

Item 8:

Pending or Contemplated Litigation, including Disciplinary Cases

DISCIPLINARY POLICY GUIDELINES

As provided in 19 Tex. Admin. Code (TAC) § 249.5, the primary purposes the State Board for Educator Certification (SBEC) seeks to achieve in educator disciplinary matters are to:

- (1) protect the safety and welfare of Texas schoolchildren and school personnel;
- (2) ensure educators and applicants are morally fit and worthy to instruct or to supervise the youth of the state; and
- (3) fairly and efficiently resolve educator disciplinary proceedings.

The SBEC's focus on the safety and welfare of students is also reflected in the SBEC Mission Statement, Core Principles, and Goals that were adopted on February 6, 2009.

Without diminishing in any way the SBEC 19 TAC Chapter 249 procedural and substantive rights of educators to contest allegations of educator misconduct, it is the policy of the SBEC to fully investigate such allegations and, if those allegations are found to have merit, to ensure that any sanction that is imposed furthers these purposes.

A certified educator holds a unique position of public trust with almost unparalleled access to the hearts and minds of impressionable students. Therefore, the conduct of an educator must be held to the highest standard. Because SBEC sanctions are imposed for reasons of public policy, and are not penal in nature, criminal procedural and punishment standards are not appropriate to educator discipline proceedings.

General Principles:

1. Because the SBEC's primary duty is to safeguard the interests of Texas students, educator certification must be considered a privilege and not a right.
2. SBEC disciplinary sanctions are based on educator conduct that is proved by a preponderance of the evidence, without regard to whether there has been a criminal conviction, deferred adjudication or other type of community supervision, an indictment, or even an arrest. Under the Educators' Code of Ethics, an educator may be sanctioned for conduct underlying a criminal conviction even if the crime is not subject to sanction under the Texas Occupations Code, Chapter 53. An educator may also be sanctioned for conduct underlying a criminal conviction even if the conduct is not specifically listed in 19 TAC § 249.16, as long as the conduct renders the educator unworthy to instruct.
3. Because the SBEC recognizes that an educator's good moral character, as defined in 19 TAC § 249.3, constitutes the essence of the role model that the educator represents to students both inside and outside the classroom, criminal law, 19 TAC Chapter 247, the Educator's Code of Ethics, and 19 TAC Chapter 249, providing for educator disciplinary proceedings, are merely a minimum base line standard for educator conduct. Active community supervision, as well as conduct that indicates dishonesty, untruthfulness, habitual impairment through drugs or alcohol, abuse or neglect of students and minors,

including the educator's own children, or reckless endangerment of the safety of others, may demonstrate that the person lacks good moral character, is a negative role model to students, and does not possess the moral fitness necessary to be a certified educator.

4. "Unworthy to instruct or to supervise the youth of this state," which serves as a basis for sanctions under 19 TAC § 249.15(b) (2), is a broad concept that is not limited to the specific criminal convictions that are described in Texas Education Code (TEC) §§ 21.058 and 21.060. The SBEC 19 TAC § 249.3(45) definition of "the determination that a person is unfit to hold a certificate under the TEC, Chapter 21, Subchapter B, or to be allowed on a school campus under the auspices of an educator preparation program" predates the adoption of TEC §§ 21.058 and 21.060, and is based upon the TEC, Chapter 21, Subchapter B grant of authority to the SBEC to "regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators." As a Texas Court of Civil Appeals ruled in the seminal case of *Marrs v. Matthews*, 270 S.W. 586 (1925), "unworthy to instruct" "means the lack of 'worth'; the absence of those moral and mental qualities which are required to enable one to render the service essential to the accomplishment of the object which the law has in view." Therefore, the moral fitness of a person to instruct the youth of this state must be determined from an examination of all relevant conduct, is not limited to conduct that occurs while performing the duties of a professional educator, and is not limited to conduct that constitutes a criminal violation or results in a criminal conviction.
5. Educators have positions of authority, have extensive access to students when no other adults (or even other students, in some cases) are present, and have access to confidential information that could provide a unique opportunity to exploit student vulnerabilities. Therefore, educators must clearly understand the boundaries of the educator-student relationship that they are trusted not to cross. The SBEC considers any violation of that trust, such as soliciting or engaging in a romantic or sexual relationship with any student or minor, to be conduct that may result in permanent revocation of an educator's certificate.
6. The SBEC recognizes and considers evidence of rehabilitation with regard to educator conduct that could result in sanction, denial of a certification application, or denial of an application for reinstatement of a certificate, but must also consider the nature and seriousness of prior conduct, the potential danger the conduct poses to the health and welfare of students, the effect of the prior conduct upon any victims of the conduct, whether sufficient time has passed and sufficient evidence is presented to demonstrate that the educator or applicant has been rehabilitated from the prior conduct, and the effect of the conduct upon the educator's good moral character and ability to be a proper role model for students. Where appropriate, Agreed Orders will include a requirement for rehabilitation, counseling, or training programs.

