

State Board for Educator Certification
DISCUSSION AND ACTION SESSION AGENDA

March 9, 2007 at 10:00 a.m.
1701 N. Congress Ave. Room 1-104
Austin, Texas

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 10:05 a.m. on Friday, March 9, 2007 in Room 1-104 of the Travis Building, 1701 N. Congress Avenue in Austin, Texas.

Present: Dr. Cain, Dr. Glynn, Dr. Neeley, Ms. Baszile, Ms. Pogue, Ms. Johnson, Dr. Gerlach, Mr. Barbic, Ms. Abbott, Mr. Trevino, Dr. Hetzler, Mr. Scott, Mr. Shirley, and Ms. Druessedow

Absent: Ms. Saenz and Ms. Zinsser

Dr. Cain called the meeting to order at 10:05 a.m. She welcomed everyone and introduced two new board members. Jill Druessedow is a journalism and English teacher at Haskell High School where she is also chair of the English department and the publications director. She is a member of the National and Texas Councils of Teachers of English and the Texas Association of Journalism Educators. She is a former mayor and city councilwoman of Haskell, and previously served on the board of directors of the Haskell Chamber of Commerce. Ms. Druessedow received a bachelor's degree and a master's degree from Midwestern State University, and completed post graduate work at Hardin Simmons University and Abilene Christian University.

Homer Dean Trevino is an executive vice president and general manager with the United Way of Waco. He is an adjunct faculty member at McLennan Community College and Temple College, and a past adjunct faculty member at Tarleton State University. He is a member of the Waco Rotary Club, the Institutional Review Board for the Hillcrest Health System and the City of Waco Capital Needs Assessment Committee. Mr. Trevino received a bachelor's degree from St. Mary's University, a master's degree from Baylor University and completed graduate work in executive management at Harvard Graduate School of Business.

Dr. Neeley also welcomed the new board members.

2. Public Testimony

Dr. Cain indicated that there was one person signed up for testimony regarding a non-agenda item.

1. Marty Murrell, Alliance of and for Visually Impaired Texans presented her testimony to the Board. Her written testimony was provided to board members.

3. Certification Update

a) Department Updates

- ***Educator Standards***

Dr. Loonam provided an update for Educator Standards. They have been busy completing program visits. The Educator Preparation Program Advisory Committee met to discuss issues that affect programs in the field. They have been involved in standard setting for the

Art and Master Technology Teacher. Test administration information is provided in the agenda.

Dr. Loonam stated that all programs were notified in January of post approval visits that were scheduled through June. Teams visit in the fall for accreditation ratings and in the spring for post approval visits. Dr. Loonam indicated that post approval visits are for programs that were approved in the last 6-12 months to see if they are implementing the program the way it was approved by the Board. The other visits are part of the five-year cycle to visit all programs in the state to see if they are following the rules and implementing the program as approved by the Board.

Dr. Loonam stated that they will complete a pilot plan of completing both visits simultaneously to see if it would be more efficient. Dr. Loonam noted that if staff has concerns after a visit, a written report is done to identify their findings. If it is a serious concern, the program develops an action plan and TEA staff will follow-up with them the next semester. A staff member is assigned and there is an on-going process to monitor the progress of the program. Cost is incurred by TEA if they have to return to the program repetitively. Dr. Loonam indicated staff will be working in coordination with NCATE (national accreditation) to come up with a process for all programs in Texas.

- ***Credentialing Services***

Mr. Echazarreta provided the quarterly report to board members at the meeting. Staff is caught up on working out-of-state files. He has also been analyzing bills and how they will affect SBEC.

Dr. Neeley reported that they are happy that SBEC is part of TEA.

Dr. Cain also added that the SBEC/TEA merge has been a win-win situation.

- ***Certification Enforcement Unit***

Mr. Jones reported that he will provide statistical performance measures at the next board meeting. They are working to get the case loads down to a target of 800 contested and code of ethics cases then they will be within compliance of the performance measures.

Staff had worked on the two rule packets for 249.14 and 249F. In addition, his staff is currently working with Doug Phillips and his staff to complete the rule review of 249.

- ***Investigations/Fingerprinting***

Mr. Phillips reported that he and his staff are working on Senate Bill 9(SB 9). It deals primarily with fingerprinting and who will be fingerprinted. It also deals with the flagging issues. The language is not set in stone. It will also deal with ability of staff to receive information for investigations from other agencies. If the bill passes in its current state, his staff will increase. The proposal says that all active certified educators will be fingerprinted and some population of non-certified individuals will also be fingerprinted. Funding for about 95 full-time positions for DPS and TEA is included in the bill. Mr. Phillips stated that possibly 500,000 individuals will be fingerprinted. We will continue to complete 44,000 fingerprints for new applicants plus about 200,000 per year as this process is phased in. At minimum, student teachers would probably need to have a background check through a name search. Dr. Neeley gave more information about how staff is working to make sure SB 9 is funded so it can be implemented correctly. There was more discussion about how and when SB 9 would be implemented. Dr. Glynn will provide the current pending bills and bill analysis to all board members. Dr. Cain volunteered to be the first educator to be fingerprinted when the bill passes.

Dr. Cain stated that committee updates would be held until after election of officers.

b) Committee Updates

- ASEP Committee
- Code of Ethics Review Committee
- Board Operating Policies and Procedures Committee
- Legislative Committee

c) Associate Commissioner Update – *Dates for Board Retreat/Orientation*

Dr. Glynn thanked the new board members for their patience through the orientation that was held March 8. He also thanked the board and agency staff for their support. The board requested another retreat at the January meeting. After some discussion, the board agreed to meet for the board retreat on May 19 from 10 a.m. until 3 p.m. with a working lunch.

CONSENT AGENDA

4. Approval of January 12, 2007 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 January 12, 2007 Board meeting Minutes with corrections. Motion was seconded by Mr. Shirley 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

Dr. Glynn advised that staff is continuing to work on disciplinary rules in 249. Most rules will come before the Board in May for discussion.

Ms. Cain asked if any board member wanted to say anything before election of officers. The Board elected officers in open session.

DISCUSSION AND ACTION

6. Election of Board Chair

Motion and Vote:

Ms. Johnson nominated Dr. Bonny Cain for president. No other nominations were received. Motion was made by Ms. Baszile to close nominations. Motion was seconded by Mr. Shirley and the Board voted unanimously in favor of the motion.

7. Election of Board Vice-Chair

Motion and Vote:

Ms. Abbott nominated Ms. Pogue for Vice-Chair. No other nominations were received. Ms. Johnson made a motion to accept her nomination by acclamation. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

8. Election of Board Secretary**Motion and Vote:**

Ms. Abbott nominated Mr. Shirley for Secretary. No other nominations were received. Ms. Baszile made a motion to accept his nomination by acclamation. Motion was seconded by Ms. Abbott and the Board voted unanimously in favor of the motion.

9. Appointment of Standing Committees

Dr. Cain asked each board member to indicate their interest in committees. After discussion, the Board decided they will discuss and determine which committees should be established or continued at the Board Retreat. Dr. Hetzler asked if the committees should align with TEA departments. Ms. Pogue stated she would like to know the reasons the committees were formed, the charge of the committees, goals, and are they aligned with the Board goals. Dr. Cain stated that there is not much flexibility in the Code of Ethics committee. One administrator or counselor member, a teacher member, and one citizen member are required for the Code of Ethics committee.

10. Approval of New Educator Preparation Programs

Dr. Loonam stated that one program was presented for approval. Lubbock Christian University is seeking to add a Superintendent Certification program. Staff was available to answer questions. Lubbock Christian University is already an approved program rated accredited. They plan to start a cohort with ten superintendents. The approximate cost is \$5500. They are working with representatives from education service centers, Texas Association of School Administrators and local school districts to develop the program. The curriculum has been designed in compliance with standards required. All competencies have been addressed in their curriculum matrix.

Motion and Vote:

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

11. Passing Standard for Master Technology Teacher Certification Examinations

Dr. Reyna stated that this is not a new exam. It was first administered in 2003. Because of growing technology in the schools and after collaboration with TEA staff, Ed Tech curriculum department, and ETS staff they felt the exam needed to be updated. They looked at technology standards and the star chart standards and integrated them as they reviewed the items in the exam. They wanted to make sure the test reflected what teachers should be teaching in the classroom.

