

**Item 4:**  
**Consider and Take Appropriate Action on Request to  
Approve December 6, 2019 Board Meeting Minutes**

**ACTION**

**ASSOCIATE COMMISSIONER'S RECOMMENDATION:**

Approve the December 6, 2019 Board meeting minutes.

# STATE BOARD FOR EDUCATOR CERTIFICATION MEETING AGENDA

DECEMBER 6, 2019 AT 8:30 AM  
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 (SBEC) convened its meeting at 8:34 AM on Friday, December 6, 2019, in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

Present: Ms. Rohanna Brooks-Sykes, Dr. Arturo Cavazos, Mr. Tommy Coleman, Ms. Jill Druessedow, Dr. Andrew Lofters, Ms. Courtney MacDonald, Ms. Shareefah Mason, Ms. Sandie Mullins, Ms. Kelvey Oeser, Mr. Jose Rodriguez, Dr. Laurie Turner, and Mr. Carlos Villagrana.

Absent: Ms. Laurie Bricker, Dr. Edward Hill, and Dr. John Kelly.

Ms. Druessedow recognized Ms. Kelvey Oeser to introduce herself to the Board.

## 2. Associate Commissioner's Comments Regarding the SBEC Agenda

Mr. Franklin welcomed the Board and audience members and expressed his gratitude for the team that supports SBEC's work. Mr. Franklin also welcomed Kelvey Oeser, the deputy commissioner for educator support at the Texas Education Agency and Commissioner Morath's designee for SBEC. Ms. Oeser expressed her excitement in joining the Board and recognition of the importance of SBEC's work.

## 3. Public Comment

*The Board shall allocate up to thirty (30) minutes at the beginning of each regularly scheduled meeting of the full Board for public comment on non-agenda and consent agenda items. In accordance with SBEC Board Operating Policies and Procedures, late registration for providing oral or written comment will be accepted up to 30 minutes prior to the beginning of the Board meeting.*

## CONSENT AGENDA

## 4. Consider and Take Appropriate Action on Request to Approve October 4, 2019 Board Meeting Minutes

The October 4, 2019 meeting minutes were approved.

## **DISCUSSION AND ACTION**

### **5. Update on Divisions of Educator Leadership and Quality Department**

Ms. Cook presented updates on behalf of the Division of Educator Certification. She stated that the fiscal year is divided into four quarters: Quarter 1 (September–November); Quarter 2 (December–February); Quarter 3 (March–May); and Quarter 4 (June–August). Ms. Cook highlighted the Quarter 4 increase in production statistics for educator certificate issuance and renewal.

Dr. Jones presented updates on behalf of the Division of Educator Standards, Testing, and Preparation. He first highlighted the testing statistics for Quarter 4 as well as the totals for the year, followed by highlighting the preparation statistics for both Quarter 4 and year-end totals.

Dr. Olofson presented updates on behalf of the Division of Educator Data. He highlighted the increase in the number of Educator Preparation Programs with a status of Accredited—Warned and Accredited—Probation. Mr. Villagrana asked about the decrease in the number of newly certified educators, and if we collected data as to the cause of the decrease. Dr. Olofson noted that while these descriptive statistics did not provide insight as to the cause, staff would follow up with Mr. Villagrana to continue discussion.

Ms. Moriarty presented updates on behalf of the SBEC Enforcement Division. She highlighted the sharp rise in contract abandonment cases during FY19, a 100% increase over the number of contract abandonment cases opened in FY18.

Mr. Rodriguez presented updates on behalf of the Division of Educator Investigations. He highlighted that cases increased in Q1 FY20 as compared to Q1 FY19 due to an increase in reporting as well as the legislative requirement to begin investigating allegations against non-certified employees. He also stated that the division will launch the “Do Not Hire” Registry in January 2020.

### **6. Consider and Take Appropriate Action on Adoption of Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines**

Ms. Moriarty presented this item to the Board. Ms. Moriarty noted that the proposed amendments both implemented statutory changes from the recent legislative session and added contract abandonment within the past 12 months to the reasons the SBEC could deny certification.

With regard to the proposed addition of contract abandonment to 19 TAC §249.12(b)(7), Ms. Moriarty noted that the SBEC had received public comment from the Texas Classroom Teachers Association (TCTA) in support of the provision, but had also received comment from the Texas State Teachers Association (TSTA) expressing concerns that there was no statutory basis for the proposed rule, that it would be used as a means for preventing an educator from renewing a certificate, and that the rule was unclear because it did not explicitly reference the requirements of 19 TAC §249.14(j). Ms. Moriarty stated that staff disagreed with TSTA’s comments because the SBEC has broad statutory authority to regulate educators and would not use the rule on renewals since the SBEC has continuing jurisdiction over inactive certificates that are eligible for renewal. Nevertheless, Ms. Moriarty

recommended that the SBEC not adopt the proposed amendment to 19 TAC §249.12(b)(7) because it was not in keeping with the SBEC's recent movement away from harsh penalties for contract abandonment generally. Ms. Moriarty pointed out that the SBEC has other means under its current rules for effectuating a suspension against an educator who tries to renew an expired certificate after abandoning a contract.

