

STATE BOARD FOR EDUCATOR CERTIFICATION
DISCUSSION AND ACTION SESSION AGENDA

January 12, 2007 at 9 a.m.
1701 N. Congress Ave. Room 1-104
Austin, Texas

Corrected

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 9:05 a.m. on Friday, January 12, 2007 in Room 1-104 of the Travis Building, 1701 N. Congress Ave., in Austin, Texas.

Dr. Cain announced that Dr. Glynn would not be in attendance due to the loss of his son Doug. Dr. Neeley will come to the meeting as soon as she can break away from the SBOE training.

Attendance at the meeting was as follows:

Present: Bonny Cain, Adele Quintana, Cynthia Saenz, Susan Hetzler, John Shirley, Robert Scott, Janie Baszile, Christie Pogue, Cecilia Abbott, Patti Johnson, Judie Zinsser, Jeanne Gerlach

Absent: Troy Simmons, Dr. Raymond Glynn

Late: Christopher Barbic came into the meeting at 9:22 a.m.

Dr. Cain stated that the next Board meeting on March 9 is on the same day that the South by Southwest music festival begins in Austin. She proposed having the Board meeting for March begin at 10 a.m. to allow those board members from out of town time to drive in that morning. Staff has already searched for rooms in the area with limited success. She also asked if there would be any problem if there was not a Code of Ethics review in March. Chris Jones stated that he could wait until May for the next meeting. There was no objection from the board members so the next board meeting will begin at 10 a. m. and the next Code of Ethics review will be in May.

Dr. Cain welcomed Mr. Robert Scott who would be sitting in for Dr. Glynn and be giving administrative guidance from SBEC.

2. Public Testimony

She stated that we would begin the meeting with Public Testimony. Dr. Cain welcomed the Board of the Texas Association of School Personnel Administrators (TASPA). Public testimony began with Joelle Ogletree regarding TAC Rule 232 since her testimony did not relate directly to a specific board item.

Dr. Cain also stated that written testimony was provided to each board member from Cynthia Maxwell.

Ms. Ogletree provided testimony regarding TAC232.830, (b)(3) and (e) the rules that dictate that an educator's certificate cannot be renewed while pending the resolution of disciplinary action.

3. Certification Update

a) Department Updates

- Educator Standards

Dr. Loonam stated that Education Standards has been working with the new test contract. She provided a follow-up to the December tests after hearing the feedback from the October tests. There were over 18,000 educators registered for the December test. The December testing was much improved over the October testing. Educators who tested in October at two test sites where there were issues were able to retest at no charge on a special test date, December 2. ETS has also decided to offer another TOPT test on January 20 in the Dallas, San Antonio and Austin areas to assist educators who had problems with the online registration process. They are seeing continued improvement.

There was an Educator Preparation Program Advisory Committee meeting on November 6 to gain feedback on different issues. There were also two stakeholder committee meetings regarding Languages Other Than English (LOTE).

Janie Baszile asked if there was a process in place if a program incorrectly advised a student to take the wrong test. Dr. Loonam stated that she worked directly with a program if an educator is incorrectly advised. This has happened twice where she called the program to make sure they knew how to advise the students based on their individual credentials.

Christie Pogue stated that in November the Board accepted a passing standard for one of the test. During the motion it was brought to their attention that the Board would approve standards at one standard deviation below what is recommended by the committee. Ms. Pogue asked for a report to show how many tests were affected by this and which tests we have revisited. She also asked for the report to show, if the test was revisited, if the Board stayed with one standard deviation below the recommendation or did they go back to the original committee recommendation. Dr. Loonam stated that she had four years of data and the information was being reviewed in order to provide a report to the Board. Dr. Cain stated that this could be brought back in March or in May depending on the magnitude of the project. Ms Quintana stated that she did not believe they had revisited any of the tests that were approved at one standard deviation below the recommendation. Dr. Loonam agreed. There was more discussion about the manner in which the Board should accept passing standards and what format would be used to present the information.

- Credentialing Services

Mr. Echazarreta reported to the Board the performance data for the first Quarter of FY 2007 for Credentialing Services. Average telephone call waiting times are about 20 minutes. Calls dropped off steadily after the school year began but have picked back up after the first of the year. He stated that additional staff was trained and software was changed in order to expedite processing of out-of-state applications. He reported that reviews for out-of-state applications were caught up in late November and are still up-to-date.

