

**State Board for Educator Certification**  
**Discussion and Action Session Agenda**  
**August 7, 2009 at 9:00 a.m.**  
**Minutes**

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 the following agenda items:

**1. Call to Order**

The State Board for Educator Certification convened its meeting at 9:01 a.m. on Thursday, June 18, 2009 in Room 1-104 of the William B. Travis Building, 1701 N. Congress Avenue in Austin, Texas.

**Present:** Dr. Cain, Dr. Glynn, Mr. Booker, Ms. Baszile, Dr. Simpson, Ms. Carter, Mr. Allard, Dr. Barnes and Mr. Morris

Ms. Bridges arrived at 9:05 a.m. and Ms. Druessedow arrived at 9:06 a.m.

**Absent:** Ms. Pogue, Ms. Robison and Mr. Trevino

Dr. Cain introduced and recognized past Board members, Dr. Jeanne Gerlach and Ms. Patti Johnson and presented them with plaques for their service.

**2. Public Testimony**

**CONSENT AGENDA**

**3. Approval of June 18, 2009 Board Meeting Minutes**

**Motion and Vote:**

*Motion was made by Ms. Carter to approve the June 18, 2009 minutes as presented. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**DISCUSSION AND ACTION**

**4. Proposed Amendments to 19 TAC Chapter 239, Student Services Certificates**

Public Testimony was provided by the following on Item 4:

1. Randi Johnston, Texas Educational Diagnostician Association
2. Renee Kwiatek, Texas Educational Diagnostician Association

Ms. Cárdenas informed the Board that for the student services certificates that require a master's degree, language has been added to read "at a minimum, a master's degree".

Ms. Cárdenas addressed concerns brought up during public testimony regarding Subchapter C, Educational Diagnostician Certificate. Ms. Cárdenas informed the Board that, as stakeholders requested, a valid classroom teaching certificate would be required for admission to an educator preparation program and for the issuance of the educational diagnostician certificate. Ms. Cárdenas also informed the Board that the certificates issued for school counselor and school librarian, regardless of content area, are Prekindergarten-Grade 12 and cover all grade levels.

The Board requested an explanation of the federal mandate requirement that the proposed amendments would not meet according to public testimony received. Mr. Andrew Allen, Texas Education Agency assistant counsel, informed the Board that the educational diagnostician certificate does not limit what services a certificate holder can provide. The proposed amendment states what services can be provided in Texas public schools; therefore, the educational diagnostician certificate would not limit anything extra that the federal government may require.

Ms. Cárdenas addressed the summary of public comments and staff responses regarding the counselor certificate, provided to the Board. Ms. Cárdenas reminded the Board that the public comment period for the proposed amendments to Chapter 239 would not begin until the proposed amendments are published as proposed in the *Texas Register*. Ms. Cárdenas informed the Board that the comments and responses are for Agenda Item 5, adoption of review of 19 TAC Chapter 229. At the Board's request, Ms. Cárdenas summarized the public comments. Ms. Cárdenas informed the Board that there were four public positions: 1) keep the requirement of two years of teaching experience; 2) eliminate the two years of teaching experience; 3) keep the requirement of a master's degree in general; or 4) require a master's degree specifically in counseling.

Ms. Cárdenas informed the Board that they have approved five alternative certification programs to offer the school counselor certificate and that those five alternative certification programs do not offer a master's degree program; persons entering an alternative certification program already have a master's degree. Ms. Cárdenas also informed the Board that the only way to get a master's degree in counseling is to go to a university-based educator preparation program and, in some cases, the university may not call the degree a master's in counseling.

Mr. Allen clarified that the comment period on the proposed amendments to 19 TAC Chapter 239 does not begin until the Board takes action to approve the proposed amendments for filing as proposed and the amendments have been published as proposed in the *Texas Register*.

**Motion and Vote:**

*Motion was made by Ms. Bridges to approve the proposed amendments to 19 TAC Chapter 239, Student Services Certificates, for filing as proposed with the Texas Register. Second was made by Ms. Druesedow.*

Dr. Barnes requested clarification of transition and implementation dates, listed on the item's summary page and questioned if it would be possible to add additional language to denote changes being considered under this item. Ms. Cárdenas informed the Board that expired dates were left in rule for historical purposes. Mr. Booker informed Dr.

Barnes that staff would discuss this issue to determine if adding a new subsection is a possibility.

Dr. Barnes also reviewed parallel language regarding course of instruction for the master mathematics teacher certificate and the master science teacher certificate, and questioned why there is no parallel language for the master technology teacher certificate. Mr. Booker advised the Board to make changes to the proposed rule text at this time so that the public can comment on the proposed amendments once published as proposed in the *Texas Register*.

