Register. Second was made by Dr. Hull and the Board voted unanimously in favor of the motion.

10. Adoption of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.1, 233.2, 233.6, 233.7, and 233.13

Ms. Cook presented this item to the Board. The proposed amendments would add new certificates for Core Subjects: Early Childhood-Grade 6 and Core Subjects: Grades 4-8 and add deadlines for completion and submission requirements for the last group of Generalist certificates the SBEC will issue. The proposed amendments would also remove language relating to expiration of certain sections of the rule, provide deadlines for completion and submission requirements for the last group of Agricultural Science and Technology: Grades 6-12 and Business Education: Grades 6-12 certificates the SBEC will issue and update administrative rule references.

Motion and vote:

Motion was made by Dr. Buckingham to approve for adoption, subject to State Board of Education review, the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.1, General Authority; 233.2, Generalist; 233.6, Bilingual Education; 233.7, English as a Second Language; and 233.13, Career and Technical Education (Certificates not requiring experience and preparation in a skill area), 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. Adoption of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification, and §249.16, Eligibility of Persons with Criminal Convictions for a Certificate under Texas Occupations Code, Chapter 53

Mr. Byer presented this item to the Board. The proposed amendments would conform 19 TAC §249.15 to the proposed amendments approved by the SBEC to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, and clarify in 19 TAC §249.16 that multiple statutory provisions provide the basis for certification actions based on criminal history. Substitute rule text and updated summary of public comments and responses were provided.

Motion and vote:

Motion was made by Dr. Hull 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, Subchapter B, Enforcement Actions and Guidelines, §249.15, Disciplinary Action by State Board for Educator Certification, and §249.16, Eligibility of Persons with Criminal Convictions for a Certificate under Texas Occupations Code, Chapter 53, as amended, 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.

12. Update and Discussion of Core Subjects EC-6 and Core Subjects 4-8 Tests

Public comment was provided by Catheryn Weitman of Texas A&M International University and Oscar Castro, speaking on his own behalf.

Ms. Cook presented this item to update the Board on the new Core Subjects EC-6 and Core Subjects 4-8 tests scheduled for implementation in January 2015.

13. Consider and Take Appropriate Action on Passing Standards for Core Subjects EC-6 and Core Subjects 4-8 Tests

Ms. Cook presented the committee-recommended passing standards for the new Core Subjects EC-6 and Core Subjects 4-8 tests to the Board.

Motion and vote:

Motion was made by Ms. McCall to approve the passing standards for each subject area of the new Core Subjects EC-6 and Core Subjects 4-8 examinations, which will allow candidates in educator preparation programs to meet proficiency requirements for certification. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

14. Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services

Dr. Miller presented this item to the Board. The proposed amendments would adjust certain fees to more adequately cover costs and increase the equity of fees across different types of fee payers.

Motion and vote:

Motion was made by Ms. McCall to approve the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.9, Fees for Educator Preparation Program Approval and Accountability, and Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certificate Issuance Procedures, §230.101, Schedule of Fees for Certification Services, to be published as proposed with the Texas Register. Second was made by Ms. Robison and to Board voted unanimously in favor of the motion.

15. Proposed New 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §228.70, Complaints and Investigations

Public comment was provided by Diann Huber of iTeachTexas.

Dr. Miller presented this item to the Board. The proposed new rule would establish procedures for filing a complaint against an educator preparation program (EPP), impose specific responsibilities on an EPP regarding complaints, and establish the consequences if an EPP is found to be in violation of SBEC rules and/or state or federal statutes. Substitute rule text was provided.

Motion and vote:

Motion was made by Dr. Hull to move forward with proposed changes following the second of the motion. Second was made by Ms. Druesedow.

Motion was made by Dr. Hull to postpone consideration of item 15 until after completion of item 23. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

Dr. Cain called item 15 back into order for consideration for the Board to discuss and give suggestions to staff.