A stakeholder committee meeting was held regarding the assignment criteria of all certificates with specific concentration on the Generalist EC-4 certificate. The committee was asked to address the problem of districts finding qualified teachers for 5th and 6th grade. The committee was asked to look at a solution for this situation while also considering how it would affect the other certificates. Meetings were held in September and November.

At this time the committee is looking at recommending an EC-6 Generalist certificate and 6-12 content certificates. Another meeting will be held on January 30. The committee will be considering how the changes will affect educators certified at the EC-4, 4-8, and 8-12 levels, cost, and timeline for changes. He will have a report from the committee for the Board at the March meeting.

Ms. Johnson asked for clarification on the telephone waiting times. She also advised him of concerns she had received from the field about the deletion of the 4-8 certificate. Mr. Echazarreta stated that invitations for the January stakeholder meeting had already been sent out. The committee is made up of deans, staff at educator preparation programs, superintendents, human resource staff, teacher representative organizations, educator service center staff, from all over Texas. Individuals who have contacted SBEC with concerns are directed to the committee member representing their area. The next meeting will be on January 30 in room 12-170 from 9a – 3p in the William B. Travis building.

Dr. Cain stated that she had heard lots of compliments from the field about how staff has resolved testing issues.

- Certification Enforcement Unit

Mr. Jones stated that he was fully staffed for another consecutive quarter. This has allowed the unit to make progress on their disciplinary cases. You can see this by the number of default cases on the docket and the number of live cases that have been litigated. They are consistently getting opinions back from SOAH. It takes anywhere six to nine months to bring a contested case through the discovery process to hearing. They have also reduced the number of open contested cases on the docket. They have addressed the oldest cases and most serious cases on the docket and are making progress. Mr. Jones informed the Board that he is working on code of ethics complaints. He sent out disposition notices on over 50 of the code of ethics cases within the last month.

Ms. Quintana asked why there is only half the number of cases in 03-04 compared to 05-06 in Attachment II. Mr. Jones indicated that the reason you see a decline in open and closed cases is because of a bookkeeping practice they had in 03-04. In 2003, when a criminal history hit came in, it was treated as an open case. The first step was to review the criminal history and determine they would not take a sanction on it and then immediately close the case. The vast majority of the cases that were opened and closed during that time were 2-3 day turnarounds. Now if a case is opened, they will pursue a sanction. Before a case was opened in 06, the staff determined to take action against an educator as long as there is evidence to prove the case.

- Investigations/Fingerprinting

Mr. Phillips brought attention to Senate Bill 119. If this bill passes intact, fingerprinting will be required for all certified individuals and all school district employees. The way it is written, it would become SBEC and Texas Education Agency's (TEA) job to see that it is done. They have estimated 350,000 certified educators and 700,000 for school district employees to be fingerprinted. About 45,000 fingerprints are processed at this time. After running the DPS Registered Sex Offender tape against the certified educator tape and the tape produces cross-matches. Staff found 26 new registered sex offenders they were not aware of. As far as they know, none of them were teaching. Unfortunately, the investigators are not able to automatically revoke their certificate because in most of the cases the sentences were deferred.

Mr. Phillips also explained that he had gotten a question regarding an article in the newspaper stating that teacher X was accused of a heinous act but there was not a flag on the educator's Virtual Certificate. He stated that Rule 249.14 which will be discussed today; states that staff is not able to flag a file immediately. It will be a minimum of 20 days after they receive a report before a flag can be posted in the educator's Virtual Certificate.