*Ms. Bridges amended the motion to include that staff include parallel language as described specifically and in other instances and remove the current language. The amendment was seconded by Ms. Druesedow and the Board voted unanimously in favor of the motion.*

**5. Adoption of Review of 19 TAC Chapter 239, Student Services Certificates**

Ms. Cárdenas informed the Board that since the Board has taken action to approve proposed amendments to Chapter 239, this adoption concludes the review of Chapter 239.

**Motion and Vote:**

*Motion was made by Ms. Baszile to adopt the review of 19 TAC Chapter 239, Student Services Certificates. Second was made by Ms. Bridges and the Board voted unanimously in favor of the motion.*

**6. Consideration of and Opportunity to Approve the Passing Standards on the following Texas Examinations of Educator Standards (TEXES):**

- **Generalist Early Childhood–6**
- **English as a Second Language Supplemental**
- **Bilingual Education Supplemental**
- **Pedagogy and Professional Responsibilities Early Childhood-6 Examinations**

Dr. Lopez introduced David Carmody, Manager of Testing. Mr. Carmody requested that the Board approve the passing standards on the Texas Examinations of Educator Standards (TEXES) as recommended by staff.

**Motion and Vote:**

*Motion was made by Mr. Allard to approve the passing standards on the Texas Examinations of Educator Standards (TEXES). Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**7. Proposed Repeal of 19 TAC Chapter 240, American Sign Language Certificate**

Ms. Cárdenas advised the Board that staff is requesting the repeal of Chapter 240 because the rule in this chapter has expired. Ms. Cárdenas also informed the Board that the rule applying to the American Sign Language certificate, based on the standards established for the Texas Examination of Educator Standards (TEXES), are now codified in 19 TAC §231.1 and §233.15.

**Motion and Vote:**

*Motion was made by Ms. Bridges to approve the proposed repeal of 19 TAC Chapter 240, American Sign Language Certificate, for filing as proposed with the Texas Register. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.*

**8. Adoption of Review of 19 TAC Chapter 240, American Sign Language Certificate**

Ms. Cárdenas informed the Board that since the Board has taken action to approve the proposed repeal of Chapter 240, this adoption concludes the review of Chapter 240.

**Motion and Vote:**

*Motion was made by Ms. Carter to adopt the review of 19 TAC Chapter 240, American Sign Language Certificate. Second was made by Mr. Allard and the Board voted unanimously in favor of the motion.*

**9. Consideration of and Opportunity to Approve an Additional Class of Certificate for an Educator Preparation Program Currently Rated Accredited**

Dr. Lopez introduced the program seeking approval for an additional class of certificate and advised the Board that staff recommends the approval.

- Stephen F. Austin University seeks approval to offer the Master Science Teacher 8-12 Certification Program

**Motion and Vote:**

*Motion was made by Mr. Allard to approve the additional class of certificate for the educator preparation program as recommended. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.*

**10. Proposed Revisions to Board Operating Policies and Procedures (BOPP)**

Dr. Cain reviewed the revision of limiting public testimony on disciplinary cases to ten minutes.

**Motion and Vote:**

*Motion was made by Ms. Baszile to approve the proposed revisions to Board Operating Policies and Procedures. Second was made by Ms. Carter and the Board voted unanimously in favor of the motion.*

**11. Adoption of Proposed Revisions to 19 TAC Chapter 241, Principal Certificate**

Ms. Cárdenas reminded the Board that it had postponed action on Chapter 241 in June 2009 until this meeting. Ms. Cárdenas informed the Board that House Bill 200, 81st Texas Legislature, 2009, which became effective June 19, 2009, repealed the

requirement for a principal assessment and that the proposed rule text recommended changes relating to the principal assessment rule.

Mr. Allard discussed the two-year classroom experience and the possibility of increasing the number of years. Mr. Allen informed the Board that if substantive changes are made at this time the Board would have to reopen the rulemaking process. Ms. Cárdenas informed the Board that if adopted, subject to State Board of Education review, at this time, the issue of years of classroom teaching experience could be presented for discussion at a later date. Ms. Cárdenas also informed the Board that the principal certificate is not only issued for principals; it is also issued for assistant principals.

Dr. Cain recommended that the Board adopt the revisions at this time as is and requested that an agenda item be brought back to discuss the classroom experience issue.

