

Item 12:

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 Sara Barnes; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
2. In the Matter of Radhika Bhavani; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
3. In the Matter of Amanda Bledsoe; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
4. In the Matter of Joseph Ransom Gauthier; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
5. In the Matter of Kingslea Christine Hale; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
6. In the Matter of David Joseph Hoeksema; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
7. In the Matter of Jerome Key; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension
8. In the Matter of Pauline Miles; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1 year suspension

9. In the Matter of Jeremy Miller; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
10. In the Matter of Wade Nakura; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
11. In the Matter of Stephanie Phillips; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
12. In the Matter of Zachary Truette; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
13. In the Matter of Charles Vanderbilt; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
14. In the Matter of Cody Wallace; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 1 year suspension
15. In the Matter of Karl Arthur Avila; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
16. In the Matter of Alberto Ocegueda; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
17. In the Matter of Stephen Pinkney; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation

18. In the Matter of Megan Shed; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

19. In the Matter of Dejon E. Taylor; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

20. In the Matter of Lindsey L. Thomas; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

21. In the Matter of David G. Winbush; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

22. In the Matter of Elizabeth Zinn; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

23. In the Matter of Jesse Camargo; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

24. In the Matter of David Covarrubias; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

25. In the Matter of Jonathan Flores; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

26. In the Matter of Gregory Moser; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
27. In the Matter of Margaret C. Torres; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
28. In the Matter of Scott Christopher Abell; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
29. In the Matter of Richard Thomas Ringgold, Jr.; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Permanent Revocation
30. In the Matter of Christine De Hoyos; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
31. In the Matter of Billie Jo Freeman; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
32. In the Matter of Jacob Light; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: 4 year suspension
33. In the Matter of Sherketha Shamoine Love; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation
34. In the Matter of Tressa Blue Marusak; Action to be taken: Consideration of Issuance of Default Judgment
Staff recommendation: Revocation

35. In the Matter of Tracy Lynn Russell; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 5 year suspension
36. In the Matter of Bonnie Vandekop; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 2 year suspension
37. In the Matter of Julia Allen; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Permanent Revocation
38. In the Matter of Mary Ayers; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
39. In the Matter of Crystal Ann Loera; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
40. In the Matter of Donnie Ashton; 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
41. In the Matter of Tony K. Bowser; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
42. In the Matter of David Glasgow; 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

43. In the Matter of Elijah Alejandro Martinez; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Permanent Revocation
44. In the Matter of Gloria Esther Mendez; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
45. In the Matter of Kenneth Ogden; 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
46. In the Matter of Elizabeth Ponce; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
47. In the Matter of Gabriel Medellin Garcia; 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
48. In the Matter of Brittany Gonzalez; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation

SOAH Defaults

1. In the Matter of Sylvia Dorothy Reid; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: Revocation
2. In the Matter of Roxsane Diane Sarsour; Action to be taken: Consideration of Issuance of Default Judgment
- Staff recommendation: 2 year suspension

B. Contested Cases

Proposals for Decision

1. Docket No. 701164127.EC, Texas Education Agency, Educator Leadership and Quality Division v. Norma Regina Gonzalez (A.K.A. Gina Oaxaca); Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: 3 year probated suspension

Staff Recommendation: 3 year suspension
2. Docket No. 701171437.EC, Texas Education Agency, Educator Leadership and Quality Division v. Marie F. Flowers; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Appeal should be granted and Certificate issued.

Staff Recommendation: Appeal should be denied and Certificate should not be issued.
3. Docket No. 701171654.EC, Texas Education Agency, Educator Leadership and Quality Division v. Brandon Baxter; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: No Disciplinary Action be taken

Staff Recommendation: 1 year suspension
4. Docket No. 701171439.EC, Texas Education Agency, Educator Leadership and Quality Division v. Janaye V. Easter; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: 1 year probated suspension

Staff Recommendation: 1 year suspension
5. Docket No. 701170490.EC, Texas Education Agency, Educator Leadership and Quality Division v. Alonzo Travis Miller, Jr.; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: 2 year suspension

Staff Recommendation: Revocation

6. Docket No. 701171759.EC, Texas Education Agency, Educator Leadership and Quality Division v. Brandon Chaison; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Application must be Permanently Denied

Staff Recommendation: Accept ALJ recommendation

7. Docket No. 701172692.EC, Texas Education Agency, Educator Leadership and Quality Division v. Kevin Yancy; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Appeal should be denied and Certificate should not be issued.

Staff Recommendation: Accept ALJ Recommendation

8. Docket No. 701171653.EC, Texas Education Agency, Educator Leadership and Quality Division v. Jeffrey Barnes; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: 1 year suspension

Staff Recommendation: Accept ALJ Recommendation

9. Docket No. 701170397.EC, Texas Education Agency, Educator Leadership and Quality Division v. James Russell; 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

10. Docket No. 701170989.EC, Texas Education Agency, Educator Leadership and Quality Division v. Sylvia Binder; 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

11. Docket No. 701164115.EC, Texas Education Agency, Educator Leadership and Quality Division v. Roel Olivarez; 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

C. Court Cases

District Court Cases

1. 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.
2. Michael Jimenez v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-17-001964, In the 201st District Court of Travis County, Texas.