With regard to the proposed changes to 19 TAC §249.15, Ms. Moriarty presented public comments from TSTA. On 19 TAC §249.15(b)(4), TSTA commented that they believed TEC §21.006 and §21.0062 did not belong in the list of reporting statutes because those provisions did not require reporting to the Commissioner of Education. Ms. Moriarty disagreed, noting the disjunctive "or" in the provision. On 19 TAC §249.15(b)(9)(L), TSTA commented that the provision would be clearer with a citation to 19 TAC §247.2(3)(H), the provision of the Educators' Code of Ethics that defines appropriate educator-student boundaries. Ms. Moriarty agreed, and recommended that the SBEC make an amendment to the proposed text to cite 19 TAC §247.2(3)(H).

Ms. Moriarty presented a final public comment from an individual who was opposed to the SBEC striking student loan default from the grounds for possible discipline by the SBEC in 19 TAC §249.15(f). Ms. Moriarty pointed out that SB 37 had changed the statute to forbid licensing boards like SBEC from taking any sort of disciplinary action against a licensee for student loan default, removing any discretion SBEC had in this area.

#### **Motion and vote:**

*Motion was made by Dr. Cavazos to approve for adoption, subject to the State Board of Education review, proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, with an effective date of 20 days after filing the adoption notice with the Texas Register. Second was made by Mr. Coleman.*

*Amendment was made by Ms. Brooks-Sykes to strike all proposed changes to §249.12 and insert the phrase "as described in §247.3(3)(H) of this title" to the language regarding inappropriate communication in proposed §249.15(b)(9)(L). Second was made by Ms. Mullins and the Board voted unanimously in favor of the amendment.*

*The Board voted unanimously in favor of the amended motion.*

#### **7. Consider and Take Appropriate Action on Adoption of Review of 19 TAC Chapter 230, Professional Educator Preparation and Certification**

Ms. Cook presented this item to the Board. She asked for the Board's support in adopting the four-year rule review and directed their attention to the purple folder that contained a summary of two public comments. Ms. Cook explained the comment from Texas Tech University (TTU) centered around candidate readiness to take certification examinations specified in Subchapter C. She confirmed that TEA staff agrees with the comment from TTU and stated there is an opportunity to engage with colleagues to get additional feedback that would inform a future rulemaking opportunity with the Board. Ms. Cook explained the comment from iteach Texas was directly related to the purpose of the science of teaching reading (STR) requirement and its connection to certification. She confirmed that TEA staff disagrees respectfully with the comment from iteach Texas and recommends no change in

rules because the statute is clear. Ms. Cook shared that Item 10 on this agenda addresses testing requirements and more directly aligns with the submitted comment.

Dr. Diann Huber, iteach Texas and Dr. Rae Queen, Teachworthy, were both registered to testify on this agenda item, but were given approval to share their comments on Item 10 as they determined that agenda item more closely aligned with the comments they prepared to share with the Board.

**Motion and vote:**

*Motion was made by Ms. Brooks-Sykes to adopt the review of Chapter 230. Second was made by Ms. Mullins, and the Board voted unanimously in favor of the motion.*

**8. Consider and Take Appropriate Action on Adoption of Review of 19 TAC Chapter 232, General Certification Provisions**

Ms. Pogue presented this item to the Board. Ms. Pogue explained this item closes the four-year rule review for 19 TAC Chapter 232, General Certification Provisions. She also explained that this chapter provides requirements relating to certificate renewal and continuing professional education and national criminal history record information review of active certificate holders. She stated that there were no public comments received during the public comment period. There were no questions from the Board.

**Motion and vote:**

*Motion was made by Mr. Coleman to adopt the review of Chapter 232. Second was made by Ms. MacDonald, and the Board voted unanimously in favor of the motion.*

**9. Consider and Take Appropriate Action on Proposed Review of 19 TAC Chapter 239, Student Services Certificates**

Ms. Cook presented this item to the Board. She stated that Chapter 239 deals with the following four certificate areas: School Librarian, School Counselor, Educational Diagnostician, and Reading Specialist. Ms. Cook asked for the Board's favorable support in opening the four-year rule review and stated she anticipates feedback on ways to improve the current rules. Following public comments by Ms. Chevalier and Ms. Friese, Ms. Cook responded to Mr. Rodriguez's questions related to assignment rules common to Master Reading Teacher and Reading Specialist certificate holders. Ms. Cook did not have data readily accessible on these certificate holders but confirmed she would have helpful data points to share with the Board at the next meeting. Dr. Cavazos stated that while exploring options and considering future rulemaking opportunities, there is value in keeping the integrity of the Reading Specialist certificate.