**Motion and Vote:**

*Motion was made by Mr. Allard to approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 241, Principal Certificate, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Mr. Morris and the Board voted unanimously in favor for the motion.*

**12. Litigation Settlement Options in Pending or Contemplated Litigation, Disciplinary Cases, and Pending Litigation**

**A. Contested Cases**

**I. Defaults**

**a. Revocation**

- 1) Docket No. 6029-EC-0309 State Board for Educator Certification v. Henry B. Yancey; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Baszile that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Bridges and the Board voted unanimously in favor of the motion.*

- 2) Docket No. 3076-EC-0409 State Board for Educator Certification v. Eric S. Williams; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Baszile that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Bridges and the Board voted unanimously in favor of the motion.*

- 3) Docket No. 3066-EC-0409 State Board for Educator Certification v. Bruce Duane Jasperson; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Bridges that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.*

- 4) Docket No. 3069-EC-0409 State Board for Educator Certification v. Medardo E. Leyva; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Bridges that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.*

- 5) Docket No. 3064-EC-0309 State Board for Educator Certification v. Paul Stephen Petty; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Carter that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Mr. Allard and the Board voted unanimously in favor of the motion.*

- 6) Docket No. 3075-EC-0409 State Board for Educator Certification v. Gary M. Barrett; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Carter that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Bridges and the Board voted unanimously in favor of the motion.*

- 7) Docket No. 3067-EC-0409 State Board for Educator Certification v. Dianna Louise Tetzlaff; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Mr. Allard that the Board grant staff's request for the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Carter and the Board voted unanimously in favor of the motion.*

- 8) Docket No. 3068-EC-0409 State Board for Educator Certification v. Leon Ewell; Action to be taken: Consideration of Issuance of Default Judgment.

- 9) Docket No. 3072-EC-0409 State Board for Educator Certification v. Carol June Wallace; Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Ms. Druesedow that the Board grant staff's request of the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.*

- 10) Docket No. 3070-EC-0409 State Board for Educator Certification v. John McCartney;  
Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Mr. Morris that the Board grant staff's request of the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Ms. Druesedow and the Board voted unanimously in favor of the motion.*

**b. Suspensions**

- 1) Docket No. 0723-EC-0209 State Board for Educator Certification v. Lacette R. Green;  
Action to be taken: Consideration of Issuance of Default Judgment.

**Motion and Vote:**

*Motion was made by Mr. Allard that the Board grant staff's request of the issuance of default judgment and enter an order consistent with staff's recommendations. Motion was seconded by Mr. Morris and the Board voted unanimously in favor of the motion.*

Dr. Cain informed the Board that the case of Lacette R. Green was removed from the agenda. Ms. Dover confirmed Docket No. 0723-EC-0209 State Board for Educator Certification v. Lacette R. Green had been pulled due to new evidence and will be brought back to Board at a later date.

**II. Proposal for Decisions**

Ms. Dover reviewed the proposal for decisions.

- 1) Docket No. 701-08-4128.EC State Board for Educator Certification v. Lino Ukele;  
Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

**Motion and Vote:**

*Motion was made by Mr. Morris to accept the proposal for decision and issue a final order revoking Mr. Ukele's paraprofessional certificate as a matter of law, consistent with the Administrative Law Judge's proposal for decision. Motion was seconded by Mr. Allard and the Board voted unanimously in favor of the motion.*

- 2) Docket No. 701-09-1512.EC Robert E. Tate, Jr. v. State Board for Educator Certification;  
Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

**Dr. Cain adjourned to Executive Session at 10:14 a.m.**

**Dr. Cain reconvened at 11:03 a.m.**

Mr. Booker reviewed with the Board information discussed by Dr. Barnes regarding the historical dates of the rules and informed the Board that if they want to remove the dates from the item's summary, someone would have to make a motion at this time to reconsider that item. No motion was made.

**Motion and Vote:**

*Motion was made by Mr. Allard to accept the proposal for decision and issue a final order denying Mr. Tate's application consistent with Administrative Law Judge's proposal for decision. Mr. Allard invited Mr. Tate to re-apply once he has taken care of his obligations imposed by the state of Oregon. Motion was seconded by Ms. Carter and the Board unanimously in favor of the motion.*

**III. Motions for Rehearing**

- 1) Docket No. 701-08-2837.EC State Board for Educator Certification v. David Carl Galloway; Action to be taken: Consideration of Motion for Rehearing.

**Motion and Vote:**

*Motion was made by Ms. Carter to suspend Mr. Galloway's certificate for two years, plus additional ethics training of 12 hours within the next 30 days. This increase in sanction is due to the seriousness of Mr. Galloway's conduct and due to the stated violations in the conclusions of law found in the proposal for decision. This increase is within the Board's goals and upholding standards for classroom teachers. Motion was seconded by Mr. Allard. Mr. Morris recused himself from the vote. Motion carried.*

- 2) Docket No. 701-08-4077.EC State Board for Educator Certification v. Judy Eloise McCarthy; Action to be taken: Consideration of Motion for Rehearing.