Dr. Hull suggested in proposed new 19 TAC §228.70-(a), regarding any interested party, to limit it to parties who would have a legitimate cause to bring a complaint forward such as an applicant into a program, a candidate for certification, or a person who is an administrator in a school. In proposed new 19 TAC §228.70-(b), Dr. Hull suggested a two-year statute of limitations. Dr. Hull also suggested that sanctions be kept simple and stated. Ms. Moriaty explained that the sanctioning processes that are available to the Board are stated in 19 TAC

§229.5 and §229.6. In response to Dr. Miller the Board agreed with language in §228.70-(b) that TEA staff would not act on a complaint until a grievance is completed at the EPP level.

By unanimous consent, the Board postponed this item until later in the agenda.

Discussion on this item resumed after item 23. Dr. Miller detailed the changes requested by the Board.

Motion and vote:

Motion was made by Dr. Buckingham to propose new 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §228.70, Complaints and Investigation Procedures as amended, including deletion of “in Texas” in subsection (a). Second was made by Mr. Allard and the Board voted unanimously in favor of the amendment.

The Board voted on the main motion and the Board voted unanimously in favor of the motion.

16. Proposed Amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.4, Determination of Accreditation Status, §229.5, Accreditation Sanctions and Procedures, and §229.6, Continuing Approval

Public comment was provided by Diann Huber of iTeachTexas.

Recess at 11:03 a.m.

Reconvene at 11:08 a.m.

Dr. Miller presented this item to the Board. The proposed amendments would add the proposed complaints and investigations procedures in rule. Substitute rule text was provided.

Motion and vote:

Motion was made by Dr. Hull to approve the proposed amendments to 19 TAC Chapter 229, Accountability System for Educator Preparation Programs, §229.4, Determination of Accreditation Status, §229.5, Accreditation Sanctions and Procedures, and §229.6, Continuing Approval, as amended, to be published as proposed with the Texas Register. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.

17. Proposed Revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E, Grades 9-12 Assignments

Ms. Cook presented this item to the Board. The proposed revisions would clarify the appropriate credential for placement in a particular teaching assignment and ensure alignment with changes to public school curriculum as a result of House Bill 5, 83rd Texas Legislature, Regular Session, 2013.

Motion and vote:

Motion was made by Ms. Robison to approve the proposed revisions to 19 TAC Chapter 231, Requirements for Public School Personnel Assignments, Subchapter E,

Grades 9-12 Assignments, to be published as proposed with the Texas Register. Second was made by Ms. Bricker and the Board voted unanimously in favor of the motion.

18. Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §§233.3, 233.4, 233.5, and 233.14

Ms. Cook presented this item to the Board. The proposed amendments would add deadlines for completion and submission requirements for specific Grades 8-12 certificates.

Motion and vote:

Motion was made by Ms. Robison to approve the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.3, English Language Arts and Reading; Social Studies; §233.4, Mathematics; Science; §233.5, Technology Applications and Computer Science; and §233.14, Career and Technical Education (Certificates requiring experience and preparation in a skill area), to be published as proposed with the Texas Register. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

19. Proposed Review and Discussion of 19 TAC Chapter 241, Principal Certificate

Mr. Regal presented this item to the Board. Mr. Regal discussed the review process and gave an update on the work of stakeholders.

Motion and vote:

Motion was made by Ms. Robison to approve the proposed review of 19 TAC Chapter 241, Principal Certificate, to be published as proposed with the Texas Register. Second was made by Dr. Hull and the Board voted unanimously in favor of the motion.

20. Proposed Review and Discussion of 19 TAC Chapter 242, Superintendent Certificate

Mr. Regal presented this item to the Board. Mr. Regal discussed the review process and gave an update on the work of stakeholders.

Motion and vote:

Motion was made Ms. Bricker approve the proposed review of 19 TAC Chapter 242, Superintendent Certificate, to be published as proposed with the Texas Register. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

21. Update on Proposed Revisions to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates

Mr. Franklin presented this item to the Board. Mr. Franklin reported that the State Board of Education (SBOE) reviewed and rejected the proposed revisions at its September 2014 meeting.