Ms. Pogue asked if staff has any discretion with regard to flagging an educator's certificate before 20 days. She then asked if there was any way to change the rule to allow staff to flag

earlier in the process, for example if a teacher has already been convicted and is incarcerated. Mr. Phillips indicated that currently this is the policy but not the rule for flagging Virtual Certificates. During discussion of 249.14 today, the board could make changes. Part of Senate Bill 119 states that we would flag certificates immediately. Ms. Abbott stated that there was quite a bit of time that passed before the article came out and the incident took place and it seemed like the educator was able to work in other places. Mr. Phillips stated that if the incident occurred outside the 20 day time period and is not reported to the agency, we don't know about it. This goes back to the reporting requirements that are in Board Item 9 that will be discussed today. The reporting requirements should be strengthened so that we know about an incident and we don't find out about it months later. Ms. Pogue asked if there was a streamlined notification process in place. Mr. Phillips stated that there is a notification system in place that is not always followed. We know if an educator is arrested if they were fingerprinted because DPS flags those individuals and notifies us of the arrest.

Committee Updates

- Legislative Committee

No update was provided.

- Long-range Planning Committee

No update was provided.

- ASEP Committee

No update was provided.

- Code of Ethics Review Committee

Dr. Cain reported that the Code of Ethics committee met Thursday, January 11.

- Board Operating Policies and Procedures Committee

No update was provided.

Ms. Pogue asked for a report on the different committees. She wanted to know what the make-up is of each committee, what is the charge and goals of each committee. Dr. Cain asked that this information be provided to board members. Dr. Cain suggested that the new committee members decide the goals of the committees.

b) Associate Commissioner Update

Mr. Scott advised board members that he and Dr. Neeley are available if needed while Dr. Glynn is out of the office. Mr. Scott advised that the Internal Audit Report regarding Alternative Certification Programs was being provided to board members today and will be distributed next week to the LBB, Governor's office, State Auditor and Sunset Advisory Commission. There are suggestions for improvement as well as commendations for things that are being done correctly.

In addition, he added that Board Item 11 is related to Senate Bill 119. There are a number of bills that have been filed that will affect educators.

CONSENT AGENDA

4. Approval of November 3, 2006 Board Meeting Minutes

Dr. Cain read corrections that were made to the minutes.

Motion and Vote:

Motion was made by Ms. Baszile to approve the November 3, 2006 Board meeting Minutes with corrections read by Dr. Cain. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

INFORMATION ONLY**5. 2007-2010 Rule Review Plan for State Board for Educator Certification Rules**

Mr. Scott advised that the Rule Review plan would begin in 2007 and end in 2010. The subject areas are divided into four areas starting with Investigations and some Credentialing areas then wrapping up in 2010 with Code of Ethics and General Administration. It outlines requirements for public comment and procedures in place for the Secretary of State and the Texas Register. Attachments were provided to board members. There was a discussion regarding the filing of adopted amendments with the Texas Register if the State Board of Education does not meet within the timeline listed. Dr. Cain asked if the Board could get clarification at the next board meeting.

DISCUSSION AND ACTION**6. Approval of New Educator Preparation Programs**

Dr. Loonam stated that there were three programs requesting approval. All three of the programs are in good standing and have been rated "Accredited." Two of the programs are requesting to add a different class of certificate. One of the programs wants to add an Alternative Certification Program.

Houston ISD is seeking approval to offer a School Counselor Program. Staff was present to answer questions. The anticipated start date is spring 2007 at a cost of approximately \$6000. Dr. Loonam provided supporting information about the program. She stated that the program complies with all SBEC rules required. Dr. Loonam added that the program is 2 years in response to Dr. Gerlach.

Jarvis Christian College is seeking to add an Alternative Certification Program. Dr. Johnnie Jones and staff were present to answer questions. The anticipated start date is summer 2007 and the approximate cost is \$6750. Dr. Loonam provided supporting information about the program. TEA staff completed a site visit. Dr. Hetzler was complimentary of the Jarvis Christian College programs. She informed the Board that the Texas Higher Education Coordinating Board oversees the Historically Black Colleges in Texas. Dr. Loonam added that the program is 2 years in length in response to Ms. Baszile.

Southern Methodist University is seeking to offer a Master Technology Teacher Program. The anticipated start date is summer of 2007 with an approximate cost of \$4400-\$4500 which includes a tuition deduction for professional educators. Dr. Loonam provided additional information about the program.

Motion and Vote:

Motion was made by Ms. Zinsser to approve the creation of the new educator preparation programs as presented. Motion was seconded by Ms. Abbott and the Board voted unanimously in favor of the motion.