**Motion and Vote:**

*Motion was made by Mr. Allard to suspend Judy Eloise McCarthy's certificate for two years. The increase in sanction is due to the seriousness of the fact of her conduct and the fact that it involved both verbal and physical mistreatment of the student. The increased sanction is in keeping with the Board's goals and upholding standards for classroom teachers. Motion was seconded by Mr. Morris and the Board voted unanimously for the motion.*

Dr. Cain informed the Board that corrective action has been made for either counsel of the two motions of rehearing in order to have a new motion for rehearing.

**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.*

- 1) *Gilberto Gomez v. State Board for Educator Certification; Cause No. D-1-GN-09-000309, In the 201<sup>st</sup> Judicial District Court of Travis County, Texas.*
- 2) *Jatis McCollister v. Texas Education Agency, Educator Certification and Standards Division; Cause No. D-1-GN-09-001338, In the 250<sup>th</sup> Judicial District Court of Travis County, Texas.*
- 3) *Andrew Broughton v. Livingston Independent School District, Texas Education Agency, State Board for Educator Certification, Robert Scott, Darrell D. Myers, Nikki Wilson, I teach Corp., Inc., Cause No. 9:08CV175, In the United States District Court for the Eastern District of Texas, Lufkin Division.*
- 4) *Texas Education Agency v. T.F.G., Cause No. 09-08-00514-CV, In the Court of Appeals for the Ninth Judicial District, Beaumont, Texas.*
- 5) *Anthony Allen Jones v. State Board for Educator Certification, Cause No. 03-09-00223-CV, In the Court of Appeals for the Third District of Texas at Austin, Texas.*

### **13. Action on Items Discussed in Executive Session**

*Pursuant to section 551.102 of the Texas Government Code, any deliberation and final action on matters discussed in Executive Session must be made in an Open Meeting. For any final action that the Board discussed in Executive Session, the Board will deliberate and take its action in Open Session.*

### **DISCUSSION ONLY**

### **14. Opportunity to Discuss Implications of Senate Bill 174 on 19 TAC Chapter 229, Accountability System for Educator Preparation**

Dr. Lopez informed the Board that as a result of Senate Bill 174, 81st Texas Legislature, 2009, which became effective June 19, 2009, Chapter 229 must be rewritten. Dr. Lopez informed the Board that one stakeholders' meeting has been held since SB 174 became effective. Dr. Lopez noted that prior to the 81st Texas Legislature, six stakeholders' meetings were held and that three stakeholders' meetings are planned for August.

### **15. Review of 19 TAC Chapter 245, Certification of Educators from Other Countries**

Ms. Cárdenas informed the Board that a meeting will be scheduled in September 2009 to receive feedback from stakeholders.

### **16. Discussion of the Generalist: Grades 4-8 Certificate**

Mr. Booker informed the Board that at the State Board of Education (SBOE) Committee on School Initiatives meeting in May 2009, some members of the committee requested that Mr. Booker share their concerns regarding the Generalist: Grades 4-8 certificate with the SBEC to determine if it is necessary to keep the certificate. Mr. Booker advised the Board that the concerns relate to a teacher who may be teaching in a content area, such as science, where he may not have any college credits in that specific area on the transcript but were able to pass the certification examination. Mr. Booker also informed

the Board that over 40 educators, programs, and districts communicated their support of the certificate to staff.

Mr. Allard informed the Board that members of his district voiced their approval of the Generalist: Grades 4-8 certificate and their concerns if it were eliminated. The Board discussed the difficulty in recruiting science and mathematics teachers, especially in the middle school area and in smaller districts, and because of this the Generalist: Grades 4-8 certificate is imperative. The consensus of the Board is that the Generalist: Grades 4-8 certificate is necessary at this time. Dr. Glynn informed the Board that the issue is with the composite examination in science and social studies, which is designed so a person can pass two subject areas and not pass the third and still be issued the certificate. Dr. Glynn also informed the Board that most persons that apply for the Generalist: 4-8 certificate, who are going to teach in a content area, get certified in a particular content area such as science. Dr. Glynn also informed the Board that the number of educators who have been issued the Generalist: Grades 4-8 certificate is extremely low, and he informed the Board that staff is reviewing the possibility of going back to an individual science certificate. Dr. Glynn informed the Board that the SBOE does not want the Generalist: Early Childhood-Grade 6 certificate brought back for a waiver to certify teachers who are teaching Grades 4-5, and advised the Board that this also aligns with the federal standard for Prekindergarten-Grade 6 and Grades 7-12.

### **INFORMATION ONLY**

#### **17. 2007-2010 Rule Review Plan for State Board for Educator Certification Rules**

Dr. Cain reviewed this item.

### **DISCUSSION AND ACTION**

#### **18. Request and/or Questions from Board Members**

#### **19. Adjournment**

**Dr. Cain adjourned the meeting at 11:23 a.m.**

The Board may meet in closed executive session, Texas Government Code, section 551.071 to seek legal advice regarding any item on this agenda.