Public Comment was provided by:  
Andrea Chevalier  
Jan Friese

**Motion and vote:**

*Motion was made by Dr. Cavazos to propose the four-year rule review for Chapter 239. Second was made by Ms. Brooks-Sykes, and the Board voted unanimously in favor of the motion.*

**10. Consider and Take Appropriate Action on Proposed Amendments to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter C, Assessment of Educators, Subchapter D, Types and Classes of Certificates Issued, Subchapter E, Educational Aide Certificate, and Subchapter G, Certificate Issuance Procedures**

Ms. Perez, Ms. Wieland, and Ms. Barrera presented this item to the Board. Ms. Perez highlighted changes in Chapter 230, Subchapter C, D, E, and G that implement HB 3, SB 1839, HB 2039, and HB 3349 including a reduction in days between retakes to allow for two summer testing opportunities, aligning the required assessments for certification figure to include upcoming assessments and reflect active certifications. Ms. Wieland and Ms. Barrera presented the expansion of the educational aide certification to high school students taking Education and Training courses.

Ms. Brooks-Sykes had a question regarding an ethical component being incorporated into educational aide coursework. Dr. Lofters had a question regarding dual-credit courses. Mr. Villagrana shared concerns seeking clarity around timeline of implementation, and performance data and its impact to program accountability.

Public Comment was provided by:  
Steve Aleman  
Dr. Diann Huber  
Dr. Rae Queen

**Motion and vote:**

*Motion was made by Ms. Mullins to approve the changes in Chapter 230, Subchapter C, D, E, and G. Second was made by Mr. Coleman, and the Board voted unanimously in favor of the motion.*

**11. Consider and Take Action on Principal and Teacher Surveys for Accountability System for Educator Preparation Programs**

Dr. Olofson presented this item to the Board. He described the summary data from the 2018–2019 Principal Survey and 2018–2019 Teacher Survey. He highlighted that the questions presented for removal from the survey are not used in the scoring procedure approved by the SBEC.

Mr. Villagrana asked about a minimum response threshold for the teacher survey. Dr. Olofson noted that staff plans to bring a discussion item for Chapter 229 to the February 2020 meeting of the Board. Mr. Franklin noted that such a threshold may result in unintended consequences in the suppression of response rates.

Ms. Mullins asked for confirmation that only teachers necessary to be contacted were contacted. Dr. Olofson noted that data from the K–12 data system and the TAC to identify the teachers.

Mr. Villagrana asked for clarification about how questions can be removed from the survey. Dr. Olofson clarified that all the other Teacher Survey questions are used for scoring, and that only one additional question is included on the Principal Survey. Dr. Cavazos cautioned against removing questions from the survey. He also commented that additional analyses could be done using the data. Mr. Rodriguez commented that the completion of the survey aligns with the expectations of a principal's duties.

Dr. Turner asked for clarification about the timing of the survey. Dr. Lofters asked for more information about the feedback from the field. Dr. Olofson clarified that the teacher survey is completed at the end of the first year of teaching on a standard license, while the principal survey is completed at the end of the first year as a teacher of record. He also noted prior discussion of the questions for removal. Dr. Cavazos voiced support for keeping the questions.

Public Comment was provided by:  
Dr. Rae Queen

**Motion and vote:**

*Motion was made by Dr. Cavazos to approve the principal and teacher surveys as presented but also keeping question 49 in both the principal teacher surveys. Second was made by Dr. Turner. Motion was approved by the Board on a 7-1 vote.*

**12. Consider and Take Appropriate Action on 2017–2018 and 2018–2019 Continuing Approval Reviews of Educator Preparation Programs**

Dr. Jones presented this item to the Board. Dr. Jones explained the item represents the remaining list of EPPs that were reviewed for the 2017–2018 and 2018–2019 school years and are brought to the board for continuing approval review by having met the required next steps or compliance plan by the due date of October 30, 2019. He explained the accreditation status is separate from the five-year review process in that the accreditation status is based on the ASEP indicator performance whereas the five-year review process is about program compliance with TAC. He also mentioned that the accreditation status but does determine the kind of program review the programs receive, whether desk review or on-site review.

**Motion and vote:**

*Motion was made by Ms. Mullins to approve the programs as presented for a five-year renewal of approval. Second was made by Mr. Coleman, and the Board voted unanimously in favor of the motion.*

**13. Consider and Take Appropriate Action on Request to Approve New Class of Certificate at East Texas Baptist University**

Dr. Jones presented this item to the Board. He explained that East Texas Baptist University wanted to add the school counseling certificate class to their certificate inventory. Dr. Joan Strutton from the university was present and answered one question from Ms. Brooks-Sykes about the title of the master's degree that was selected by the program.

