

State Board for Educator Certification
Discussion and Action Session Agenda
October 10, 2008 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 9:00 a.m. on Friday, October 10, 2008 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, Ms. Pogue, Ms. Bridges, Mr. Shirley, Ms. Johnson, Mr. Barbic, Ms. Druesedow, Ms. Acuff, and Dr. Barnes.

Absent: Mr. Trevino and Ms. Carter

Dr. Cain introduced Jerel Booker, Associate Commissioner of Educator Quality.

Dr. Cain read a letter from Dr. Jeanne Gerlach, announcing her resignation from the Board.

Public Testimony

All testimony on agenda items will be heard prior to the item.

CONSENT AGENDA

3. Approval of July 25, 2008 Board Meeting Minutes

Motion and Vote:

Motion was made by Ms. Johnson to approve minutes as recorded from the July 25, 2008 Board meeting. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

4. Approval of Board Meeting Dates for 2009

The Board selected January 9, 2009 as the date for a workshop, beginning at 9:00 a.m. Dr. Cain also requested that a workshop be held each year at approximately the same time of year.

Motion and Vote:

Motion was made by Ms. Johnson to approve meeting dates for 2009. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

DISCUSSION AND ACTION

5. Adoption of Proposed Revisions to 19 TAC Chapter 227, Provisions for Educator Preparation Students

Public Testimony was provided by the following people on Item 5:

1. Kevin O'Hanlon, A+ Teachers
2. Dr. Diann Huber, iteachTexas
3. Holly Eaton, Texas Classroom Teachers Association

Dr. Loonam referred to handouts of additional public comments and responses and alternate language and reviewed the recommended changes since the last board meeting. Andrew Allen, Texas Education Agency (TEA) legal counsel, informed the Board that staff had researched validation of various tests and it was determined a study has been done validating the Texas Higher Education Assessment® (THEA®) and the skills that are measured in the test are necessary for the educator and a standard has been set by a committee which is the standard used by the Higher Education Coordinating Board. Mr. Allen informed the Board that the Praxis® test has also been validated in all 50 states, but a Texas standard has not been set. Mr. Allen reviewed the Texas Success Initiative as an alternative, and he informed the Board that it has been validated for the Higher Education Coordination Board purposes but not educator preparation purposes; however, he believes there is a rational basis for using the same standard as the higher education board.

Due to public testimony at the July 25, 2008 meeting which questioned the legality of using invalid tests, the Board questioned what would happen if the Texas Success Initiative (TSI) was used. Mr. Booker informed the Board that this same person who raised that legality issue in July is going back now in that discussion. He also informed the Board that the Texas Success Initiative will allow flexibility to include THEA® and several tests used by programs. Mr. Booker reviewed the alternate text provided and recommended using the THEA®, the TSI and a January 1, 2009 start date.

Motion and Vote:

Motion was made by Ms. Pogue to approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 227, Provisions for Educator Preparation Students, with additional changes, with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Mr. Barbic and the Board voted unanimously in favor of the motion.

6. Adoption of Proposed Revisions to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, and Proposed Repeal of 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certification Requirement for Classroom Teachers, §230.191, Preparation Required in All Programs

Public Testimony was provided by the following people on Item 6:

1. Kevin O'Hanlon, A+ Teachers
2. Dr. Diann Huber, iteachTexas
3. Holly Eaton, Texas Classroom Teachers Association

Dr. Loonam informed the Board that this item relates to the preparation of candidates in educator preparation programs. She reviewed the alternate language and changes made since the July 2008 SBEC meeting. Mr. Booker discussed field-based training, guidelines which now may include up to 15 hours of video training, program expansions and the start date of January 1,

2009. Mr. Booker reviewed and recommended approval of the proposed changes made since the July 2008 meeting, including the substitute and alternate language.

The Board discussed and expressed concerns of using the option of video training as part of the 30 hours of field-base training. Dr. Cain requested that programs submit a written report providing data on number of participants who opted for the technical training.