Ms. Quintana asked for clarification on the review process for programs adding additional certification areas compared to adding an Alternative Certification Program like Jarvis Christian College did. Dr. Loonam will provide the information in Board Item 13.

7. Proposed Amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter J, Certification Requirements for Educators Other Than Classroom Teachers and Educational Aides, §230.305, Temporary Certificate

Mr. Echazarreta stated that this amendment is being brought back to the Board for adoption. The proposed amendment would establish a deadline of March 31, 2007, for issuing the temporary certificate which is no longer issued; the SBEC currently offers the Probationary Certificate in its place. Although the SBEC previously approved amending the rule to establish a deadline, the amendment was never filed with the *Texas Register*.

Motion and Vote:

Motion was made by Ms. Pogue to approve for adoption, subject to SBOE review, the proposed amendment to 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter J, Certification Requirements for Educators Other Than Classroom Teachers and Educational Aides, §230.305, Temporary Certificate, with an effective date of 20 days after filing as adopted with the Texas Register. Motion was seconded by Ms. Abbott and the Board voted unanimously in favor of the motion.

8. Proposed Amendment to and Extension of Emergency Effectiveness for 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas)

Mr. Echazarreta stated that approval of this amendment would establish in permanent rule the Business Education: Grades 6-12 certificate. The test was delayed in development and an emergency rule was approved at the November 2006 SBEC meeting. We are requesting an extension of 60 days on the emergency rule so it remains in effect until the permanent rule taking affect. He advised the Board that educators must complete TEA training prior to assignment. There was discussion about accountability if teachers do not complete training. There was a discussion regarding assignment criteria that is controlled locally.

Mr. Jones advised the Board about general enforcement rules held by SBEC related to certificates. Mr. Shirley asked if the language could be changed to say “encouraged to attend”. There was discussion about the pros and cons of changing the language. Mr. Barbic questioned why the workshop was required after an educator had already completed educator preparation requirements and passed exams.

Ms. Bunker-Henderson advised the Board that there is another subsection of this rule that does require educators to attend TEA workshops prior to teaching Principles of Technology. Ms. Bunker-Henderson advised the Board that there would be problems in terms of issuance of these certificates if a permanent rule is not proposed today. Also, you can’t extend a different rule than is currently in effect in terms of the emergency rule. **The item was tabled in order to get staff from Curriculum to clarify the need for this specific TEA workshop.**

9. Proposed Amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Agency's Filing of Petition

10. Proposed Amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, Subchapter F, Enforcement of the Educator's Code of Ethics

Julie Leahy, Texas Classroom Teachers Association (TCTA) provided testimony regarding Board Items 9, 10 and 12. Written testimony was provided to all board members. TCTA supports the proposed revisions to 19 TAC §249.14 related to prioritization of cases and the use of investigative warnings. They recommend a change to §249.48 regarding Code of Ethics. She will prepare written testimony. She also stated that TCTA would like to be included in the review process of Chapter 249.

Jennifer Canady, Association of Texas Professional Educators (ATPE) provided testimony regarding Board Items 9 and 10. Written testimony was provided to all board members. ATPE would like to have the phrase “an investigation” deleted from the language of §249.14. ATPE would like to see the “letter of warning” be referred to as a “letter of disposition”.

Ted Molina-Raab, Texas Federation of Teachers (TFT) provided testimony regarding Board items 9 and 10. He stated that most of the issues their association identified with these items were resolved during the stakeholders meeting. He also stated that he agreed with Ms. Canady's comments. TFT also would like to change the phrase “an investigation” and would like “letter of warning” to be changed or deleted.

Portia Bosse, Texas State Teachers Association, (TSTA) provided testimony regarding Board Item 10. They would like the letter of warning removed from the rule.

Dr. Cain returned to Item 8. She got word from staff through Dr. Neeley that language could be changed to “are encouraged to attend.”

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed amendment to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas) with a change in the language to reflect “are encouraged to attend” instead of “must attend”. Motion was seconded by Ms. Saenz.

Ms. Bunker-Henderson explained that there are two separate votes before board members today. One will continue the emergency rule. The language reflected in the emergency rule says “must attend”. You cannot continue in effect a different emergency rule. The rule has to be consistent. In order to keep the certificate available, the Board will have to vote to keep the “must attend” language.

The other vote is about the permanent rule. The Board can vote to change the language but it will create a small potential for problems in that there will be a group of educators who obtain certification pursuant to the emergency rule will be required to attend the workshop. Those who obtain their certificate pursuant to the permanent rule will be encouraged to attend.

There was a discussion about whether or not the commissioner could provide a waiver to educators to make the rules consistent.

Motion and Vote:

Motion to approve the proposed amendment to 19 TAC Chapter 233 was withdrawn by Mr. Shirley. Second was withdrawn by Ms. Saenz.

Item 8 was tabled after motions were withdrawn.

Dr. Cain came back to Item 8. Ms. Bunker-Henderson explained that they could continue in effect the emergency rule with the language “must attend.” If the Board would like the language changed in the permanent rule to say “are encouraged to attend” the Board would propose that language in a motion and vote. A second vote would be to treat those groups equally as if they received certification under the same standards.

Motion and Vote:

Motion was made by Ms. Quintana to approve the extension of emergency effectiveness for an additional 60 days for the emergency amendment to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas). Motion was seconded by Ms. Saenz and the Board voted unanimously in favor of the motion.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed amendment to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas) with a change in the language to reflect "are encouraged to attend" instead of "must attend. Motion was seconded by Ms. Saenz and the Board voted unanimously in favor of the motion.

Motion and Vote:

Motion was made by Ms. Quintana to treat educators who received their certification under the emergency rule to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas) the same as those who receive it under the permanent rule. Motion was seconded by Ms. Saenz and the Board voted unanimously in favor of the motion.

Mr. Anderson, General Counsel for TEA presented Item 9. This is what was known as the “flagging rule” but now the rule refers to flags as “investigative notices.” This item creates a priority for those offenses listed as Priority 1 items and will be flagged with an investigative notice on the Virtual Certificate. Staff will be required to notify the educator at least 10 days prior to placing a notice on the educator’s Virtual Certificate. The educator will have the opportunity to respond. The notice may not be on the website more than 240 days. The timeline will stop for criminal investigations or contested cases. The notice will be removed when a case’s final disposition of the matter occurs before the State Board for Educator Certification or 30 days after the request is made by the educator.

There were changes made to §249.14 (g)(1)(L) after the stakeholders meeting. An educator who engages in sexual conduct or a romantic relationship with a student or minor would require a notice. They also added (g)(3) at the request of organizations that a Priority 2 will not result in a notice. A definition of serious testing violation was added at the request from organizations. The proposed rule in (j)(2) was changed to 240 days instead of the original 365 days that a notice can remain on a Virtual Certificate. The time limit will stop if there is a pending criminal matter or if

the matter is referred for a contested case hearing. In section (m) clarification was added to define "TEA staff."

Mr. Anderson responded to many questions regarding Item 9. There was also a discussion among board members about language in §249.14.

Three changes were recommended by consensus of board members:

- Adding "student or" before minor was added under (d)(2)(A) to make the first line of the sentence similar to the second half of the sentence.
- Language was added to (g)(4) to include an "or action that is calculated to effect the accountability rating of a school district or campus."
- A grammatical change was made to (l) by inserting the word "by" before "written notice."

Also, Mr. Anderson asked that the minutes clearly reflect the Board's understanding of (j) with regard to the definition of "an investigation." The Board wanted to make sure that an investigation would be completed by a criminal law enforcement agency.

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Agency's Filing of Petition as revised, for filing as proposed with the Texas Register. Motion was seconded by Ms. Quintana and the Board voted unanimously in favor of the motion.

Mr. Anderson presented Item 10. This is the code of ethics rule. It has gone through the stakeholder process. The code of ethics, both because of the volume and the potential vagueness of a violation and the 50-day timeline has been a problem for staff in meeting the enforcement caseload for other offenses. The purpose is to try to resolve this. The 50-day timeline from receipt of a complaint will remain. This rule has changes that would require the complainant to provide specifically which section of the code of ethics was violated. It also requires the complainant to clearly articulate evidence of the violation. It also would allow staff to suspend consideration of a complaint if it is pending a decision before another agency or with the Commissioner of Education, etc. Changes in the rule would allow staff to dismiss a complaint as not warranting a sanction and alternatively allows staff to dismiss without sanction but with a "letter of warning." Other changes were made after stakeholder meetings. Staff deleted a proposed change to require exhaustion of the local grievance process prior to filing a code of ethics complaint. Changes are recommended to reinstate the requirements for notice to the local school district in subsection (c) and the 45-day period for local resolution in subsection (d). Clarification is provided in subsection (g) to change executive director to TEA staff.