**Motion and vote:**

*Motion was made by Ms. Brooks-Sykes to approve the School Counselor class of certificate at East Texas Baptist University. Second was made by Ms. MacDonald, and the Board voted unanimously in favor of the motion.*

**14. Consider and Take Appropriate Action on Agreed Order for South Texas Transition to Teaching (STTT) Alternative Certification Preparation Program**

Dr. Jones presented this item to the Board. He explained that Items 14, 15, and 16 were related to Item 12 concerning the five-year continuing approval review but with different proposed actions due to different circumstances. The agreed order for Item 14 and Item 15 were very similar in that both showed promise in what they submitted as next steps by the August 31, 2019, deadline and listed the conditions for each program to correct the deficiencies. For STTT, five conditions were included in the agreed order as Dr. Jones highlighted for the board, including the firm deadlines of March 25, 2020, and May 25, 2020.

Ms. Mullins asked whether STTT was a new EPP, and what was the process that would be followed if the agreed order was approved. Dr. Jones noted that if the order was approved there is a fixed timeline that the EPP will be required to follow for the conditions to be fulfilled and if not, the next action proposed to the board will be for program closure.

Mr. Coleman commented about the purpose and benefit of securing the agreed order as an efficient method to get to either program compliance or program closure.

Ms. Mason expressed concern for candidates to be able to transfer to another EPP in instances where a program is revoked immediately. Dr. Jones explained that there are a series of steps in place for programs that are closing with the first step requiring the EPP to contact any current candidates in the program that will not be able to be standard certified by the time of program closure. The programs would provide transfer forms for these candidates and assist for a smooth transition.

Ms. Mason asked a follow up question about when does the transitioning of candidates take place if a program is to close. Dr. Jones said for STTT, the second condition in the agreed order has critical information that is due from the program on March 25 and actions will take place at that time.

**Motion and vote:**

*Motion was made by Ms. Mullins to approve the agreed order for the South Texas Transition to Teaching (STTT) Alternative Certification Program as presented. Second was made by Mr. Rodriguez, and the Board voted unanimously in favor of the motion.*

**15. Consider and Take Appropriate Action on Agreed Order for Teaching via E-Learning (TEACH) Alternative Certification Preparation Program**

Dr. Jones presented this item to the Board. The agreed order for Item 15 is very similar to Item 14 in that the TEACH program showed promise in what was submitted as next steps by the August 31, 2019, deadline and listed the conditions for each program to correct the deficiencies. For TEACH, four conditions were included in the agreed order including the firm deadlines of March 25, 2020, and May 25, 2020.

**Motion and vote:**

*Motion was made by Mr. Coleman to approve the agreed order for the Training via E-Learning (TEACH) Alternative Certification Program as presented. Second was made by Mr. Rodriguez, and the Board voted unanimously in favor of the motion.*

**16. Consider and Take Appropriate Action to Approve the Continuing Approval Review and Lifting of Board Orders for the TeacherBuilder.com Alternative Certification Educator Preparation Program**

Dr. Jones presented this item to the Board. Dr. Jones reviewed the history of the 2015 board order for the program, which had as one of the conditions that an on-site visit was required in order to verify that the program had corrected the identified deficiencies. The required on-site visit occurred on October 21–24, 2019, and as a result, indicated the program had corrected the prior deficiencies from 2015 and met all minimum requirements for the educator preparation program in the Texas Administrative Code.

**Motion and vote:**

*Motion was made by Ms. Mullins to approve the continuing approval review for TeacherBuilder.com and lift the conditions on continuing approval imposed by the 2015 Order. Second was made by Mr. Coleman, and the Board voted unanimously in favor of the motion.*

**17. Election of State Board for Educator Certification Officers**

Ms. Pogue presented the procedures for the election of State Board for Educator Certification officers as stated in the Board's operating policies and procedures (BOPP).

**Election of Board Chairperson****Motion and vote:**

*Motion was made by Ms. Druesedow to nominate Dr. Cavazos for Board Chairperson. There were no other nominations, Dr. Cavazos was elected Board Chairperson by acclamation.*

**Election of Board Vice-Chairperson****Motion and vote:**

*Motion was made by Dr. Cavazos to nominate Ms. Brooks-Sykes for Board Vice-Chairperson. There were no other nominations, Ms. Brooks-Sykes was elected Board Vice-Chairperson by acclamation.*

**Election of Board Secretary****Motion and vote:**

*Motion was made by Ms. Druesedow to nominate Mr. Rodriguez for Board Secretary. There were no other nominations, Mr. Rodriguez was elected Board Secretary by acclamation.*

The SBEC recessed at 10:45 AM.

The SBEC reconvened at 10:53 AM.