Motion and Vote:

Motion was made by Ms. Pogue to approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 228, Requirements for Educator Preparation Programs, with additional changes, and proposed repeal of 19 TAC Chapter 230, Professional Educator Preparation and Certification, Subchapter G, Certification Requirement for Classroom Teachers, §230.191, Preparation Required in All Programs with an effective date of 20 days after filing as adopted with the Texas Register. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

7. Consideration and Opportunity to Approve the Revision of the 2006-2007 Accountability System for Educator Preparation (ASEP) Accreditation Ratings

Public Testimony was provided by the following on Item 7:

Kevin O'Hanlon, A+ Teachers

Ms. Valadez informed the Board that this item is being brought back to the Board because of an error in the original submission presented at the July meeting. South Texas Alternative Program has been corrected to show it in accredited preliminary status.

Motion and Vote:

Motion was made by Ms. Johnson to approve the revisions of the 2006-2007 Accountability System for Educator Preparation (ASEP) Accreditation Ratings. Second was made by Mr. Shirley and the Board voted unanimously in favor of the motion.

8. Proposed Plan for the use of the American Council on the Teaching of Foreign Languages (ACTFL) Examination for Bilingual Language Proficiency

Dr. Lopez informed the Board that at this time programs are responsible for determining proficiency for Arabic, Chinese, Japanese, Russian and Vietnamese languages. Dr. Lopez requested that the Board approve the use of the ACTFL examination to demonstrate bilingual proficiency as it will standardize the process and the test across the test. She also informed the board that ACTFL will prepare the standard setting without charge.

Motion and Vote:

Motion was made by Ms. Pogue to approve the use of the American Council on the Teaching of Foreign languages (ACTFL) Examination for Bilingual Language Proficiency. Second was made by Ms. Druesedow and the Board voted unanimously in favor of the motion.

9. Consolidation of Bilingual Supplemental Certification Examinations

Dr. Lopez informed the Board that at this time the bilingual supplemental examinations for EC-4 and 4-8 have the same standards, frameworks, and tests. For this reason, staff recommends that grade levels should not be specified for these tests. Dr. Lopez also informed the Board that this will eliminate one certification exam and staff must do standards setting for this examination. This will align the bilingual supplemental exam with Gifted and Talented, ESL, and Special Education exams.

Motion and Vote:

Motion was made by Ms. Johnson to approve the consolidation of bilingual supplemental certification examinations. Second was made by Mr. Barbic and the Board voted unanimously in favor of the motion.

10. Consideration and Opportunity for Approval of Educator Preparation Expansion Program

Public Testimony was provided by the following on Item 10:

Dr. Debbie Dunlap, ACT Houston

Ms. Valadez informed the Board that this item is being brought back from the July meeting at the Board's request. Staff is recommending the Board approve the requirements for programs that have already expanded, as well those requirements for programs that request expansions in the future.

Motion and Vote:

Motion was made by Mr. Shirley to approve the Educator Preparation Expansion Program as presented. Second was made by Ms. Johnson and the Board voted unanimously in favor of the motion.

11. Consideration and Opportunity to Approve the Recommendation that A Visually Impaired Teacher Take Visually Impaired Training in Addition to Examination as a Requirement for Visually Impaired Certification

Public Testimony was provided by the following people on Item 10:

1. Marty Murrell, Alliance of and for Visually Impaired Texans
2. Alexander Cooper, Student
3. Michele Chauvin, Texas Association for Parents of Children with Visual Impairments
4. Olivia Chavez, American Council for the Blind of Texas
5. Linda Wendland, Supervisor, Visually Impaired Program
6. Mary Ann Foster, Alliance of and for Visually Impaired Texans
7. Cyral Miller, Texas School for the Blind and Visually Impaired

Dr. Lopez informed the Board that staff believes if an educator is required to go through a preparation program, the shortage of Visually Impaired (VI) educators could increase. Dr. Lopez also informed the board that there was no data to substantiate that a VI student's needs are not

being met by teachers. Staff is reviewing exams and people from various organizations are helping to write and improve items so the exam is more rigorous. Staff recommends reclassifying the VI certificate.