There was a discussion among board members regarding the process of the letter of warning and the name of it. Mr. Anderson stated that this is a case management tool to allow staff to dismiss cases. He stated that the letters would be maintained. Mr. Anderson observed that the Board is wrestling with whether or not it is appropriate to have a something in place that would allow staff to dismiss a complaint but to state disapproval of an action if it happened. There are currently 300 pending code of ethics complaints. Mr. Jones gave an example of how he would use a letter

of warning. Mr. Anderson clarified that an original code of ethics complaint must also be filed with a school district.

Mr. Anderson stated that currently the ability to dismiss a code of ethics complaint is very limited. It has to be found to be legally defective, that it does not allege a violation of the code of ethics, it is not timely, or it meets a very high standard of being frivolous. The first decision of the Board is whether or not to give the staff the ability to dismiss a complaint as not warranting a sanction but we just don't have the resources to get to it. The second decision is whether or not to give staff the ability to go on record with the educator that we disapprove of the behavior, if it happened, using the letter of warning. This is an intermediate resolution that will allow staff to state disapproval of alleged behavior and dismiss the complaint.

Motion and Vote:

Motion was made by Mr. Barbic to approve the proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, Subchapter F, Enforcement of the Educator's Code of Ethics as stated changing the "letter of warning" to "letter of caution." Motion was seconded by Mr. Shirley.

The Board continued to discuss the code of ethics rules. The process for the letter of warning was provided by Mr. Anderson. Ms. Quintana noted that there is not language in §249.51 allowing staff to reach plea agreement with an educator after a complaint is filed. This may be something to be discussed during Item 12. She also suggested a change in the language in §249.48 regarding the timeline for filing a complaint. She suggested adding "or the date, on which the complainant knew or should have known of the act, whichever is later." There was discussion about adding back the requirement to the exhaust local grievance process prior to filing a code of ethics complaint.

Motion and Vote:

Motion was amended to include "or the date on which the complainant knew or should have know of the act, whichever is later." Second was amended by Mr. Shirley.

The Board continued to discuss the code of ethics rules.

Motion and Vote:

Motion was made by Mr. Shirley for a Call for the Question. Motion was seconded by Mr. Barbic. Ms. Johnson advised that debate must stop and there must be a vote.

Mr. Anderson clarified consensus changes to include:

- "Letter of warning" will be changed to "letter of caution."
- The following language will be added to §249.48-- "or the date on which the complainant knew or should have known of the act, whichever is later."
- The phrase "additional action" would be changed to "additional allegations."

Motion and Vote:

The motion on the Call for the Question passed. Voting in favor were Ms. Baszile, Ms. Zinsser, Ms. Johnson, Mr. Barbic, Ms. Abbott, Mr. Shirley, and Dr. Cain. Voting against the motion were Ms. Pogue, Ms. Saenz and Ms. Quintana.

Dr. Cain stated that there would be a vote for the motion. She clarified the consensus changes as follows:

- “Letter of warning” will be changed to “letter of caution.”
- The following language will be added to §249.48 “or the date on which the complainant knew or should have known of the act, whichever is later.”
- The phrase “additional action” would be changed to “additional allegations.”

Motion and Vote:

Motion was made by Mr. Shirley to approve the proposed amendments to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, Subchapter F, Enforcement of the Educator's Code of Ethics as revised, for filing as proposed with the Texas Register. Motion passed. Voting in favor were Dr. Cain, Ms. Baszile, Ms. Zinsser, Ms. Johnson, Mr. Barbic, Ms. Abbott, Mr. Shirley, and Dr. Cain. Voting against the motion were Ms. Pogue, Ms. Saenz and Ms. Quintana.