## **DISCIPLINARY CASES**

### **18. Pending or Contemplated Litigation, including Disciplinary Cases**

#### **A. Defaults**

##### **No Answer Defaults**

1. In the Matter of Ginleetrice S. Benton; Action to be taken: Consideration of Issuance of Default Judgment  
  
Staff recommendation: 1-year suspension
5. In the Matter of Jonithon Myakal Canava; Action to be taken: Consideration of Issuance of Default Judgment  
  
Staff recommendation: Revocation
7. In the Matter of Steven D. Allen; 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
8. In the Matter of Donna Marie Burkhalter; 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
9. In the Matter of Tirone Michael Curtis; Action to be taken: Consideration of Issuance of Default Judgment  
  
Staff recommendation: Revocation
10. In the Matter of Naomi Fontenot; 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

11. In the Matter of Nicole Shannon George; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
12. In the Matter of Gloria P. Munoz; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
14. In the Matter of Daren L. Rodriguez; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
15. In the Matter of Amanda Lynn Smith; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: 2-year suspension and proof of successful completion of substance abuse treatment program
17. In the Matter of Sherry Kay Lee; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
18. In the Matter of Wendy R. Cabrera; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
20. In the Matter of Michelle Morante; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation
21. In the Matter of Billy Robert Smith, Jr.; Action to be taken: Consideration of Issuance of Default Judgment  
Staff recommendation: Revocation

**Motion and vote:**

*Motion was made by Dr. Cavazos to grant Staff's request for Issuance of Default Judgments on cases 1–21, with the exception of 2, 3, 4, 6, 13, 16, and 19 and enter final orders consistent with Staff's recommendations. Second was made by Mr. Coleman and the Board voted unanimously in favor of the motion.*

4. In the Matter of Ernesto Cortez; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 18-month suspension

**Motion and vote:**

*Motion was made by Mr. Coleman to grant Staff's request for Issuance of Default Judgment on case number 4 and enter a final order of revocation. Second was made by Dr. Cavazos and the Board voted unanimously in favor of the motion.*

6. In the Matter of Kendall Wayne Walling; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Revocation

**Motion and vote:**

*Motion was made by Mr. Coleman to grant Staff's request for Issuance of Default Judgment on case number 6 and enter a final order of revocation. Second was made by Ms. MacDonald and the Board voted unanimously in favor of the motion.*

13. In the Matter of Ronald L. Rhea; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 5-year suspension

**Motion and vote:**

*Motion was made by Mr. Coleman to grant Staff's request for Issuance of Default Judgment on case number 13 and enter a final order of permanent revocation. Second was made by Ms. Mullins and the Board voted unanimously in favor of the motion.*

16. In the Matter of Deborah M. Webb; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 2-year suspension and proof of successful completion of substance abuse treatment program

**Motion and vote:**

*Motion was made by Ms. Brooks-Sykes to grant Staff's request for Issuance of Default Judgment on case number 16 and enter a final order of a 1-year suspension. Second was made by Ms. Mullins and the motion failed.*

*Motion was made by Dr. Cavazos to grant Staff's request for Issuance of Default Judgment on case number 16 and a final order consistent with Staff's recommendation. Second was made by Dr. Turner and the Board voted in favor of the motion; Dr. Cavazos, Dr. Turner, Ms. MacDonald, Mr. Rodriguez, Ms. Mason, and Mr. Coleman voted in favor of the motion; Ms. Brooks-Sykes voted against the motion.*

19. In the Matter of Kendra Denise Herrera; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 3-year suspension

**Motion and vote:**

*Motion was made by Mr. Coleman to grant Staff's request for Issuance of Default Judgment on case number 19 and enter a final order of revocation to Ms. Herrera's principal certificate and a 5-year suspension to Ms. Herrera's educator certificates. Second was made by Ms. Mason and the Board voted in favor of the motion; Dr. Cavazos, Dr. Turner, Ms. MacDonald, Mr. Rodriguez, Ms. Mason, Ms. Brooks-Sykes, and Mr. Coleman voted in favor of the motion; Ms. Mullins voted against the motion.*

**The following cases were pulled by TEA staff and no action was taken:**

2. In the Matter of Neomi Rojas; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1-year suspension

3. In the Matter of Ray Castillo; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

**SOAH Defaults**

1. In the Matter of Tarnesha Michele Sheppard; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: Permanent Revocation

Ms. Mason recused herself from voting on this matter.

**Motion and vote:**

*Motion was made by Dr. Cavazos to grant Staff's request for Issuance of SOAH Default Judgment and enter a final order consistent with Staff's recommendation. Second was made by Ms. Mullins and the Board voted unanimously in favor of the motion.*

2. In the Matter of Traci H. Rolles; 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

**Motion and vote:**

*Motion was made by Mr. Coleman to grant Staff's request for Issuance of SOAH Default Judgment and enter a final order consistent with Staff's recommendation. Second was made by Mr. Rodriguez and the Board voted unanimously in favor of the motion.*

**B. Motion for Rehearing**

1. *In re Kirsten Otey: Consider and Take Appropriate Action on Motion to Extend Deadline to File Motion for Rehearing*

Ms. Moriarty represented TEA staff. Mr. Wright represented the Respondent.