At the Board's request, Dr. Lopez discussed the process to become VI certified and the recommendation of the IDEA Division of TEA.

Motion and Vote:

Action failed due to lack of motion.

12. Consideration and Opportunity for Approval of Education Service Center Region IV Proposal for Mandarin Chinese language Teacher Alternative Certification Pilot Program

Ms. Valadez introduced Dr. Linda Combs and Dr. Rene Ruiz. Mr. Valadez discussed the pilot program which allows qualified instructors from China to connect online with certain high schools in Texas. Ms. Valadez also informed the Board if the pilot is successful, approval will be requested for continuance. Dr. Glynn discussed the growing need for this in the larger districts and the importance of this being introduced as a two-year pilot program.

The Board discussed the alignment of this with the rule review process, and the number of participants in the first year.

Motion and Vote:

Motion was made by Mr. Barbic to approve the Education Service Center Region IV proposal for Mandarin Chinese language teacher alternative certification pilot program. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

13. Consideration and Opportunity for Approval of Legislative Committee's Recommendations of Legislative Issues

Public Testimony was provided by the following people on Item 13:

1. Lonnie Hollingsworth, Texas Classroom Teachers Association
2. Jennifer Canaday, Association of Texas Professional Educators
3. Portia Bosse, Texas State Teachers Association
4. Patty Quinzi, Texas – American Federation of Teachers

Ms. Pogue advised the Board that this was placed as an action item so the legislature can be made aware of how the committee's three recommendations affect the rule making process. Ms. Pogue reviewed each recommendation and informed the Board that the purpose is not to write legislation or details. David Anderson, Texas Education Agency (TEA) legal counsel, advised the Board that more information regarding each recommendation could be provided to Board at the Board's request. The Board discussed bringing this item back at the February 2009 meeting in order to receive additional information.

Motion and Vote:

Motion was made by Ms. Johnson to approve the Legislative Committee's recommendations of legislative issues. Second was made by Mr. Shirley. Ms. Baszile and Dr. Cain voted against the motion. The motion carried.

14. Proposed Revisions to the Board Operating Policies and Procedures (BOPP)

The Board reviewed the two changes made at the July, 2008 meeting:

- 1) Section IV b (2) ii, changed “vote to limit” to “vote to adjust”;
- 2) Section V A 2 added “and propose legislative recommendations to the Board for consideration.”

Motion and Vote:

Motion was made by Mr. Pogue to approve the proposed revisions to the Board Operating Policies and Procedures. Second was made by Mr. Shirley and the Board voted unanimously in favor of the motion.

15. Contested Cases and Pending Litigation

Ms. Dover, Associate Deputy Counsel, provided information for default cases and proposals for decisions.

Proposals for Decision

- 1) Docket No. 701-07-1544.EC *State Board for Educator Certification v. Carrie Watts*; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order. Ms. Dover advised the Board that this is presented for informational purposes only.

The following people presented information regarding disciplinary cases:

- 2) J. Pete Laney on behalf of Docket No. 701-08-2290.EC *Gabriel Reyna v. State Board for Educator Certification*; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order. Ms. Dover presented information for SBEC in this case. Presenters responded to questions from the Board.
- 3) Lonnie Hollingsworth on behalf of Docket No. 701-08-2292.EC *State Board for Educator Certification v. Manuel Espino*; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order. Ms. Dover presented information for SBEC in this case.

Motion and Vote:

Motion was made by Mr. Shirley to accept a proposal for decision and enter an offer consistent with the Administrative Law Judge's recommendation in the following case: Docket No. 701-08-2292.EC State Board for Educator Certification v. Manuel Espino. Second was made by Ms. Baszile and the Board voted unanimously in favor of the motion.