The Board requested that this item be added to the March 2015 agenda for further discussion and possible action.

22. Discussion of 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter D, Types and Classes of Certificates Issued, §230.37, Probationary Certificates, and Subchapter F, Permits, §230.77, Specific Requirements for Initial Emergency Permits

Ms. Cook presented this item to the Board. Ms. Cook informed the Board that TEA staff will be conducting stakeholder meetings to gather input regarding rules pertaining to probationary certificates and emergency permits.

Recess at 12:05 p.m.

Reconvene at 12:20 p.m.

23. Discussion of 19 TAC Chapter 239, Student Services Certificates, Subchapter B, School Librarian Certificate, §239.60, Requirements for the Issuance of the Standard School Librarian Certificate

Ms. Cook presented this item to the Board. Ms. Cook informed the Board that TEA staff will be conducting stakeholder meetings to gather input regarding rules pertaining to the Standard School Librarian Certificate. Ms. Cook notes that an update will be provided at the March 2015 meeting.

24. Sunset Matters

Mr. Franklin updated the Board on the upcoming Sunset Commission public hearing on November 12 and 13, 2014. The Sunset Commission will receive testimony but will not vote on the report until December 10, 2014.

The Legislative Committee discussed having an official Board statement on the Sunset staff report. Mr. Allard, chair of the Legislative Committee has prepared a statement for your consideration and read the statement into the record for the Board. A minor change was made to the language.

Few professions have more impact than the education of Texas children. And no one has more appreciation of this than the professional Texas educator. That is why we, the State Board for Educator Certification, are opposed to the dissolution of this Board and its subsequent incorporation into the TEA, as proposed in the report of the 2014 Sunset Commission. In our view, this runs counter to both professional practice and citizen oversight of state government. The teachers of Texas deserve to have a voice in the regulation of the profession, as is the case with every other profession in the state.

The teaching of the young people of Texas is a mission that is held closely to the members of this profession and to this Board. The teachers and administrators of this state are vigilant and responsive to the needs of the students and the demands of the profession. To remove that oversight power from a teacher-citizen Board such as SBEC is not only damaging to the professional status of educators statewide, but also detrimental to the children of Texas. We maintain that this

Board can more effectively and objectively monitor and enforce professional educator standards and not add to the burden of TEA. In short, we wish to continue being given the same respect and regard accorded to every other profession in this state.

In addition, maintaining SBEC is in the best tradition of Texas governance. Citizen involvement and scrutiny has been the cornerstone of the Texas system of governing since its founding. SBEC provides the opportunity for citizens to take a hand in the running of state business. It gives educators and citizens an avenue to maintain and sustain and even strengthen the education profession. It is our hope to coordinate more closely with the SBOE and other elected officials. We hope to expand the role of SBEC to work in a more integrated manner with the TEA. We hope that after this legislative session the role of SBEC can continue to maintain professional educator standards even more effectively.

Motion and vote:

Motion was made by Ms. Bridges to accept the statement as the official SBEC Board statement to the Sunset Commission. Second was made by Mr. Leal and the Board voted unanimously in favor of the motion.

25. Legislative Committee Matters

Mr. Franklin updated the Board on the Legislative Committee meeting on October 23, 2014. The majority of the meeting was spent working on Sunset related matters referenced in the previous item. The plan is for the Legislative Committee to meet again before the next Board meeting to refine a list of possible legislative priorities for the Board.

26. Requests from Board Members for Future Agenda Items

None.

27. Requests Received from the Board Since Last Meeting

None.

28. Adjournment

The meeting adjourned at 12:50 p.m.

<p>The Board may go into closed session regarding any item on the agenda to the extent it is authorized to do so pursuant to the Texas Open Meetings Act, Texas Government Code, Chapter 551.</p>