The SBEC entered into Executive Session at 11:36 AM pursuant to Texas Government Code §551.071 to obtain the advice of legal counsel.

The SBEC entered in open session at 11:53 AM. No action was taken in closed session.

**Motion and vote:**

*The Board took no action on Ms. Otey's Motion to Extend Time.*

**Contested Cases**

Proposals for Decision

1. Docket No. 701194349.EC, Texas Education Agency, Educator Leadership and Quality Division v. Aaron Jason Martin; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Denial of certification

Staff Recommendation: Accept ALJ recommendation

Mr. Hensley represented TEA staff. Mr. Arismendez represented the Respondent.

**Motion and vote:**

*Motion was made by Mr. Coleman to accept the Proposal for Decision and issue a final order consistent with the ALJ's recommendations that Mr. Martin's application for educator certificates numbered XXX-XX-60-20 should be denied. Second was made by Dr. Cavazos and the motion failed; Mr. Coleman, Dr. Cavazos and Mr. Rodriguez voted in favor of the motion; Dr. Turner, Ms. Mullins, Ms. Brooks-Sykes, and Ms. MacDonald voted against the motion.*

The SBEC entered into Executive Session at 12:33 PM pursuant to Texas Government Code §551.071 to obtain the advice of legal counsel.

The SBEC entered in open session at 1:11 PM. No action was taken in closed session.

*Motion was made by Ms. Brooks-Sykes that the Board accept the Proposal for Decision including Findings of Fact Nos 1–17, and Conclusions on Law Nos. 1–8, and modify conclusion of law no. 9 as follows:*

*9. Petitioner lacked good moral character when he misrepresented his prior unreported crimes.*

*I move that the Board strike conclusions of law Nos. 10 and 11.*

*I move that the Board add a Conclusion of Law that the Board may issue an educator certificate with conditions or restrictions. §249.15(a)(1).*

*I move that the Board issue Mr. Martin a standard certificate with an inscribed reprimand. Second was made by Ms. MacDonald and the Board voted unanimously in favor of the motion.*

2. Docket No. 701192595.EC, Texas Education Agency, Educator Leadership and Quality Division v. Diane Michelle Bush; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Non-Inscribed Reprimand

Staff Recommendation: 2-year suspension

Ms. Moriarty represented TEA staff. Respondent did not appear.

**Motion and vote:**

*Motion was made by Ms. Brooks-Sykes that the Board adopt the Proposal for Decision including Findings of Fact Nos. 1–24 and 26 and Conclusions of Law Nos. 1–9 and 11–13. I move that the Board strike Finding on Fact No. 25 and that the Board modify Conclusions of Law Nos. 10 and 14 as follows:*

*10. Respondent's conduct was serious. 19 Tex. Admin. Code §249.17(c)(1).*

*14. Based on the Findings of Fact and Conclusions of Law, Ms. Bush's educator certificate should be issued an inscribed reprimand.*

*These modifications are permissible pursuant to Texas Government Code §2001.058(e) and are necessary because the Administrative Law Judge did not properly apply Board rules and policies.*

*As the Board's rules state, "a certified educator holds a unique position of public trust."*

*Ms. Bush's conduct was serious because she violated that public trust when she put student funds into her bank account and was unable to account for how much she had received or how much she had spent.*

*Therefore, Conclusion of Law No. 10 should be changed to state that Ms. Bush's conduct was serious.*

*Given the seriousness of her conduct and the need to deter other educators from engaging in similar behavior, the sanction in Conclusion of Law No. 14 should be changed to an inscribed reprimand, rather than the non-inscribed reprimand recommended by the Administrative Law Judge.*

*A non-inscribed reprimand has little deterrent value for other educators because it does not appear on the face of the educator's certificate. Second was made by Ms. MacDonald and the Board voted unanimously in favor of the motion.*

3. Docket No. 701193728.EC, Texas Education Agency, Educator Leadership and Quality Division v. David Demiglio; 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

Mr. Crabtree represented TEA staff. Mr. Tritico represented the Respondent.

**Motion and vote:**

*Motion was made by Ms. Brooks-Sykes that the Board adopt the Proposal for Decision including Findings of Fact Nos. 1–5, and 7–26, and Conclusions of Law Nos. 1–13 in the Proposal for Decision as if fully set out herein.*

*I move that the Board strike Finding of Fact 6.*

*Striking Finding of Fact No. 6 is permissible pursuant to Texas Government Code §2001.058(e) and is necessary because the Administrative Law Judge (“ALJ”) did not properly apply Board rules and policies.*

*While couched as a finding of fact, Finding of Fact No. 6 is actually a conclusion of law and an incorrect interpretation of the Board's rules.*

*The Board's rules do not require that a threatening person actually intends to inflict injury. Given the current reality of frequent mass violence in schools, all threats must be taken seriously regardless of the threatening person's actual intent.*

*I move that the Board issue a final order suspending Mr. Demiglio's educator certificates for 2 years. Second was made by Dr. Turner.*

The SBEC entered into Executive Session at 2:04 PM pursuant to Texas Government Code §551.071 to obtain the advice of legal counsel.