They needed to reset the cut-score because of revisions made to the exam. In February, a committee consisting of master teachers practicing in the field, professors that were teaching technology to education students, and a wide range of people met to update the master technology teacher exam to make sure it reflected skills that needed to be implemented by Master Technology Teachers.

Dr. Tannenbaum, ETS, Director of Research for Validity Research explained the process for the standard setting studies conducted in February. They also defined the Just Qualified Candidate (JQC). This is the candidate who has just enough knowledge and skills to earn the Master

Technology Teacher certification. This is the frame of reference the committee members use when judging how difficult a test item is. The Modified Angoff method was used for multiple choice test items. For constructed response items, the Modified extended Angoff method was used.

Motion and Vote:

Motion was made by Ms. Pogue to approve the passing standard for the Master Technology Teacher certification examination as presented. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

12. Proposed Amendment to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §228.10, Approval Process

Dr. Cain indicated that there was one person signed up for testimony regarding Item 12.

1. Ms. Marcia Daniels, President of the Texas Association of School Personnel Administrators (TASPA) and Executive Director of Human Resources in El Paso ISD presented her testimony to the board. Written testimony was provided to each board member along with feed back from their membership.

Dr. Loonam stated that this item was initially introduced for discussion at the January meeting. She asked the Board to take action and approve the item. She stated that this measure would increase the standards of programs when requesting to add a certification field after they are rated accredited. They are asking programs to provide supporting documentation to show that they have looked at curriculum and standards and have staff with expertise in the area to support the additional certification fields they are requesting.

Ms. Pogue asked if there was anything that could be done to prevent an influx of letters of intent from programs attempting to add areas by letter of intent before this rule goes into effect. Dr. Loonam advised that she was aware of what could happen. She must accept letters of intent as the rule is written now. Ms. Bunker-Henderson stated that only an emergency rule would prevent it.

In response to a question from Dr. Hetzler about language in Attachment II, Policy Coordination staff stated that no change was needed.

Motion and Vote:

Motion was made by Ms. Pogue to approve as presented the proposed amendment to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, §228.10, Approval Process, for filing as proposed with the Texas Register. Motion was seconded by Ms. Johnson and the Board voted unanimously in favor of the motion.

13. Plan for the Languages Other Than English (LOTE) to Meet State Certification Requirements

The following people presented testimony to the Board prior to presentation of this item.

1. Ms. Carrie Harrington, Fort Worth ISD-Metroplex Foreign Language Supervisors. Written testimony was also provided to each board member.

2. Ms. Bettye Edgington, Hurst-Eules-Bedford ISD. Written testimony was also provided to each board member.
3. Dr. M.K. McChrstan, Richardson ISD. Written testimony was also provided to each board member.
4. Written testimony from Ms. Laurel Miller was provided to each board member.

Dr. Neeley and Dr. Gerlach expressed their appreciation and support for what the foreign language teachers are doing. There was more discussion about the connection between the public school, community colleges and four year colleges.

Dr. Loonam stated that this item was initially introduced for discussion at the January meeting. She asked the Board to take action and approve the use of oral and written American Council on the Teaching of Foreign Languages (ACTFL) for Languages Other Than English (LOTE) for Arabic, Chinese, Japanese, Russian, and Vietnamese. The tests will assist teachers in meeting the highly qualified status under *No Child Left Behind* and become state certified.

Motion and Vote:

Motion was made by Ms. Johnson to approve the use of the American Council on the Teaching of Foreign Language (ACTFL) exams to be used towards meeting certification requirements for LOTE in Arabic, Chinese, Japanese, Russian, and Vietnamese. Motion was seconded by Mr. Barbic and the Board voted unanimously in favor of the motion.

DISCUSSION ONLY

14. Discussion of Certification Test Data

Dr. Loonam stated that test data was sent to board members at the request of the Board. She also reported how many exams were approved at setting standards below what the committee recommended. She asked for recommendations from the Board.