Dr. Cain stated that the Board will meet in closed Executive Session, pursuant to section 551.071(2) and/or 551.071(1), of the Texas Government Code and have a working lunch. When they return, they will start with Item 11.

Before going into Executive Session, Dr. Cain asked Ms. Kent to present her public testimony since she would not be present when they returned.

Ms. Kent, Texas Association of School Personnel Administrators (TASPA) presented testimony on Item 11. Written testimony was provided to all board members.

The Board adjourned at 12:23 p.m. to go into Executive Session.

Dr. Cain called the meeting back into session at 12:58 p.m.

11. Legislative Recommendations for the 80th Texas Legislature

Jenna Watts, Governmental Relations stated that she was present to facilitate the Board’s legislative recommendations. The draft provided to all board members are recommendations of the staff. Ms. Watts stated that the recommendations will be delivered to the legislature on the Board’s behalf. Staff would serve as a resource to members of the legislature if they decide to move forward with any of the recommendations.

There was discussion regarding items for staff development for teachers. Board Goals will be placed on the March agenda for discussion.

Board members discussed the legislative recommendations made by TASPA. Board members agreed to add the four recommendations from TASPA into the draft recommendations from staff to present to the legislature. Dr. Cain asked that Ms. Watts combine the recommendations for presentation to the legislature. (Legislative recommendations to the 80th Legislature attached.)

Motion and Vote:

Motion to adopt the SBEC's legislative recommendations to the 80th Texas Legislature was made by Ms. Saenz. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

DISCUSSION ONLY**12. Review of 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics**

Mr. Anderson stated that Item 12 is much broader than the previous items regarding 249. He stated that all state agencies must review their rules on a four year cycle and make a determination that the rules are still necessary. Items 9 and 10 were brought today because staff felt that it was necessary to bring them forward now. Staff will move forward and file a notice in the *Texas Register* that the review process will begin for 19 TAC Chapter 249 that will start a clock running. There was discussion about the review process. Mr. Anderson pointed out that if board members had questions or suggestions about Chapter 249, they should email Dr. Glynn. Mr. Scott clarified that a board member should not copy anyone else on the email because that could constitute a quorum when discussing policy.

13. Discussion of the Process for Approving Additional Certificate Fields for an Educator Preparation Program

Dr. Loonam presented Item 13 regarding the process for approving Additional Certificate Fields. She provided copies of the Program Approval application for a brand new program to board members. It takes approximately 6 months for a program to complete the approval process.

Historically, a new program would come to the board for approval of a few certification areas. After that, a program would write a "letter of intent" asking to add up to 50 certificate fields to their program. Dr. Loonam is concerned about having a program add certification areas without providing curriculum and support to show that the program has the capacity to offer those certification fields.

There are 144 programs in the state. Many of the well established programs that have been functioning for a long time offer the majority of the 125 certificates that are available. Some of the newer, smaller programs, it appears, want to add a number of certification areas when they are not fully accredited or do not have the capacity to offer the certification fields or cannot provide support in the schools for educators in those certification fields. Dr. Loonam would like to increase the standards. There have been complaints about programs offering Career and Technology and Agricultural Science where a program may not have the expertise in these highly specialized fields to provide support to educators in those fields. Dr. Loonam is proposing a change to the rules that would require the curriculum and support when adding fields.

Less than half of the programs in the state are university programs. No one should be adding certification until they have their initial ASEP rating. The rule states the program must be "fully accredited" but there is not a definition of "fully accredited." The rule will have to be changed. After conferring with Mr. Anderson and Ms. Bunker-Henderson, staff is not approving any additional fields for programs with preliminary status. There was discussion about the number of certificates offered by SBEC. Staff provides counseling to programs to help them determine the certification areas that should be offered.

There was more discussion about adding the Board Goals to the agenda as a discussion item. The board advised Dr. Loonam to move forward with changes she outlined.

14. Discussion of Proposed Plan for Languages Other Than English (LOTE) to Meet State Certification Requirements

Dr. Loonam presented Item 14. She provided background information to the board members before the meeting. She has had stakeholder meetings with educators from across the state. She was getting requests from the school districts about how teachers could become “highly qualified” in languages where SBEC does not offer exams. Dr. Loonam asked the Board to support using tests that are not developed by Texas for certification purposes for some of the foreign languages where they have found other exams that are similar to the standards in Texas. Tests for Arabic, Chinese, Japanese, Russian and Vietnamese would be used to demonstrate language proficiency.