- 4) Russell Ramirez on behalf of Docket No. 701-07-0431.EC *State Board for Educator Certification v. Gilbert Gomez*; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order. Christopher Jones, Legal Counsel Texas Education Agency, presented information for SBEC in this case. Presenters responded to questions from the Board.

Dr. Cain adjourned to Executive Session at 12:52 p.m.

Dr. Cain reconvened at 1:40 p.m.

Default Cases

- 1) **Docket No. 2002-EC-0108 State Board for Educator Certification v. Richard Ray Huettel; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Mr. Shirley to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 2002-EC-0108 State Board for Educator Certification v. Richard Ray Huettel.

- 2) **Docket No. 2004-EC-0108 State Board for Educator Certification v. Inosencio Flores; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Mr. Barbic to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 2004-EC-0108 State Board for Educator Certification v. Inosencio Flores.

- 3) **Docket No. 3029-EC-0608 State Board for Educator Certification v. Charles W. Winslow, Jr.; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Acuff to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 3029-EC-0608 State Board for Educator Certification v. Charles W. Winslow, Jr.

- 4) **Docket No. 3031-EC-0608 State Board for Educator Certification v. Kimberly D. Hollis; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Mr. Shirley to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 3031-EC-0608 State Board for Educator Certification v. Kimberly D. Hollis.

- 5) **Docket No. 2030-EC-0308 State Board for Educator Certification v. Judy Miller; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Johnson to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 2030-EC-0308 State Board for Educator Certification v. Judy Miller.

- 6) **Docket No. 6006-EC-0508 State Board for Educator Certification v. Marian Labell; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Johnson to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 6006-EC-0508 State Board for Educator Certification v. Marian Labell.

- 7) **Docket No. 6002-EC-0508 State Board for Educator Certification v. Justin Michael Ryan; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Druesedow to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 6002-EC-0508 State Board for Educator Certification v. Justin Michael Ryan

- 8) **Docket No. 3033-EC-0708 State Board for Educator Certification v. Robert D. Dickerson; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Bridges to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 3033-EC-0708 State Board for Educator Certification v. Robert D. Dickerson.

- 9) **Docket No. 3034-EC-0708 State Board for Educator Certification v. Diego Rojas; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Baszile to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 3034-EC-0708 State Board for Educator Certification v. Diego Rojas.

- 10) **Docket No. 4001-EC-0508 State Board for Educator Certification v. David Robledo; Action to be taken: Consideration of Issuance of Default Judgment.**

Motion and Vote:

Motion was made by Ms. Baszile to grant staff's request for the issuance of default judgment and enter an order consistent with the staff's recommendation in the following case: Docket No. 4001-EC-0508 State Board for Educator Certification v. David Robledo.

Motions were seconded by Ms. Pogue and the Board voted unanimously in favor of the motions.

Proposals for Decision

- 1) Docket No. 701-07-0431.EC State Board for Educator Certification v. Gilbert Gomez; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order.

Motion and Vote:

Motion was made by Mr. Barbic to accept the request for decision, exceptions and issuance of final order consistent with staff's recommendation in the following case: Docket No. 701-07-0431.EC State Board for Educator Certification .v Gilbert Gomez. Motion was seconded by Ms. Johnson and the Board voted unanimously in favor of the motion.

- 2) Docket No. 701-08-2290.EC Gabriel Reyna v. State Board for Educator Certification; Action to be Taken: Consideration of Proposal for Decision and Issuance of Final Order.

Motion and Vote:

Motion was made by Mr. Shirley in the following case: Docket No. 701-08-2290.EC State Board for Educator Certification v. Gabriel Reyna that the Board issue an order that Mr. Reyna be issued a certificate with the following conditions: 1) his certificate be for a period of 5 years; 2) he report annually, as notified by SBEC, for drug testing at his expense for a period of 5 years; if he tests positive his certificate will be revoked; and 3) if he is convicted of a drug offense at any time during the conditional 5-year period, his certificate will be permanently revoked without the possibility of re-applying. Motion was seconded by Ms. Acuff. Voting in favor of the motion were Mr. Shirley and Ms. Acuff. Voting against the motion were Dr. Cain, Ms. Baszile, Ms. Johnson, Mr. Barbic, Ms. Poque, Ms. Bridges and Ms. Druesedow. Motion failed.