There was discussion about how to proceed with the test data provided. Ms. Pogue advised the Board she thought they should make sure that the Board accepts the recommendation of the committee of professionals on setting passing standards. Forty out of fifty-nine of the tests were approved at one standard deviation below the committee recommendation with a promise to revisit but they have not ever done that. Ms. Pogue suggested that the Board take Dr. Glynn's recommendation to phase-in the initial passing standards taking into consideration critical teacher shortage areas. Dr. Glynn added that staff would bring back the exams as time permits, considering critical shortage areas, and make a recommendation to go back to the committee recommendations for passing standards of those exams. Dr. Hetzler asked that as the new scores are phased in, that TEA provide preparation programs with notice that new scores will be going into effect. Dr. Cain asked that a timeline be included as exams are brought back for change.

15. Discussion of Educator Certificates

Fifteen people were signed up to speak about this item. Board members discussed the option of voting to change procedures for hearing testimony. It was decided to hear all testimony.

The Board decided to have a working lunch and return to hear all testimony for item 15 at 12:30.

Dr. Cain adjourned the board meeting at 11:45 to go into executive session.

Dr. Cain called the meeting back to order at 12:34 p.m.

Dr. Cain stated they would take care of business from the closed session regarding item 19. Mr. Gonzalez provided testimony to the Board. He also provided written testimony to each board member. Mr. Jones was given the same amount of time to present to the Board.

The following people provided testimony to the Board regarding the discussion of educator certificates:

1. Dr. Jane Thielemann, Vice-President, Middle School Educator Preparation Association (MSEPA), Houston, TX
2. Ms. Peggy Johnson, Texas Tech University, College of Education, Lubbock, TX
3. Dr. Sheryl Santos, South Plains Closing the Gaps P-16 Council, Lubbock, TX
4. Annette Smith, South Plains College-Associate of Arts in Teaching, Levelland, TX
5. Dr. Neil Dugger, Assistant Superintendent for Personnel and Administration, Irving Independent School District, Irving, TX
6. Dr. Janice Nath, Consortium of State Organizations for Texas Teacher Education (CSOTTE) Spring, TX
7. Ms. Susan Kent, Director of Elementary HR, Northside ISD, Texas Association of School Personnel Administrator, San Antonio, TX
8. Dr. Gwenne Ash, Professor of Middle School Reading Instruction, Texas State University, Austin, TX
9. Dr. Alejandra Martin, Texas Association of School Personnel Administrators (TASPA), Austin, TX
10. Mr. Richard Valenta, Human Resources Director, Birdville ISD, Texas Association of School Personnel Administrators (TASPA), Austin, TX
11. Mr. Tom Leyden, Associate Executive Director, Texas Association of Secondary School Principals (TASSP)
12. Ms. Susan Dennis, immediate past president, Texas Alternative Certification Association, Canyon, TX
13. Ms. Sandi Borden, Executive Director, Texas Elementary Principals and Supervisors Association, Austin, TX
14. Ms. Linda Welsh, Child Development Educators Association for Texas Associate Degree Programs, (CDEA), Austin, TX
15. Ms. Donna Tavener, Texas A&M-Commerce, Campbell, TX

16. Dr. Sandra West, Texas Academy of Science, Canyon Lake, TX

The following people provided written testimony only to the Board regarding Item 15:

1. Mr. Chris Huber, Texas Middle School Association, Lubbock, TX
2. Ms. Doris Scoggin, Texas Middle School Association, Lubbock, TX
3. Dr. Grant Simpson, Dean, West College of Education, Midwestern State University, Wichita Falls, TX
4. Ms. Karen Bridwell, Del Mar College, Alternative Certification for Teachers Program, Corpus Christi, TX
5. Dr. John Huber, Math Department, Sam Houston State University, Huntsville, TX
6. Mr. Al Summers, National Middle School Association, Pataskala, OH

Mr. Echazarreta presented item 15. He advised the Board that State Board of Education (SBOE) advised in July 2006 they would not approve to extend the waiver that allowed Early Childhood-Grade 4 (EC-4) teachers to teach in self-contained 5th and 6th grade classrooms after 2006-2007. The SBOE expected staff to develop a permanent solution to meet the current shortage of certified teachers in fifth and sixth grades.