There was a question about the background information provided to board members regarding stakeholder meetings that were held but had to stop because of dissention among the participants. Dr. Loonam stated that she decided to wait and see what the issues were before moving forward. At this time, Dr. Loonam asked the Board if she can proceed with using tests developed outside of Texas for Arabic, Chinese, Japanese, Russian and Vietnamese. The Board had no objections.

DISCUSSION AND ACTION

15. Disciplinary Cases and Pending Litigation

a.) Disciplinary Cases

Chris Jones answered questions from board members about disciplinary cases. He advised the Board that a suspension is reflected on the Virtual certificate after the suspension is over. His staff will begin to use X's in place of the social security numbers until the TEA ID numbers are available. Social security numbers are never disclosed. Mr. Jones advised if an educator's certificate was sanctioned in another state, we ask for the same sanction that was levied there.

- 1) **Docket No. 701-06-1491.EC**, *State Board for Educator Certification v. Russell Connor*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 2) **Docket No. 701-06-2020.EC**, *State Board for Educator Certification v. Judy Ella Carter*; **Action to be Taken:** Proposal for Decision,

Motion and Vote:

Motion made by Ms. Abbott to adopt the Proposal for Decision and issue an order consistent with that decision, motion was seconded by Mr. Shirley and the Board voted unanimously in favor of the motion.

- 3) **Docket No. 701-06-3071.EC**, *State Board for Educator Certification v. Barry Scott Chandler*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 4) **Docket No. 701-07-0044.EC**, *State Board for Educator Certification v. Hector Anzaldua Garza*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 5) **Docket No. 701-07-0202.EC**, *State Board for Educator Certification v. Beverly Latta*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 6) **Docket No. 701-07-0207.EC**, *State Board for Educator Certification v. Alan Sears Lee*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 7) **Docket No. 701-07-0289.EC**, *State Board for Educator Certification v. Stephanie Taylor*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 8) **Docket No. 701-07-0327.EC**, *State Board for Educator Certification v. Louis K. Gaspar*; **Action to be Taken:** Issuance of Default Judgment,

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

- 9) **Docket No. 701-07-0399.EC**, *State Board for Educator Certification v. Stephenia Freeman*; **Action to be Taken:** Issuance of Default Judgment.

Motion and Vote:

Motion made by Ms. Abbott to issue the Default Judgment, and the motion was seconded by Ms. Baszile, and the Board voted unanimously in favor of the motion.

16. Action on Items Discussed in Executive Session

Pursuant to section 551.102 of the Texas Government Code, any 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 take its action in Open Session.

17. Adjournment

Ms. Baszile announced that her campus and another school from her district were featured in Texas Monthly.

The next meeting will begin at 10 a.m. instead of 9 a.m.

Meeting adjourned at 1:44 p.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.

ATTACHMENT I

Recommendations to the 80th Legislature from the State Board for Educator Certification

The State Board of Educator Certification recommends that the legislature:

1. Allow the board to take appropriate action against Educator Preparation Programs for repeated failures to meet the standards for the Accountability System for Educator Preparation or for non-compliance with board rules.
 - a. Provide sanctions similar to those available for use with school districts and charters.
 - b. Allow closure for repeated low-performance.
2. Allow the board to charge a fee for the review, approval and maintenance of educator preparation programs.
3. Strengthen the requirement that a superintendent report misconduct by teachers, and clarify that charter administrators must also report.
4. Increase funds for the Educator Certification and Standards Division (former SBEC) so that the division can complete its functions in a timely and effective manner in order to get qualified teachers in the classroom as soon as possible.
5. Reinstate and expand funding for TxBESS, a proven and research-based mentoring program that had a noticeable impact in teacher retention.
6. Designate funds to be used by districts for stipends to attract and retain educators in the state-declared shortage areas, particularly in math and science.
7. Continue the progress started in the last special session toward increasing teacher salaries to be on parity with the national average in order to attract more people into the profession.