

Item 14:**Discussion of 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases****DISCUSSION ONLY**

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to discuss potential amendments to 19 Texas Administrative Code (TAC) Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 249, Subchapter B and Subchapter E is Texas Education Code, §§21.006(a), (b), (b-1), (b-2), (c), (c-1), (c-2), (f), (g), (g-1), and (i); 21.0062; 21.007; 21.009(e); 21.031(a); 21.035; 21.041(a) and (b)(1), (4), (7), and (8); 21.044(a), 21.058; 21.0581; 21.060; 21.065; 21.105(c); 21.160(c); 21.210(c); 22.082; 22.0831; 22.085; 22.087; 22.092; and 22.093; Texas Government Code, §§411.090, 2001.054(c), 2001.058(e), and 2001.142(a); Texas Family Code, §261.308(d) and (e) and §261.406(a) and (b); Texas Occupations Code, §§53.021(a), 53.022–53.025, 53.051, 53.052 and 56.003; and the Every Student Succeeds Act (ESSA), 20 USC, §7926.

TEC, §21.006(a)–(c-2), (f)–(g-1), and (i), requires the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center or shared services arrangement to report to the SBEC within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct, unless the superintendent or director completes an investigation before the educator resigns or is terminated and determines that the educator did not commit the alleged misconduct. It also requires principals to report to superintendents within seven business days of when the superintendent knew or received a report from a principal that an educator has resigned or is terminated and there is evidence that the educator has engaged in certain misconduct. It further authorizes the SBEC to impose sanctions on educators who fail to report as required by the statute including authority to impose monetary administrative penalties, gives SBEC rulemaking authority as necessary to implement the statute, and requires the SBEC to create an internet portal to facilitate confidential and secure reporting.

TEC, §21.006(b-2), requires a principal of a school district, district of innovation, or charter school to notify the superintendent within seven days when an educator is terminated or resigns and there is evidence that the educator engaged in misconduct.

TEC, §§21.006(f) and (g) give the SBEC rulemaking authority to implement TEC, §21.006.

TEC, §21.006(i), gives the SBEC authority to impose administrative penalties on principals and superintendents who fail to fulfill their reporting obligations to the SBEC under TEC, §21.006.

TEC, §21.0062, requires the chief administrative officer of a private school to notify the SBEC within seven days when a private school educator resigns before the completion of an investigation or is terminated and there is evidence that the educator has engaged in certain misconduct, and gives the SBEC rulemaking authority to implement the section.

TEC, §21.007 gives the SBEC authority to place a notice that an educator is under investigation for alleged misconduct on the educator's public certification records, requires the SBEC give the educator notice and an opportunity to show cause, requires that the SBEC limit the amount of time the notice can appear on the educator's certification, and gives the SBEC rulemaking authority as necessary to implement the provision.

TEC, §21.009(e), states that the SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a student or minor.

TEC, §21.031(a), charges the SBEC with regulating and overseeing all aspects of the certification, continuing education, and standards of conduct for public school educators.

TEC, §21.035, states that Texas Education Agency (TEA) staff provides administrative functions and services for SBEC and gives SBEC the authority to delegate to either the commissioner of education or to TEA staff the authority to settle or otherwise informally dispose of contested cases involving educator certification.

TEC, §21.041, authorizes the SBEC to adopt rules as necessary for its own procedures, to regulate educators, specify the requirements for issuance or renewal of an educator certificates, administer statutory requirements, provide for educator disciplinary proceedings and for enforcement of the educator's code of ethics.

TEC, §21.044(a), authorizes the SBE to adopt rules establishing training requirements and academic qualifications required for a person to obtain an educator certificate.

TEC, §21.058, requires the SBEC to revoke the certification of an educator convicted or placed on deferred adjudication community supervision for certain offenses.

TEC, §21.060, sets out crimes that relate to the education profession and authorizes the SBEC to sanction or refuse to issue a certificate to any person who has been convicted of one of these offenses.

TEC, §21.065, sets requirements for the notice SBEC must send when it suspends an educator's certificate.

TEC, §21.105(a), allows the SBEC to impose sanctions against an educator who abandons a probationary contract.

TEC, §21.105(e), requires the Board to consider any mitigating factors relevant to the teacher's conduct and allows the Board to consider alternatives to sanctions, including additional continuing education or training.

TEC, §21.105(f), forbids the SBEC from issuing a sanction of suspension or revocation for educators who abandon their contracts with school districts more than 30 days prior to the first day of instruction for the next school year.

TEC, §21.160(c), allows the SBEC to impose sanctions against an educator who abandons a continuing contract.

TEC, §21.160(e), requires the Board to consider any mitigating factors relevant to the teacher's conduct and allows the Board to consider alternatives to sanctions, including additional continuing education or training.

TEC, §21.160(f), forbids the SBEC from issuing a sanction of suspension or revocation for educators who abandon their contracts with school districts more than 30 days prior to the first day of instruction for the next school year.

TEC, §21.210(c), allows the SBEC to impose sanctions against an educator who abandons a term contract.

TEC, §21.210(e), requires the Board to consider any mitigating factors relevant to the teacher's conduct and allows the Board to consider alternatives to sanctions, including additional continuing education or training.

TEC, §21.210(f), forbids the SBEC from issuing a sanction of suspension or revocation for educators who abandon their contracts with school districts more than 30 days prior to the first day of instruction for the next school year.

TEC, §22.082, requires the SBEC to subscribe to the criminal history clearing house and allows the SBEC to obtain any criminal history from any closed case file.

TEC, §22.0831, requires the SBEC to review the criminal history of certified educators and applicants for certification.

TEC, §22.085, requires school districts, charter schools and shared services arrangements to conduct finger-print criminal background checks on employees and refuse to hire those that have certain criminal history.

TEC, §22.087, requires superintendents and directors of school districts, charter schools, private schools, regional education service centers and shared services arrangement to notify the SBEC if an applicant for a certification has criminal history that is not in the criminal history clearing house.

TEC, §22.092, requires school districts, charter schools, districts of innovation, regional education service centers and shared services arrangements discharge or refuse to hire any person listed on the registry of persons not eligible for employment in Texas public schools.

TEC, §22.093, requires superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, or shared services arrangements to notify the Commissioner of Education if an employee resigned or was terminated and there is evidence that the employee abused or otherwise committed and unlawful act with a student or minor, or was involved in a romantic relationship with a student or minor.

Texas Government Code, §411.090 allows the SBEC to get from the Texas Department of Public Safety all criminal history record information about any applicant for licensure as an educator.

Texas Government Code, §2001.054(c) requires the SBEC to give notice by personal service or by registered or certified mail to the license holder of the factors or conduct alleged to warrant suspension, revocation, annulment or withdrawal of an educator's certificate, and to give the

certified educator an opportunity to show that the educator is in compliance with the relevant statutes and rules.

Texas Government Code, §2001.058(e) sets out the requirements for when the SBEC can make changes to a proposal for decision from an administrative law judge.

Texas Government Code, §2001.142 (a) requires all Texas state licensing agencies to notify parties to contested cases of orders or decisions of the agency by personal service, electronic means if the parties have agreed to it, first class, certified or registered mail, or by any method required under the agency's rules for a party to serve copies of pleadings in a contested case.

Texas Family Code, §261.308(d) and (e) requires the Texas Department of Family and Protective Services to release information regarding a person alleged to have committed abuse or neglect to the SBEC.

Texas Family Code, §261.406(a) and (b) requires the Texas Department of Family and Protective Services to send a copy of a completed investigation report involving allegations of abuse or neglect of a child in a public or private school to the TEA.

Texas Occupations Code, §53.021(a) allows the SBEC to suspend or revoke an educator's certificate, or refuse to issue a certificate, if a person is convicted of certain offenses.

Texas Occupations Code, §53.022 sets out factors for the SBEC to determine whether a particular criminal offense relates to the occupation of education.

Texas Occupations Code, §53.023 sets out additional factors for the SBEC to consider when deciding whether to allow a person convicted of a crime to serve as an educator.

Texas Occupations Code, §53.0231 sets out information the SBEC must give an applicant when it denies a license, and requires that the SBEC allow 30 days for the applicant to submit any relevant information to the SBEC.

Texas Occupations Code, §53.024 states that proceedings to deny or sanction an educator's certification are covered by the Texas Administrative Procedure Act, Chapter 2001, Texas Government Code.

Texas Occupations Code, §53.025 gives the SBEC rulemaking authority to issue guidelines to define which crimes relate to the profession of education.

Texas Occupations Code, §53.051 requires that the SBEC notify a license holder or applicant after denying, suspending, or revoking the certification.

Texas Occupations Code, §53.052 allows a person who has been denied an educator certification or had their educator certification revoked or suspended to file a petition for review in state district court after exhausting all administrative remedies.

Texas Occupations Code, §56.003 prohibits state agencies from taking disciplinary action against licensees for student loan non-payment or default.

ESSA, 20 USC, §7926, requires state educational agencies to make rules forbidding educators from aiding other school employees, contractors, or agents in getting jobs when the educator

knows the jobseeker has committed sexual misconduct with a student or minor in violation of the law.

FUTURE ACTION EXPECTED: TEA staff expects to present this item for discussion and possible action at a future SBEC meeting.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC rules in 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, establish the sanction requirements and procedures for disciplinary actions against educators.

At the April meeting, the Board had a preliminary discussion on potential amendments to Chapter 249. The recommendations discussed were informed by challenges and areas for improvement identified by staff in the application of Chapter 249 or issues previously raised by the SBEC at prior meetings. The Board provided positive input on the initial set of recommendations and directed staff to seek additional stakeholder feedback.

TEA staff brought these potential changes to the Educator Preparation Stakeholder Group on June 21, 2024, and held a stakeholder engagement meeting with the general public on July 9, 2024. TEA staff presented the feedback from these stakeholder engagement meetings to the Board at the July meeting. At the July meeting, the Board requested that staff draft preliminary rule text related to technical edits, methods of service, the definition of abuse, and grooming. TEA staff presented the preliminary draft to stakeholders at a stakeholder engagement meeting on August 30, 2024.

TEA staff will present the preliminary rule text and stakeholder feedback to the Board at the September meeting.

Staff Members Responsible:

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