A stakeholder committee was convened to review the certification issues. The committee represented state professional organizations, school district superintendents and human resource staff, university deans and teacher preparation program directors. They met in September and November 2006 and February 2007. (The Board Agenda incorrectly states January 2007.) The committee was asked to review certificate levels, No Child Left Behind (NCLB) alignment and a reduction in the number of certificates issued by SBEC. Four years of data was provided regarding the number of certificates issued at the different levels, and in different content levels. Twenty-six districts requested the waiver for fifth and sixth grade assignment with EC-4 certification.

Mr. Scott Lewis, NCLB, was in attendance to answer NCLB questions. He explained that USDE had concerns about the TExES composite tests. An educator could fail part of a composite exam and still pass the exam and be considered highly qualified in that area without demonstrating subject competency. The certification was not in question but the use of the composite exams for highly qualified status.

Dr. Glynn added that under NCLB they are recommending a two certificate structure, EC-6 and 7-12. Mr. Lewis stated that under the current system there is an approved state plan for highly qualified with the three-tiered system. However, highly qualified looks at teachers PK-6 and 7-12. Changing the structure of certificates would align and make the administration a little bit simpler but changing the three-tiered system would not have an impact on our state approved plan.

Mr. Echazarreta provided three options to the Board and he asked for guidance. The board members discussed the options available. The board discussed the transition plan and the timeline for it. A test development timeline was discussed. There was a discussion about board member participation in stakeholder meetings held by staff.

Dr. Glynn provided a recommendation for solution based on testimony heard today. He suggested allowing the staff to pursue development of an EC-5 or EC-6 certificate, leave the 4-8 and 8-12 certificates as they are. Staff will provide a timeline, provide research on composite exams, gather information about student achievement if possible and provide it at the next meeting. He asked for further direction from the Board before staff moves forward. The Board asked staff to hold another stakeholder meeting to discuss the reduction of the number of certificates in addition to the development of an EC-5 or EC-6 certificate.

Dr. Cain adjourned the board meeting at 2:43 p.m. for a short break

Dr. Cain called the meeting back to order at 2:58 p.m.

16. Board Goals

Dr. Glynn stated he placed this on the agenda at the Board's request. This should be added to the agenda for the retreat. In addition, the Board Operating Policy and Procedures, the Long-Range plan and committee assignments should be added to the retreat agenda.

ACTION ONLY

17. 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)

Dr. Glynn recommended that the board approve for adoption 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 an effective date of 20 days after filing as adopted with the *Texas Register*.

Motion and Vote:

Motion was made by Mr. Trevino to approve for adoption, subject to SBOE review, 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 an effective date of 20 days after filing as adopted with the Texas Register. Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

Dr. Hetzler thanked the Texas Education Agency staff for rule notification emails.

DISCUSSION AND ACTION

18. 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

Dr. Cain stated that items 18 and 20 would be taken together. The following individuals testified:

1. Julie Leahy, Texas Classroom Teachers Association (TCTA), Austin, TX
2. Jennifer Canaday, Association of Texas Professional Educators (ATPE), Austin, TX
3. Portia Bosse, Texas State Teachers Association (TSTA), Austin, TX
4. Patti Quinzi, Texas Federation of Teachers (TFT), Austin, TX (18 only)

Mr. Anderson presented rule changes in Item 18 below:

Section 249.48--The existing 90-day deadline to file a complaint has been changed to include the following language “or the date on which the complainant knew or should have known of the act, whichever is later.”

Section 249.49(b)—Language was added to allow TEA staff to limit the length and size of exhibits initially filed with a complaint and require additional specificity.

Section 249.49(e)—Language was added to allow staff to suspend consideration of a complaint if it will be resolved by another agency of appropriate jurisdiction.

Section 249.50(5)—Language was added to allow staff to dismiss a complaint if the allegations do not warrant a sanction or only warrant a letter of caution.

