

Chapter 249. Disciplinary Proceedings, Sanctions, and Contested Cases

Subchapter B. Enforcement Actions and Guidelines

§249.17. Decision Making Guidelines.

- (a) Purpose. The purpose of these guidelines is to achieve the following objectives:
- (1) to provide a framework of analysis for the Texas Education Agency (TEA) staff, the presiding administrative law judge (ALJ), and the State Board for Educator Certification (SBEC) in considering matters under this chapter;
 - (2) to promote consistency in the exercise of sound discretion by the TEA staff, the presiding ALJ, and the SBEC in seeking, proposing, and making decisions under this chapter; and
 - (3) to provide guidance for the informal resolution of potentially contested matters.
- (b) Construction and application. This section shall be construed and applied so as to preserve SBEC members' discretion in making final decisions under this chapter. This section shall be further construed and applied so as to be consistent with §249.5(b) of this title (relating to Purpose; Policy Governing Disciplinary Proceedings) and this chapter, the Texas Education Code (TEC), and other applicable law, including SBEC decisions and orders.
- (c) Consideration. The following factors may be considered in seeking, proposing, or making a decision under this chapter:
- (1) the seriousness of the violation;
 - (2) whether the misconduct was premeditated or intentional;
 - (3) attempted concealment of misconduct;
 - (4) prior misconduct and SBEC sanctions;
 - (5) the potential danger the conduct poses to the health and welfare of students;
 - (6) the effect of the prior conduct upon any victims of the conduct;
 - (7) whether sufficient time has passed and sufficient evidence is presented to demonstrate that the educator or applicant has been rehabilitated from the prior conduct;
 - (8) the effect of the conduct upon the educator's good moral character and ability to be an appropriate model for students;
 - (9) whether the sanction will deter future violations; and
 - (10) any other relevant circumstances or facts.
- (d) Contract abandonment.
- (1) Good cause. The following factors may be considered good cause when an educator is reported to have abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c):
 - (A) serious illness of the educator;

- (D) the educator's reasonable belief that the educator had written permission from the school district administration to resign.
- (2) Mitigating factors. The following factors may be considered in seeking, proposing, or making a decision under this chapter regarding an educator who has abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c). The educator:
- (A) gave written notice to school district 30 days or more in advance of the first day of instruction for which the educator will not be present;
 - (B) assisted school district in finding a replacement educator to fill the position;
 - (C) continued to work until the school district hired a replacement educator;
 - (D) assisted in training the replacement educator;
 - (E) showed good faith in communications and negotiations with school district;
 - (F) provided lesson plans for classes following educator's resignation;
 - (G) changes careers within the field of education:
 - (i) to a position that required a different class of educator certification as defined in §230.33(b) of this title (relating to Classes of Certificates);
 - (ii) to a position with a higher level of authority within the principal class of certificate; or
 - (iii) to a position in an open enrollment charter school or a district of innovation that is equivalent to the positions described in clauses (i) and (ii) of this subparagraph;
 - (H) had a reduction in base pay, excluding stipends, as compared to the educator's base pay for the prior year at the same school district;
 - (I) resigned due to working conditions that reasonably posed an immediate threat of significant physical harm to the educator; or
 - (J) any other relevant circumstances or facts.
- (3) Mandatory sanction for contract abandonment.
- (A) An educator subject to sanction, who has abandoned a contract ~~30 days~~ prior to the first day of instruction for the following school year in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c), in a case where the factors listed in subsection (c) of this section or in paragraph (1) or (2)(B) of this subsection do not mitigate or apply, shall receive a sanction of an inscribed reprimand.
 - (B) An educator subject to sanction, who has abandoned a contract less than 30 days prior to the first day of instruction for the following school year or at any point during the school year in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c), in a case where the factors listed in subsection (c) of this section or in paragraph (1) or (2) of this subsection do not mitigate or apply, may not receive a sanction of less than:
 - (i) suspension for one year from the first day that, without district permission, the educator failed to appear for work under the contract, provided that the educator has not worked as an educator during that year and the case is resolved within that one year through an agreed final order; or

case is resolved through a final board decision following a contested case hearing at the SOAH or a default under §249.35 of this title.

- (f) Mandatory minimum sanction for misdemeanor

A. Defaults

No Answer Defaults

1. In the Matter of Brittney Caldwell

10. In the Matter of Tom P. Horn; Action to be taken: Consideration of Issuance of Default Judgment

Staff recommendation: 1-year suspension

11. In the Matter of Aaron Orr; Action to be taken: Consideration of Issua0.002 Tc 0.159 15 ((s2424

28. In the Matter of Heath McFadden; Action to be taken: Consideration of Issuance of Default Judgment3 261 1.947 0-MCI30 0 Td ()Tj -0.002 Tc -0.058 Tw0 Tc5 Tf 0 T226.6 (n)0.7 (t)-6nttaulM (Co

6. Docket No. 701-22-03357.EC, Texas Education Agency, Educator Preparation, Certification, and Enforcement Division v. Jayme Langford; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: No disciplinary action should be taken

Staff Recommendation: Accept ALJ recommendation

7. Docket No. 701-23-19859.EC, Texas Education Agency, Educator Preparation, Certification, and Enforcement Division v. Frank Hernandez; Action to be taken: Consideration of Proposal for Decision and Issuance of Final Order.

ALJ Recommendation: No disciplinary act.002 Tc 0.007 Tw 0 -1.141 FL 1 (S) 23 (f) 337 (a) 16 (f) 45