The SBEC entered in open session at 2:08 PM. No action was taken in closed session.

*Ms. Brooks-Sykes withdrew her motion and Dr. Turner withdrew her second.*

*Motion was made by Ms. Brooks-Sykes that the Board adopt the Proposal for Decision including Findings of Fact Nos. 1–5, 7–24, and 26–27 and Conclusions of Law Nos. 1–6, 8–9, and 11–12. I move that the Board strike Findings of Fact Nos. 6 and 25 and that the Board modify Conclusions of Law Nos. 7, 10, and 13 as follows:*

*7. The preponderance of the evidence establishes that Respondent made threats of violence against school district employees, school board members, students, or parents of students. 19 Tex. Admin. Code §247.2(1)(I).*

*10. The preponderance of the evidence establishes that Respondent violated a provision of the Educator's Code of Ethics. 19 Tex. Admin. Code §249.15(b)(3).*

*13. Based on the Findings of Fact and Conclusions of Law, Mr. Demiglio's educator certificate should be suspended for 2 years.*

*These changes are permissible pursuant to Texas Government Code §2001.058(e) and are necessary because the Administrative Law Judge did not properly apply Board rules and policies.*

*While couched as a finding of fact, Finding of Fact No. 6 is actually a conclusion of law and an incorrect interpretation of the Board's rules.*

*The Board's rules do not require that a threatening person actually intends to inflict injury. Given the current reality of frequent mass violence in schools, all threats must be taken seriously regardless of the threatening person's actual intent.*

*Striking Finding of Fact No. 25 is permissible because it is actually an incorrect conclusion of law. There is a preponderance of evidence in the record to show that Respondent made a threat of violence against school employees: in Finding of Fact No. 4, the ALJ found that "Respondent made a statement to Destiny Crocker, who was a teacher under his supervision, to the effect that he wished he could shoot some teachers."*

*It is also therefore necessary to modify Conclusions of Law Nos. 7 and 10 to reflect the correct interpretation of 19 Texas Administrative Code §247.2(1)(I) and hold that Mr. Demiglio's statement was a threat in violation of the Educators' Code of Ethics.*

*To reflect the seriousness of this conduct and to deter other educators, the sanction in Conclusion of Law No. 13 should be modified to suspend Mr. Demiglio's certificates.*

*I move that the Board issue a final order suspending Mr. Demiglio's educator certificates for 2 years. Second was made by Dr. Turner and the Board voted unanimously in favor of the motion.*

4. Docket No. 701184944.EC, Texas Education Agency, Educator Leadership and Quality Division v. Jonathan Andy Salcido; 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

Mr. Hensley represented TEA staff. Respondent did not appear.

**Motion and vote:**

5. Docket No. 701191389.EC, Texas Education Agency, Educator Leadership and Quality Division v. Aron Edward Dillahunty; 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

6. Docket No. 701192455.EC, Texas Education Agency, Educator Leadership and Quality Division v. Leo Ramos; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: Permanent Revocation

Staff Recommendation: Accept ALJ recommendation

**C. Court Cases**

*District Court Cases*

1. David Turner v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-17-002298, In the 250<sup>th</sup> District Court of Travis County, Texas.
2. Bradley Keith Bowen v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-18-004203, In the 98<sup>th</sup> District Court of Travis County, Texas.
3. Blake Tittle v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-18-007716, In the 345<sup>th</sup> District Court of Travis County, Texas.
4. Cynthia Maria Garcia v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-18-007719, In the 250<sup>th</sup> District Court of Travis County, Texas.
5. Christopher Greene v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-18-000016, In the 345<sup>th</sup> District Court of Travis County, Texas.
6. Leo Joseph Tran v. Texas Education Agency, Educator Certification and Standards Division; Cause No. 03-18-00855-CV, In the Court of Appeals, Third District of Texas.

The SBEC moved for a combined executive session and lunch break at 12:33 PM.

The SBEC reconvened from executive session and lunch at 1:11 PM.

## **DISCUSSION ONLY**

### **19. Discussion of Proposed Revisions to 19 TAC Chapter 228, Requirements for Educator Preparation Programs**

Dr. Jones presented this item to the Board. Dr. Jones highlighted the only change for this item from what was presented at the October 4, 2019 meeting pertaining to a candidate starting and completing their clinical teaching, internship, or practicum within one EPP as well as not accepting an incomplete clinical teaching, internship, or practicum experience from another EPP when a candidate transferred to another EPP. Removal of this proposed revision came after discussion and input from the board. He then highlighted the proposed revisions that were unchanged from the October 4 meeting.