Section 249.51(e)—Language was added to allow the staff two ways to dismiss a complaint. A complaint may be dismissed based on a determination that the conduct alleged does not warrant a sanction or with a letter of caution to the educator. Language was included to make it clear that a letter of caution is not a disciplinary action or sanction and may not be considered proof of the conduct alleged.

Also, executive director was changed to TEA staff throughout after consulting with the SBEC counsel.

There was a discussion about changing name of the letter of caution to letter of dismissal, advisory letter or notice of disposition. Mr. Anderson and Ms. Bunker-Henderson stated that a change in the name of the letter was not a large enough change to require staff to start again with the rule revision.

There was more discussion about the letter of caution and how it will be used.

Motion and Vote:

Motion was made by Ms. Abbott to approve for adoption, subject to SBOE review, 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, with an effective date of 20 days after filing as adopted with the Texas Register with a change from “letter of caution” to “notice of disposition.” Motion was seconded by Ms. Baszile and the Board voted unanimously in favor of the motion.

19. a) Disciplinary Cases

The Board may meet in closed Executive Session, pursuant to section 551.071(2) and/or 551.071(1), of the Texas Government Code, to seek legal advice regarding pending or contemplated litigation or settlement of same, and contested cases related to educator discipline and other matters arising under 19 Texas Administrative Code Chapter 249. 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.

- 1) **Docket No. 701-06-2190.EC, State Board for Educator Certification v. Jimmy Gonzalez;**
Action to be Taken: Proposal for Decision;

Motion and Vote:

Motion made by Ms. Pogue to adopt the findings of fact and conclusions of law except for number 6 & 7 in Docket No. 701-06-2190.EC and revoke the certificate of Jimmy Gonzalez. Motion was seconded by Mr. Shirley and the Board voted unanimously in favor of the motion.

- 2) **Docket No. 701-06-2442.EC**, *State Board for Educator Certification v. Brett Shane Suttle*; **Action to be Taken:** Proposal for Decision;

Motion and Vote:

Motion made by Mr. Shirley to adopt the Proposal for Decision of the administrative law judge and revoke the certificate of Brett Shane Suttle. Motion was seconded by Ms. Abbott and the Board voted unanimously in favor of the motion.

- 3) **Docket No. 701-07-0238.EC**, *State Board for Educator Certification v. Charles Tutt*; **Action to be Taken:** Issuance of Default Judgment;

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-0238.EC against respondent Charles Tutt. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

- 4) **Docket No. 701-07-0289.EC**, *State Board for Educator Certification v. Stephanie Taylor*; **Action to be Taken:** Action on Motion for Rehearing;

Motion and Vote:

Motion was made by Mr. Barbic grant the motion for rehearing filed in Docket No. 701-07-0289.EC regarding Stephanie Taylor. Motion was seconded by Ms. Johnson and the Board voted unanimously in favor of the motion.

- 5) **Docket No. 701-07-0375.EC**, *State Board for Educator Certification v. Torrence Faver*; **Action to be Taken:** Issuance of Default Judgment;

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-0375.EC against respondent Torrence Favor. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

- 6) **Docket No. 701-07-0392.EC**, *State Board for Educator Certification v. Jaime Lopez*; **Action to be Taken:** Issuance of Default Judgment;

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-0392.EC against respondent Jamie Lopez. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

- 7) **Docket No. 701-07-0537.EC**, *State Board for Educator Certification v. Edward Vasquez*; **Action to be Taken:** Proposal for Decision;

Motion and Vote:

Motion was made by Ms. Baszile to adopt the proposal for decision of the administrative law judge entered in Docket No. 701-07-0537.EC and revoke the certificate of Edward Vasquez. Motion was seconded by Ms. Abbott and the Board voted unanimously in favor of the motion.

- 8) **Docket No. 701-07-0849.EC**, *State Board for Educator Certification v. Mario Q. Johnson*; **Action to be Taken:** Issuance of Default Judgment;

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-0849.EC against respondent Mario Q. Johnson. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

- 9) **Docket No. 701-07-0858.EC**, *State Board for Educator Certification v. Levi Blackmon*; **Action to be Taken:** Proposal for Decision;

Motion and Vote:

Motion made by Ms. Johnson to adopt the Proposal for Decision of the administrative law judge entered in Docket No. 701-07-0858.EC and revoke the certificate of Levi Blackmon. Motion was seconded by Mr. Barbic and the Board voted unanimously in favor of the motion.