On December 11, 2015, the Board adopted Educator Certification Disciplinary Policy Guidelines in order to articulate and provide notice of its guiding policy considerations in educator discipline matters.

A. Defaults**No Answer Defaults**

1. In the Matter of Amir Bellamy; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 Year Suspension
2. In the Matter of Robert Hulsey; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 Year Suspension
3. In the Matter of Bridgette Caldwell; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 Year Suspension
4. In the Matter of Sara Paz; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 Year Suspension
5. In the Matter of Anita Carol Demoen; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
6. In the Matter of Marcus Lee Gonzales; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
7. In the Matter of Alexander D. Howard; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
8. In the Matter of Alberto Cirahuent Trujillo; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
9. In the Matter of Sarah Marshall; Action to be taken: Consideration of Issuance of Default Judgment

- Staff recommendation: Revocation
10. In the Matter of Patreece N. Rodgers; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
11. In the Matter of Nicole Amor; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
12. In the Matter of James Clark, Jr.; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
13. In the Matter of Heather Hargrove; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 4 Year Suspension and proof of successful completion of substance abuse treatment program
14. In the Matter of Mike Izaguirre; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 1 Year Suspension and proof of successful completion of substance abuse treatment program
15. In the Matter of Pamela Rae James; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
16. In the Matter of Crystal Jennings; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
17. In the Matter of Katie Evelyn Martin; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
18. In the Matter of Marc Musser; Action to be taken: Consideration of Issuance of Default Judgment

- Staff recommendation: Revocation
19. In the Matter of Damon Christopher Pokluda; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
20. In the Matter of Gerald Lee Read; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 5 Year Suspension and proof of successful completion of substance abuse treatment program
21. In the Matter of Sheila J. Rollins; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
22. In the Matter of Michael Williams; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
23. In the Matter of Anthony Benavides; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Permanent Revocation
24. In the Matter of Deon Bernard Burns; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
25. In the Matter of Gregg W. Watts; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Permanent Revocation
26. In the Matter of Vicki Lynn Webster; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
27. In the Matter of Tyseski LaDarryll Ardoin; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Permanent Revocation

28. In the Matter of Jacqueline Catholic; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
29. In the Matter of Daniel Funakoshi; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
30. In the Matter of Louis A. Rech; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
31. In the Matter of Rosendo Rodriguez; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
32. In the Matter of Jeffrey Summers; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation

SOAH Defaults

1. In the Matter of Ronald Adams; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
2. In the Matter of Robert Johnson; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation

Contested Cases

Proposals for Decision

1. Docket No. 701163333.EC, Texas Education Agency, Educator Leadership and Quality Division v. Dale Gene Farley; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: No Disciplinary Action be Taken

Staff Recommendation: Accept ALJ Recommendation

2. Docket No. 701164955.EC, Texas Education Agency, Educator Leadership and Quality Division v. Ronald Boutte, Jr.; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: The suspension of Respondent's certificate should be enforced until Respondent has complete his period of community supervision, which is due to occur on August 20, 2017, with the remainder of the suspension probated subject to such conditions as the Board may impose.

Staff Recommendation: 2 Year Suspension, commencing on the date the Final Order is signed by the Board.

3. Docket No. 701161424.EC, Texas Education Agency, Educator Leadership and Quality Division v. Rosalinda Gonzalez; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: No Disciplinary Action be Taken

Staff Recommendation: Accept ALJ Recommendation

Motions for Rehearing

1. Consider and Take Appropriate Action on Sworn Motion to Extend Time and Motion for Rehearing *In re Fidel Borrego*.

Court Cases

District Court Cases

1. 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.
2. Leo Joseph Tran v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-16-001802, In the 126th District Court of Travis County, Texas.

The Board may discuss any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.