Dr. Turner asked about the number of candidates who finished their program but did not test at the time. Dr. Jones explained that the 268 test is the most recent test to change and staff is looking at the calls and inquiries that are answered. The proposed revision currently being worked on for the February 2020 meeting will help address candidate preparation concerns if they did not test while enrolled in the program.

Mr. Villagrana asked for clarification related to the added language in the required instruction in mental health, substance abuse, and youth suicide that can be offered as a course or as part of a degree program and the implications for alternative certification programs. Mr. Franklin indicated that the wording added was to mirror the language found in the statute itself. Mr. Lofters explained that Institutions of Higher Education (IHEs) often contract with third-party providers who provide instruction in areas, then accept the course work or instruction as their own credit. He indicated that in cases like this, alternative certification programs could work as a third-party provider giving the instruction and the IHEs accept it and gives credit from the institution for what was provided to the student and is part of a degree program.

Mr. Rodriguez asked if there was a distinction between a person who is deployed by assignment or a person who volunteered for an assignment for someone who was on active military reserve and also is a candidate in an EPP regarding an out-of-state/country clinical teaching or a practicum. Dr. Jones said the wording did not make a distinction and applied in the same manner to both.

Mr. Villagrana asked if better wording could be provided in the section about program closure and candidates transferring to another program of their choice to include that the candidate must be accepted by the new program to avoid confusion. Dr. Jones indicated that revised language would be included for the board to review to address this concern.

### **20. Discussion of Proposed Amendments to 19 TAC Chapter 235, Classroom Teacher Certification Standards, Subchapter B, Elementary School Certificate Standards, Subchapter D, Secondary School Certificate Standards, and Subchapter F, Supplemental Certificate Standards**

Ms. Burkhart and Ms. Andujar presented this item to the Board. Ms. Burkhart and Ms. Andujar outlined the development of the certification standards for special education, bilingual education, and for teachers of students with DeafBlindness.

Public Comment was provided by:  
Chris Montgomery  
Emily Coleman  
Rachael Early

## **21. Discussion of edTPA Pilot and Test Development Updates**

Ms. Burkhart presented this item to the Board. She gave updates on the first year of the edTPA pilot, as well as the application process for the 2020–2021 pilot. She noted that 34 candidates had submitted portfolios and that 33 programs have applied to participate in the second year of the pilot. Dr. Stacey Edmondson from Sam Houston State University presented on the status of investigating the use of T-TESS as a certification assessment. Dr. Edmondson emphasized that they are neither campaigning against the edTPA nor developing an instrument to compete with the edTPA. Dr. Cavazos requested a side-by-side comparison of the two performance assessments.

## **22. Discussion of Proposed Revisions to 19 TAC Chapter 232, General Certification Provisions**

Mr. Franklin presented this item to the Board. Mr. Franklin explained that the revisions reflected in the item implements recent legislation regarding continuing professional education and provides a reorganization and clean-up of the chapter.

Public Comment was provided by:  
Jan Friese

## **23. Discussion and Update on Educator Testing Data**

Dr. Olofson and Ms. Perez presented this item to the Board. Dr. Olofson noted the contents of the data as responsive to the Board's request, and highlighted cautions in interpretation included in the item.

Mr. Villagrana raised considerations for accountability and test attempts beyond the first two and asked about small numbers of candidates and evaluating programs. Dr. Olofson noted that the Board has adopted a small group aggregation procedure for accountability, and that the Board had previously determined the two attempts used for accountability.

Ms. Mullins noted the low first-time pass rate for some areas. Dr. Olofson noted that EPPs are able to monitor these data, and that the accountability system holds EPPs accountable for individual certification areas as well as at the programmatic level.

Dr. Cavazos noted that these data provided opportunities for staff and EPPs to do deep dives. Ms. Perez noted that these data inform staff's work related to standards and certification redesign. Mr. Rodriguez noted that this data is informative on many levels and provided opportunities for work. Mr. Franklin noted that staff also views Out of State and Pre-Admission Content Test pass rates, along with when and how tests have been updated.

Public Comment was provided by:  
Dr. Rae Queen

**24. Discussion of Board Operating Policies and Procedures (BOPP)**

Mr. Franklin presented this item to the Board. The Board requested that staff draft revisions to the BOPP to reflect current practice regarding the role of non-voting members.

**INFORMATION ONLY****25. 2019–2022 Updated Rule Review Plan for State Board for Educator Certification Rules**

Information only.

**26. Requests from Board Members for Future Agenda Items**

Dr. Cavazos requested the consideration of moving to electronic SBEC agendas.

**27. Requests Received from the Board Since Last Meeting**

None.

**28. Adjournment**

Ms. Druesedow adjourned the meeting at 3:54 PM.

**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.**