- 10) **Docket No. 701-07-0867.EC**, *State Board for Educator Certification v. Gwendolyn Manske*; **Action to be Taken:** Issuance of Default Judgment; and

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-0867.EC against respondent Gwendolyn Manske. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

- 11) **Docket No. 701-07-1233.EC**, *State Board for Educator Certification v. John Michael Harrison*; **Action to be Taken:** Issuance of Default Judgment.

Motion and Vote:

Motion was made by Ms. Abbott to issue default judgments for failure to answer and revoke the certificates in the following case: Docket No. 701-07-1233.EC against respondent John Michael Harrison. Motion was seconded by Ms. Pogue and the Board voted unanimously in favor of the motion.

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) ***Texas State Teachers Association v. State Board for Educator Certification; In the 53rd Judicial District Court of Travis County, Texas; Cause No. D-1-GN-06-0206; and***
- 2) ***Any other litigation arising after the date of posting or reasonably contemplated as of the date of the board meeting.***

20. 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

Mr. Anderson stated that 19 TAC §249.14 deals generally with investigations of allegations against educators. Mr. Anderson presented Item 20 with the following rule changes:

Section 249.14(d)(2)(A)—The phrase “student or” was added to the language since not all students are minors.

Section 249.14(d)(2)(F)—Language was added stating that if an educator solicited or engaged in sexual conduct or a romantic relationship with a student or minor, it must be reported to TEA by the superintendent.

Section 249.14(g)(1)—Creates a series of more serious allegations which would result in an investigative notice being placed on the educator’s Virtual Certificate.

Most of the listed violations in subsection (g) would be investigated. Stakeholders discussed the definition of a “serious testing violation” and “sexual conduct or a romantic relationship with a student or minor” which is included later in the rule.

Section 249.14(h)—States the investigative notice can be placed on the educator’s Virtual Certificate for conduct described in subsection (g) (1) after following procedures in subsection (i).

Section 249.14(i)—Requires staff to provide written notification to an educator at least ten days before placing an investigative notice on an educator’s Virtual Certificate.

Section 249.14(j)—Limits the time an investigative notice can be placed on a certificate no longer than 240 calendar days. It also states that TEA staff must provide written notice to the educator of the investigation at least ten days before placing the notice on the certificate. Criminal matter is defined as a criminal investigation, an arrest, or a prosecution by a criminal law enforcement agency. Also added is language that requires TEA staff to attempt to make bimonthly contact with law enforcement agencies where the criminal investigation is pending to determine if the investigation is closed or resolved. TEA staff may toll the time limit if the matter is referred for a contested case hearing or if both parties agree.

Section 249.14(k)—States the investigative notice is removed upon final disposition of the case. If the 240-day period has run and nothing is tolling the investigative notice, the educator can make a written demand to have the notice removed. Staff can either file the case or remove the notice within 30 calendar days.

Section 249.14(m)—This is a new subsection defining romantic relationship, a priority 1 investigation which would trigger the investigative notice. There was discussion about subsection (m) and changing language in §249.14(m)(2)(H) regarding hugging, kissing, or excessive touching. Mr. Shirley suggested adding “inappropriate” before hugging, kissing, or excessive touching in the language of §249.14(m)(2)(H). Ms. Abbott asked if “criminal” should be added before investigation for clarity. Mr. Anderson stated that it is not required since it is clear in this section because criminal matter includes an arrest, an investigation or prosecution by a criminal law enforcement agency.

Motion and Vote:

Motion was made by Mr. Shirley to approve for adoption, subject to SBOE review, 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, with an effective date of 20 days after filing as adopted with the Texas Register with a change, adding the word "inappropriate" before hugging, kissing, or excessive touching in the language of §249.14(m)(2)(H). Motion was seconded by Ms. Johnson and the Board voted unanimously in favor of the motion.

21. 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.

21. Adjournment

Dr. Cain adjourned the meeting at 3:56 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.