The Board discussed these conditions presented in this motion and the case.

Second Motion and Vote:

Motion was made by Mr. Barbic to issue a certificate to Mr. Reyna in June 2010 following the same conditions as stated in the first motion with an additional condition that a criminal history must be done at the end of that year. Motion was seconded by Ms. Bridges.

Motion was made by Ms. Johnson to amend this motion to increase the time from one year to four years.

The Board and General Counsel discussed the timeline involved.

Ms. Johnson withdrew her motion for amendment.

Voting for the motion were Mr. Barbic, Ms. Bridges, Mr. Shirley, and Ms. Acuff. Voting against the motion were Dr. Cain, Ms. Baszile, Ms. Pogue, Ms. Johnson, and Ms. Druesedow. Motion failed.

Third Motion and Vote:

Motion was made by Ms. Johnson to issue a certificate to Mr. Reyna in June 2011 following the same conditions as stated in the first motion.

Staff discussed their recommendations.

Ms. Johnson withdrew her motion.

Final Motion and Vote:

Motion was made by Ms. Pogue to accept a proposal for decision and enter an order consistent with the staff's recommendation on Docket No. 701-08-2290.EC State Board for Educator Certification v. Gabriel Reyna. Motion was seconded by Ms. Johnson. Voting for the motion were Dr. Cain, Ms. Baszile, Ms. Pogue, Ms. Johnson, and Ms. Druesedow. Voting against the motion were Mr. Shirley, Ms. Acuff, Mr. Barbic and Ms. Bridges. Motion carried.

16. Action on Items Discussed in Executive Session**Pending Litigation**

- 1) *Michael Johnson v. State Board for Educator Certification, Cause No. D-1-GN-08-003241, In the 126th Judicial District Court of Travis, County, Texas*

Motion and Vote:

Motion was made by Ms. Acuff to authorize counsel to proceed as discussed in executive session on the following case: Michael Johnson v State Board for Educator Certification, Cause No. D-1-GN-08-003241. Motion was seconded by Mr. Barbic and the Board voted unanimously in favor of the motion.

- 3) *SBEC v. Gregg Abbott, Attorney General of the State of Texas, Cause No. D-1-GN-05-50248, In the 53rd Judicial District Court of Travis County, Texas.*

Motion and Vote:

Motion was made by Ms. Bridges to authorize its attorney of record to proceed as discussed in executive session on the following case State Board for Educator v Gregg Abbott, Attorney General of the State of Texas, Cause No. D-1-GN-05-502481. Motion was seconded by Mr. Barbic and the Board voted unanimously in favor of the motion..

- 4) *Texas Education Agency v Gregg Abbott, Attorney General of the State of Texas, Cause No. D-1-GN-07-001388. In the 353rd Judicial District Court of Travis County, Texas.*

Motion and Vote:

Motion was made by Ms. Druesedow to authorize its attorney of record to proceed as discussed in executive session on the following case: Texas Education Agency v Gregg Abbott, Attorney General of the State of Texas, Cause No. D-1- GN-07-001388 .Motion was seconded by Mr. Shirley and the Board voted unanimously in favor of the motion.

17. Review of 19 TAC Chapter 230, Professional Educator Preparation and Certification

Dr. Loonam introduced Melva Cardenas, the new Director of Credentialing. Ms. Cardenas informed the Board that it is time for review of Chapter 230.

Dr. Cain skipped Items 18 and 19. Dr. Cain informed the Board members that all items regarding certifications update are in the agenda. Dr. Cain informed the Board that she has asked staff to provide written reports only for future meetings; however, Board members may request additional information or question staff if deemed necessary.

Mr. Jerel Booker recognized staff for their work.

Dr. Cain adjourned the meeting at 2:15 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.

