

**EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION**

DHB

PERMISSIVE
REPORTS

The Superintendent may notify the State Board for Educator Certification (SBEC) of any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and/or Chapter 247, Educators' Code of Ethics. 19 TAC 249.14(d)

REQUIRED REPORTS

In addition to the reporting requirement under Family Code 261.101 [see FFG], a Superintendent shall notify SBEC if:

CRIMINAL HISTORY

1. An educator employed by or seeking employment with the School has a reported criminal history and the School obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
2. An applicant for or a holder of a certificate has a reported criminal history;

TERMINATION

3. A certificate holder's or educator's employment at the School was terminated based on evidence that the educator engaged in an act of misconduct listed below;

RESIGNATION

4. A certificate holder or educator has submitted a notice of resignation and evidence exists that the educator engaged in an act of misconduct listed below; or

ASSESSMENT
INSTRUMENT

5. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.

Education Code 21.006, 22.087; 19 TAC 249.14(d)

REPORTABLE
MISCONDUCT

A Superintendent shall make a report to SBEC under Education Code 21.006 if there is evidence that the educator:

1. Sexually or physically abused or engaged in any other illegal conduct with a student or minor;
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
3. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;
4. Illegally transferred, appropriated, or expended school property or funds;
5. Attempted by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle the individual to be employed in a position requiring such certificate or per-

**EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION**

DHB

mit or to receive additional compensation associated with a position;

6. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or
7. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

Education Code 21.006(b); 19 TAC 249.14(d)

COMPLETION OF
INVESTIGATION

A Superintendent shall complete an investigation of an educator if there is reasonable cause to believe the educator may have engaged in misconduct described above despite the educator's resignation from School employment before completion of the investigation. 19 TAC 249.14(d)(3)(C)

DEFINITIONS

"ABUSE"

"Abuse" includes the following acts or omissions:

1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

19 TAC 249.3(1)

"REPORTED
CRIMINAL HISTORY"

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction. 19 TAC 249.3(43)

"SOLICITATION OF A
ROMANTIC
RELATIONSHIP"

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION**DHB**

include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
 - a. The nature of the communications;
 - b. The timing of the communications;
 - c. The extent of the communications;
 - d. Whether the communications were made openly or secretly;
 - e. The extent that the educator attempts to conceal the communications;
 - f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
 - g. Any other evidence tending to show the context of the communications between educator and student.
2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
3. Making sexually demeaning comments to a student.
4. Making comments about a student's potential sexual performance.
5. Requesting details of a student's sexual history.
6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.

**EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION**

DHB

7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
8. Inappropriate hugging, kissing, or excessive touching.
9. Providing the student with drugs or alcohol.
10. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
11. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(50)

A Superintendent may notify SBEC of any educator misconduct that the Superintendent believes in good faith may be subject to sanctions by SBEC. 19 TAC 249.14(d)

DEADLINE TO REPORT

The Superintendent must notify SBEC by filing a report in writing in a form prescribed by SBEC not later than the seventh day after the date the Superintendent knew about an employee's criminal record under Education Code 21.006(b)(1) or a termination of employment or resignation following an alleged incident of misconduct described by Education Code 21.006(b)(2). [See REQUIRED REPORT, above] Education Code 21.006(c)

CONTENTS OF
REPORT

The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims; and
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report.

Education Code 21.006(c); 19 TAC 249.14(e)

A Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Gov-

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB

	<u>ernment Code Chapter 552. [See GBAA] <i>Education Code 21.006(h)</i></u>
<u>NOTICE TO EDUCATOR AND BOARD</u>	<u>A Superintendent shall notify the Board and the educator of the filing of a written report with SBEC. <i>Education Code 21.006(d)</i></u>
<u>ACCEPTING RESIGNATION</u>	<u>Before accepting an employee's resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. The Superintendent shall notify the Board before filing the report. <i>19 TAC 249.14(d)(3)(A), (B)</i></u>
<u>SANCTIONS FOR FAILURE TO REPORT</u>	<u>A Superintendent who fails to timely make a required report is subject to sanctions by SBEC under 19 Administrative Code 249.15(b)(4), Disciplinary Action by State Board for Educator Certification. <i>Education Code 21.006(f); 19 TAC 249.14(d), (e)</i></u>
<u>IMMUNITY</u>	<u>A Superintendent who, in good faith and while acting in an official capacity, files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed. <i>Education Code 21.006(e)</i></u>

Adopted: 10-20-17
Amended: